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A Compleat Collection OF STATE-TRYALS, AND PROCEEDINGS UPON Impeachments for HIGH TREASON, AND OTHER CRIMES and MISDEMEANOURS; FROM The Reign of King *HENRY* the Fourth, TO The End of the Reign of Queen *ANNE.*

The SECOND VOLUME.

With an Exact Alphabetical Table *to the Whole.*

LONDON;

Printed for TIMOTHY GOODWIN againſt *St. Dunſtan's* Church in *Fleet-Street*; JOHN WALTHOE in the *Middle-Temple* Cloyſters; BENJ. TOOKE at the *Middle-Temple* Gate in *Fleet-Street*; JOHN DARBY in *Bartholomew-Cloſe*; JACOB TONSON againſt *Katherine-Street* in the *Strand*; and JOHN WALTHOE *Jun.* againſt the *Royal-Exchange* in *Cornhill.* M. DCC. XIX.

A

Compleat Collection

OF

STATE-TRYALS

AND

PROCEEDINGS

UPON

IMPEACHMENTS

FOR

CRIMES and MISDEMEANOURS,

FROM

THE

End of the Reign of Queen ANNE

BRITISH MUSEUM 1 34 MAY

With an Exact Alphabetical Table to the Whole.

against Sir Thomas Cook in West-Smith;
Middle-Temple Gate in Fleet-Street; in Berkshire-Cl;
against Knightrider-Street in the Strand; and
against the Royal-Exchange in Cornhill. M DCC.XIX.

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A Compleat

A Compleat

COLLECTION OF TRIALS, &c.

The Proceedings in the Houſe of Commons, touching the Impeachment of EDWARD *late Earl of* CLARENDON, *Lord High Chancellor of* ENGLAND, Anno 1667.

October 26th, 1667.

MR. EDWARD SEYMOUR Charged him *viva Voce* with many great Crimes, whereupon a Debate aroſe what Proceeding ought to be had upon it, ſome moving to Impeach him in the Name of the *Commons* till Articles ſhould be prepared; others urg'd, that Witneſſes ſhould be firſt examined to ſee how the Charge could be made good, leaſt failing, it ſhould reflect on the Honour of the *Houſe*. After long Debate, a Committee was appointed to ſearch Records for Parliamentary Proceedings in the like Caſes, and to make Report.

30*th*, The Report being made by Sir *Thomas Littleton*, that various Proceedings were found in ſeveral Parliaments, it occaſioned a long Debate, ſeveral Members ſpeaking to the effect following,

Sir *Tho. Littl.* That in Caſes Criminal, they find Proceedings to have been, ſometimes by Articles, ſometimes by Word of Mouth; but in Capital Crimes no Proceedings appear till the Earl of *Strafford*'s Caſe, againſt whom the Houſe carried up a General Impeachment, the Reaſon whereof ſeems to be this: Some Votes were made in the *Houſe* at which the King takes Offence, as if they would proceed upon common Fame; whereupon they vindicate their Proceedings as done in a Parliamentary way, and appoint a Committee to withdraw for about half an Hour to conſider the Matter for a Conference with the Lords about the Charge, and upon their Report a general Charge is carried up to the Lords Bar; the principal Charge then was for adviſing to bring over the *Iriſh* Army, and the ſingle Proof was Sir *Henry Vane*, ſo the Impeachment went up for *High Treaſon*, tho' no Member would poſitively ſay he would make the Charge good.

So for the Biſhop of *Canterbury* there was no Impeachment, but a Charge in general.

And if you take not the ſame Courſe now, but inſiſt upon examining Witneſſes firſt, the Difficulties will be unanſwerable; for is it like that Men before they ſhall ſee you in earneſt will have their Names produced againſt the Earl of *Clarendon*? If this be your Proceeding, we muſt never expect to Impeach a Great Man more. If you think there is nothing in the Charge leave it, but if you think 'tis worth your while, take heed of making ſuch a dangerous Precedent as by neglecting it to wound your Liberties; but proceed in the uſual way with a General Impeachment.

Serj. *Maynard*. I ſtand not up to give Advice, but to ſpeak to matter of Fact in the buſineſs of *Strafford* and *Canterbury*; I attended that buſineſs from the beginning, Sir *John Clotworthy* informed ſomething againſt *Strafford* to be direct Treaſon, that he had aſſumed an Arbitrary Power in *Ireland*, and diſpoſſeſſed one *Savage* by force of Arms, and undertook to prove it. Sir *Henry Vane* alſo told them, that he had a Note taken out of his Father's Cabinet, containing the Advice which *Strafford* gave the King in that Caſe; namely, the King wanting Money, and the Queſtion being how he ſhould ſupply it, he replyed, *That if the Parliament was refractory and would not, you ſtand looſed and abſolve from Rules of Government; you have an Army in* Ireland *which you may employ to reduce them.*

Then there was a Debate whether they ſhould accuſe him of Treaſon. And Sir *Edward Herbert* (the Attorney) ſaid, if you are perſuaded the Truth is, as is pretended, you may. And ſo it was; but when the Cloſe Committee had examined the Buſineſs, they moved the Houſe, that ſome Lawyers might be added to them; and had they gone, when they ſaid they were ready, they had not touched one Hair of *Strafford*'s Head. Then it was conſidered what was fit to be done: To accuſe him of Treaſon would be a

dangerous Precedent, as if out of many other Crimes a Treaſon could be drawn; thereupon it was Reſolved not to demand Judgment from the Lords, becauſe ſome Articles were not Treaſon. Then it was propounded not to ſtate what his Offences were, leſt it ſhould give advantage to inferior Courts ſo to proceed; but ſaid, he deſerved to be accuſed of Treaſon; and in concluſion a Proviſo was added, not to make that Caſe a Precedent.

For the Biſhop of *Canterbury*, the four Articles were general, and he was long in Priſon without any Proceeding againſt him; but after long time he demurr'd, then new Articles were framed, on which he died.

Mr. *John Vaughan*. You have had a Charge opened of a ſtrange Nature, and I know not what part of it can be proved, but the Reputation of this Houſe is at Stake, and of the King too: For, where a Charge is brought in by ſome of your Members, whereof one Article is, That he ſhould ſay ſuch Words of the King, as by a Statute made by you is a *Præmunire*, and to give Counſel to levy War upon the Kingdom; is it agreeable to our Duty to the King and Kingdom to let it die?

For the Perſon concerned, I know not which way his Honour can be whole without his giving an Anſwer to his Charge; for mark the Conſequence, if the King ſhould take him to Favour again before clear'd, will not the World ſay a Perſon is received to Favour again, who gave the King Counſel againſt the Kingdom, and traduc'd the King, and how can he be whole in his Honour this way?

Obj. But it will be ſaid, we muſt have Ground to put him to Anſwer.

Anſw. Whether you have Ground enough to prove I know not, but you have Ground enough to make him Anſwer to clear himſelf. Suppoſe thoſe two Articles had been Charged on a Member of this Houſe, what would it have become that Member to do? Should he ſit ſtill and ſay, I will make no Anſwer, but ſee whether the Houſe will make more Proof? If he ſhould do ſo, the not making an Anſwer is Reaſon enough to Charge him.

I can give you Inſtances of Perſons Charged in Parliament, who tho' not nominated, yet being (as it were) pointed at, Petitioned that they might Anſwer, and ſo would any Man; but when this is bruited up and down, will not the World ſay, You never ask the Parry whether Guilty?

The Duke of *Suffolk* was Charged upon Common Fame, and if that were a Ground for a Charge then (which I do not ſay it was) ſo it is in this Caſe; but he moved that he might be heard; and tho' it was deſired he might be Committed, yet it was juſtly rejected till he had Anſwered. Then for the Nature of the Charge, if it be true, it is very High, but whether it be Treaſon is another Matter, it is brought to you under no Name, when you make the Charge, it becomes you to ſay what it is; therefore chooſe a Committee to reduce the Accuſation into Heads, and bring them to you, without which you cannot right your ſelves, nor him, if Innocent.

For the way of it, it cannot be thought fit to publiſh your Witneſſes and the Matter before hand; if in private Cauſes the Defendant and Plaintiff ſhould have a Publication before-hand, no Cauſe would be rightly Judged, much leſs when you have Publication of all which concerns the One, but nothing of the Other. Again, if a Witneſs be examined concerning Matters in his own Knowledge, if he gives Evidence, where he is not brought judicially to give it, if he hath teſtified any thing which brings him within the Satute of Falſe News, how can he avoid the Penalty? For it's not enough for him to ſay he knows it, but he muſt have others to juſtifie it.

As for the Perſons who bring the Charge, they are your own Members, which the Writs return for honeſt and diſcreet Men, and if you are ſatisfied of that, how can you reject their Complaint, tho' grounded upon *Common Fame*, as all Accuſations are, ſeeing they tell you, they can bring Proof of what they ſay?

Then for *Common Fame*, if a Man ſpends largely, and hath no viſible way to get an Eſtate, no Man accuſeth him to have gotten it unlawfully; yet he may be put to clear himſelf from what *Common Fame* chargeth him with. Upon ſuſpicion of Felony, I may bring a Man before a Magiſtrate to clear himſelf; ſo in the Courſe of Indictments and Preſentments, a Charge is given of what Things are to be Preſented; then a Proclamation is made, That if any one can give Evidence, he may be ſworn, but if no Evidence appear, yet they may Indict.

Then it will be ſaid, the Oath is a Material Thing, but we are proceeding without an Oath.

To this I anſwer, What this Houſe ſhall Charge is of more Authority than the Oaths of ordinary Witneſſes; Peers, tho' not upon Oath, are ſuppoſed to do Right; ſo are we upon the Reputation of our Honeſty and Diſcretion.

Mr. *L. H.* I am ſenſible the Houſe may think me Partial, but I ſhall endeavour to ſhew my ſelf not ſo much a *Son* of the Earl of *Clarendon* as a *Member of this Houſe*; and I aſſure you, that if he ſhall be found Guilty, no Man ſhall appear more againſt him than I; if not, I hope every one will be for him as much as I; let every Man upon his *Conſcience* think what of this Charge is true, for I believe that if one Article be proved, he will own himſelf Guilty of all.

Sir *Hen. Fin.* An Impeachment there muſt be, if there be Cauſe; ſuch Accuſations are not to be paſſed over in Silence.

I believe not one Truth in the Law more than in this Propoſition, That there is no ſuch thing as Treaſon by Common Law, or by Equity, and we hold our Lives by that Law; Before the 25th of *Ed.* 3. a Man could ſcarce ſpeak any thing but it was Treaſon, in Parliament or out; but no Man ought to die as a Traitor, who hath not literally offended that Law, or ſome other made ſince: There is indeed in that Law a Proviſo about the Parliament's declaring what is Treaſon; but note the Danger of taking Declaratory Powers, which I fear hath brought us into a Reckoning of Blood, which we have not yet paid for.

The Power of Parliaments is double, *Legiſlative*, which hath no Bounds; *Declaratory*, by pronouncing Judgments.

And tho' I know not what the *Legiſlative* Power of a Parliament cannot do, yet it is not in the Power of the Parliament, King, Lords nor Commons, to declare any thing to be Treaſon, which

is

is not in the Common-Law Felony before. The Proviſo in *Strafford*'s Caſe was (it's true) made for Inferiour Courts; but I hope we ſhall not ſo proceed as muſt needs draw after it a *Ne trahatur in Exemplum*, and your own Act this Parliament ſhews, That all done by *Strafford*, *a part*, or *together*, was not *Treaſon*: And it behoves us to take heed we thwart not our own Argument.

For the manner then, Conſider how you ſhould proceed if it were out of Parliament, and how the bringing of it into this *Houſe* Alters it.

If it were out of Parliament, without doubt the Accuſation ſhould be proved before hand, and thoſe who diſcover it are guilty of Felony. This provides for the Subject, that the Witneſſes muſt be Two, and for the King, that none ſhall diſcover the Evidence.

But ſuppoſe the Charge be for Miſdemeanors, the Trial then is not to be by the Lords, but by the Commons; for the Lords are his Peers only in Caſes Capital.

How then doth the bringing it into Parliament alter the Caſe? If the Parliament ſet aſide Laws in this Caſe, we ſhould be happy to ſee Law declaring what is the Power of Parliaments.

There is no Precedent produced which is ſingly of Weight to guide you, therefore if you proceed, let it be as near as poſſible by the good Old Laws; Namely, That there be an Accuſation founded upon an Oath and the Evidence kept ſecret, I propoſe that way for the very reaſon that others oppoſe it, (*viz.*) The Accuſation goes over the Kingdom, and it will bring Diſhonour to the *Houſe*, the *King* and the *Earl*; For the Honour of the *Houſe* it will be hard to ſay, the Charge was brought in upon Miſinformation. A Perſon accuſed for adviſing to bring in Arbitrary Government, *&c.* And for ſaying the King is not fit to Govern; If this be true, tho' it be not Treaſon in the Formality of the Law, it deſerves no leſs Puniſhment than if it were; but if not found Guilty, Conſider the Caſe. If one ſay, *A* killed a Man, and it is not ſo, muſt not he give reparation? We have an Accuſation upon hear-ſay, but if it be not made good, the blackeſt Scandal which Hell can invent, lies at our door.

Then Sir *Tho Meers* moving to refer it to the Committee of Grievances.

Mr. *Vaugh.* You ſhould have put the firſt Queſtion before another had been moved, the Earl of *Middleſex* (*Cranfield*'s Caſe) will not hold parallel; He was accuſed of Bribery, which might be proved by their own Books, but this is for Scandalizing the King, *&c.* And where ſhall the Committee of Grievances enquire about it? you ſay let them hear the Perſons.

But ſuppoſe they be of the Lords *Houſe*, Can you ſend for them? Or if you do, will they come and ſay it? The matter of this Accuſation is ſuch, that if it lies in the knowledge of a ſingle perſon, if he delivers it extrajudicially (which he doth, if not upon Oath) he may be undone by it, and hazard his Perſon too: At the Committee of Grievances the Perſons muſt be known, and what they can ſay, and then we may conclude what will follow: Beſides their Quality may be ſuch as they cannot be brought, or their Diſcretion ſuch as they will not anſwer.

Sir *Rich. Temp.* Tell but the Lords that a Man in Publick Place hath misbehaved himſelf, and they will ſentence him, if he purge not himſelf; Never yet were Witneſſes examined before the Trial in caſe of Treaſon or Felony, for then if there be two Witneſſes, a way may be found by *Poyſon, or ſome other way, to take away one.*

Serj. *Mayn.* No Man can do what is Juſt but he muſt have what is true before him; where Life is concern'd, you ought to have a moral Certainty of the thing, and every one be able to ſay upon this Proof in my Conſcience, *This Man is Guilty*. Common Fame is no ground to accuſe a Man, where matter of Fact is not clear; To ſay an Evil is done, therefore this Man hath done it, is ſtrange in *Morality*, more in *Logick*.

Upon the whole Debate it was Voted,

That the Committee do reduce the Accuſation to Heads and preſent them to this *Houſe*.

November 6th, 1667.

Sir *Tho. Lit.* Reports that the Accuſation was reduced to Heads, which he read in his Place, and afterwards delivered the ſame in at the Clerks Table, which are as followeth, *viz.*

I. *THAT the Earl of* Clarendon *hath deſigned a Standing Army to be raiſed and to govern the Kingdom thereby, and adviſed the King to Diſſolve this preſent Parliament, to lay aſide all Thoughts of Parliaments for the future, to govern by a Military Power, and to maintain the ſame by Free Quarter and Contribution.*

II. *That he hath in the hearing of the King's Subjects, falſely and ſediciouſly ſaid, That the King was in his Heart a Papiſt, or Popiſhly Affected, or words to that effect.*

III. *That he hath received great Sums of Money for the procuring of the Canary Patent, and other illegal Patents; and granted illegal Injunctions to ſtop Proceedings at Law againſt them, and other illegal Patents formerly Granted.*

IV. *That he hath Adviſed and Procured diverſe of His Majeſty's Subjects to be Impriſoned againſt Law, in remote Iſlands, Garriſons, and other Places, thereby to prevent them from the Benefit of the Law, and to produce Precedents for the Impriſoning any other of his Majeſty's Subjects in like manner.*

V. *That he procured his Majeſty's Cuſtoms to be Farmed at under Rates, knowing the ſame, and great pretended Debts to be paid by His Majeſty; to the payment of which, His Majeſty was not in ſtrictneſs bound: And afterwards received great Sums of Money for procuring the ſame.*

VI. *That he received great Sums of Money from the Company of Vintners, or ſome of them or their Agents, for Inhauncing the Prices of Wines, and for freeing them from the Payment of legal Penalties which they had incurred.*

VII. *That he hath in a ſhort time gained to himſelf a greater Eſtate than can be imagined to be gained lawfully in ſo ſhort a time; and contrary to his Oath, he hath procured ſeveral Grants under the Seal from His Majeſty to himſelf and Relations, of ſeveral of His Majeſty's Lands, Hereditaments and Leaſes, to the diſprofit of His Majeſty.*

VIII. *That he hath Introduced an Arbitrary Government in His Majeſty's Foreign Plantations, and hath*

cauſed ſuch as complained thereof before His Majeſty and Council, to be long Impriſoned for ſo doing.

IX. *That he did reject and fruſtrate a Propoſal and Undertaking, approved by His Majeſty for the Preſervation of* Mevis, *and St.* Chriſtophers, *and reducing the* French *Plantations to His Majeſty's Obedience, after the Commiſſions were drawn for that purpoſe, which was the occaſion of our great Loſſes and Damage in thoſe Parts.*

X. *That he held Correſpondence with* Cromwell *and his Complices, when he was in Parts beyond the Seas attending His Majeſty, and thereby adhered to the King's Enemies.*

XI. *That he adviſed and effected the Sale of* Dunkirk *to the* French *King, being part of his Majeſty's Dominions; together with the Ammunitions, Artillery, and all ſorts of Stores there, and for no greater value, than the ſaid Ammunitions, Artillery, and Stores were worth.*

XII. *That the ſaid Earl did unduely Cauſe His Majeſty's Letters Patent under the Great Seal of* England, *to one Dr.* Crowther, *to be alter'd, and the Enrolment thereof to be unduly raſed.*

XIII. *That he hath in an Arbitrary way examined and drawn into queſtion divers of His Majeſty's Subjects, concerning their Lands, Tenements, Goods, Chattels, and Properties, determined thereof at the Council Table, and ſtopped Proceedings at Law by Order of the Council-Table, and threatned ſome that pleaded the Statute of* 17 Car. I.

XIV. *That he hath cauſed* Quo Warranto's *to be iſſued out againſt moſt of the Corporations of* England, *immediately after their Charters were confirmed by Act of Parliament: To the intent he might require great Sums of Money of them for Renewing their Charters, which when they complyed withal, he cauſed the ſaid* Quo Warranto's *to be Diſcharged, and Proſecution therein to ceaſe.*

XV. *That he procured the Bills of Settlement for* Ireland, *and received great Sums of Money for the ſame in moſt corrupt and unlawful manner.*

XVI. *That he hath Deluded and Betrayed His Majeſty and the Nation in all Foreign Treaties and Negotiations relating to the late War, and Betrayed and Diſcovered his Majeſty's Secret Counſels to his Enemies.*

XVII. *That he was a Principal Author of that fatal Counſel of dividing the Fleet, about* June, 1666.

The Clerk having read them a ſecond time it was moved. That in regard the Articles were many, they might be referr'd to the Committee to ſee how far they were true; becauſe Fame is too ſlender a ground to bring a Man upon the Stage.

Sir *Fran. Goodr.* Seconds it, becauſe new matter was now added to what was formerly charged *Viva voce* in the *Houſe.*

Sir *Rob. Howard.* Suppoſe the Earl of *Clarendon* Innocent, and yet Charged and Impriſoned (which is the worſt of the Caſe) he afterwards appears innocent and is diſcharged, receiving no more Hurt than other Subjects have done; Namely, * one Great Man lately.

* D. *Buck.*

Object. But why ſhould we Commit him?

Anſw. For Proof, whether the Articles be true or not. Suppoſe Men for ſelf Preſervation will not venture to come, not knowing how they may truſt themſelves, and ſo you have no Proof, He very guilty, and You not able to proceed? Is the Inconveniency greater for an Innocent Perſon (if he prove ſo) to ſuffer a few days, than for you to loſe your Reputation for ever. If this Man be not brought to his Tryal, it may force him to fly to that which he Counſelled, *that is,* that we may never have Parliament more.

Sir *Fr. Goodr.* I am not againſt proceeding, but unſatisfied to do it without Witneſs, it being like Swearing in *Verba Magiſtri.*

Sir *John Holl.* That the Committee undertake to make good the Charge, otherwiſe Examine Witneſſes.

Mr. *Vaughan.* You admit the Accuſation to be Matter for a Charge, if the Committee find Proof; if you intend to make this a diſtinct Caſe I leave it to you; but if this be to ſettle the Courſe of the Proceedings of the Houſe, I am againſt it; for this is ordering a way of Proceeding in the Earl of *Clarendon*'s Caſe, which ſhall not be a General Rule. Tho' I cannot ſay one of the Articles to be true, yet I know them to be a full Charge if made good, and you are preſcribing a Courſe neither proper, nor ever practiſed. A Witneſs who ſpeaks without Oath is ſubject to Damage; not ſo upon Oath, becauſe the Law compels him: And whereas it hath been ſaid, If Witneſſes atteſt before the *Houſe of Commons,* what Judges dare meddle in it? I anſwer, ſuch Judges as meddled in the Caſe of Sir *John Elliot,* &c. and the *Ship-Money.*

Sir *R. Temple.* A Grand Jury is capable to preſent upon their own Knowledge, and are ſworn to keep the King's Counſel and their own, and I believe there is not one Article of the Accuſation but will be made good.

Sir *Rob. Howard.* As I am ſenſible of the Danger of publiſhing Witneſſes beforehand, ſo I would have every one ſatisfied; therefore take the Articles one by one, and according as you ſhall find what your Members may ſay for the Truth, you may be induced to proceed or not.

Sir *Tho. Osb.* The *Houſe* ought to have ſomething to induce their Belief, which they have had from ſeveral Members, and I know how ſome will be made good.

Sir *Tho. Littl.* What Article Members of the *Houſe* do not offer you Matter to induce you to believe, you may lay it aſide; therefore hear what ſhall be ſaid, and proceed accordingly.

Mr. *John Tr.* You cannot expect Witneſſes will appear before you, Lords will not, nor can you expect Commoners ſhould; for when you are up and gone, nothing can protect a Commoner, if this Information be not Judicial.

At laſt the Queſtion was put whether to refer it to a Committee.

Yeas, 128.
Noes, 194.

322.

Then the firſt Article was read to ſee what would be ſaid to induce the *Houſe* to impeach.

The Firſt Article read.

Sir *Rob. How.* } Heard from Perſons of Quality,
Lord *Vaugh.* } That it would be proved.

The Second Article was read.

Lord *St. Joh.* Perſons of great Quality have aſſured him to make it good, and if they perform not, he will acquaint the *Houſe* who they are.

The

The Third Article read.

Mr. *Ed. Seym.* Sufficient Perſons will make it good, with this Addition, When he received the Money, he ſaid, *So long as the King is King, and I Lord Chancellor, the Patent will ſtand.*

The Fourth and Fifth Articles read.

Sir *R. Temp.* Divers have undertaken to make them good, if they do not I will name them.

About his receiving Money of Vintners.

Sir *Rob. Carr.* That he knows who will prove it.

About his getting a great Eſtate ſo ſuddenly.

Mr. *Ed. Seym.* I ſuppoſe you need no Proof the Sun ſhines at Noon-day.

Sir *Tho. Littl.* The matter of Fact in the Article is eaſily made out, for his Place as Chancellor could not be worth above 4 or 5000 *l. per An.*

About introducing an Arbitrary Government in the Plantations.

Sir *Tho. Littl.* } One *Farmer* and others came
Sir *Tho. Osb.* } from the *Barbadoes* to complain of it, and lodg'd their Petition in this *Houſe*, but were impriſon'd that they might not be heard.

About fruſtrating Propoſals for preſerving Nevis, *&c.*

Sir *Char. Wheel.* My Lord Chancellor only oppoſed it.

About holding Correſpondence with Cromwel.

Mr. *Swinf.* That is pardon'd by the Act of Indempnity.

Mr. *Vaugh.* The Committee were aware of that, but the Defendant may plead it, and prove that he is not Out-law'd.

Sir *Char. Wheel.* I want not clearly to prove it.

Sir *Rob. How.* For ſuch ſecret things as theſe, he ought to plead, notwithſtanding the Act of Oblivion, that the World may know who are undiſcern'd Enemies.

Mr. *Hambd.* It is not only an Act of Parliament, but Oblivion; and no Man ought to be ſo much as Accuſed for what was done before.

Mr. *Vaugh.* If the Pardon be general, the Judges and you are to Note it, but if it hath Qualifications (as that Act hath) they are not to Note it; for you muſt ſay there is no Indictment or Outlawry againſt him (for ſuch the Act excepts) or the Article is to ſtand.

Then the Act was read.

Mr. *Swinf.* The Clauſe for Pardon is Abſolute, and any Man accuſed, pleading it ſhall not be ſued, nor his Fault mentioned, and this is to all Offences and Offenders; and for thoſe who betrayed the King beyond Sea (who are excepted) they muſt be proſecuted within Two Years.

Object. You will ſay, he may plead that Act.

Anſw. By the ſame Rule, any Man who committed a Fault, during the Troubles, may be put to plead it for Pardon.

Serj. *Mayn.* We profeſs that there ſhall be Candour in our Proceedings, Do we therefore believe this Great Man is Outlaw'd? If not, how ſhall we accuſe him of what we believe not true?

Mr. *Vaugh.* When I am ſatisfied of a thing I am not aſhamed to own it; I find now, having peruſed the Act, that he is within the Clauſe. The Indempnity is general, and he is within it if not excepted, the Exception reaches thoſe who have held Intelligence with the King's Enemies, ſo as they be proſecuted within Two Years, this he is not, therefore is clear.

So upon the Debate, the Article was expunged the Paper without a Vote.

About the Sale of Dunkirk.

Sir *Tho. Osb.* A great Lord told me that the Earl of *Clarendon* had made a Bargain for *Dunkirk* three quarters of a Year before it was known.

About Sealing Dr. Crowther's *Patent.*

Mr. *Street.* The King gives the Living to *Crowther*, in the Grant is a miſtake of a County, *Crowther* finds the miſtake, and petitions the King to amend it; the King calls for the Chancellor and Seal, and in the King's Preſence it was amended and Sealed.

Sir *Tho. Littl.* The Crime ſeems as great as a Chancellor could commit; the King was to Preſent by ſuch a Day or not at all; the Error was found after the Day, ſo that the King (by Act of Parliament) had loſt his Right. The Chancellor did alter the Patent, and the Record was fetch'd away by one of the Chancellor's Servants, and brought back raſed and altered, which might be done (and in other Caſes is done) where a Word only hath been miſtaken; but that is in Caſe of ſomething perfectly in the King's Power, and to ſave new Sealing; but here could be no new Sealing, the time being elapſed: It was to throw another Man out of his Freehold, and is a great Crime.

About drawing Mens Lands into Queſtion.

Mr. *Thom.* I ſhall be able to make it out.

About Quo Warranto's *to Corporations.*

Sir *Tho. Littl.* This is ſo Publick a Thing, that it need not be proved.

About the Settlement of Ireland.

Sir *R. How.* I doubt not but it will be made out.

About Foreign Treaties.

Sir *Tho. Littl.* This will appear by the Treaties themſelves, putting us in hopes of Peace, and ſo hindering the Fleet's ſetting out.

About Miſcarriage of the War.

Mr. *Thom.* I want not Perſons to bring to make it good.

Sir *Tho. Littl.* Sir *Edward Sprag* deſires Money to give an Intelligencer, and has it; *Sprag* brings the Intelligencer to the King, the King Commands him to meet him at the Chancellor's, there he met the King, and then Order was given to divide the Fleet.

Mr.

Mr. *Marvel* Chargeth Mr. *Seymour* with ſaying in his Accuſation, That the King was inſufficient for Government, which is now omitted in the Charge, and deſires he may declare where he had it.

Mr. *Seym.* The Party that told me at firſt, differ'd ſomething afterwards, therefore I rather withdraw it than to trouble you with uncertainties; but a Gentleman in the *Houſe* can give you further Satisfaction in it.

Sir *John Den.* A Peer of the Land heard the Earl of *Clarendon* ſay in a Coach, That the King was an unactive Perſon and indiſpoſed for Government: This will be made good.

Upon debate it appearing probable that theſe words were ſpoken before the Act of Oblivion, it paſſed over.

About the Cuſtoms.

Sir *Rich. Temp.* I have been Informed that he had a ſhare for under-letting the Cuſtoms and 40000 *l.* Bribe for getting pretended Debts from the King.

Sir *Tho. Osb.* The Earl of *Clarendon* ſaid, Bid who would for the Cuſtoms, none ſhould have them but the Old Farmers.

Mr. *Prynn.* Having gone over the Articles, we ſhould know where and when the words were ſpoken.

Mr. *Seym.* That will be a way to Suppreſs the Evidence, I hope you will Impeach him at the Lord's Bar, and in due time produce your Witneſſes.

Mr. *Prynn.* You muſt reſolve to Impeach him of Treaſon, or Miſdemeanour, and name it accordingly.

Sir *Ed. Walp.* You ought firſt to give a Title to your Impeachment; for if it be for Treaſon, you will move for Commitment; if it be for Impeachment in general, not.

Mr. *Coleman,* What is laid before you is only by Hear-ſay, but no Aſſurance that it will be made good; only that if they who reported it do not make it good, you ſhall know who they are. In the Earl of *Strafford*'s Caſe (the worſt of Precedents) the *Houſe* proceeded not, till one ſpake in the *Houſe* upon his own Knowledge, and another engag'd his Reputation to make it good.

Sir *Rob. Atk.* Thoſe who have given you Inducements to proceed, do it at third hand, and and tho' they may know the Credit and Impartiality of thoſe that told them, yet you do not.

Sir *Tho. Littl.* A Queſtion ſhould be put, Whether this *Houſe* hath ſufficient Inducement to Impeach? Afterwards Conſider what the Title ſhall be, then appoint a Committee to frame Articles.

Which Queſtion being put, was carried in the Affirmative.

Then Adjourned.

November, 9.

The firſt Article read.

Sir *John Goodrick,* Treaſon ought to terminate in an overt Act, which deſigning is not, therefore pray read the Statutes.

Thereupon ſundry Statutes were read.

25 *Ed.* 3.
1 *Hen.* 4. Cap. 10.
1 *Ed.* 6. Cap. 12.
1 Q. *Ma.*
13 *Car.* 2d.
14 *Car.* 2d. Cap. 29.

Mr. *Steward* Declared it to be tranſcendent Miſdemeanour but no Treaſon.

Mr. *Vaugh.* Two Queſtions will be conſidered, One, Whether what's Charged in the Article was Treaſon in Common-Law before — 25 *Ed.* 3. That ſo we may underſtand the Nature of Treaſon; The other, Whether by any ſubſequent Act it is made otherwiſe.

Mr. *Wall.* The Advice given to the King I look upon to be this. To eſtabliſh a New Government, To be Govern'd by *Jonezaries* inſtead of a Parliament; To have a *Divan* and a great Miniſter of State, inſtead of *Vizier-Baſſau,* A worſe Plot than that of the 5*th* of *November*; There, if the Lords and Commons had been deſtroyed, there would have been Succeſſion, but here both had been deſtroyed for ever. Then in order to the Debate conſider how the Law looks on it; for tho' we may Accuſe on leſs Evidence than ſhe may Judge, yet we muſt be Cautious in naming the Crime: What therefore doth the Law call this before 25 *Ed* 3? Then look whether the Power of Conſtructive Treaſon be taken away ſince.

Sir *Fran. Goodr.* The matter concerns Life, therefore we ſhould be wary in the Exerciſe of Legiſlative Power; you are not tyed to Rules, but you are now a ſtep towards Judicature; The Common-Law is *Jus non Scriptum,* and tho' every Treaſon includes Felony, yet not every Felony Treaſon, 25 *Ed.* 3. There is a Declaratory Power, whether a thing be Treaſon, or other Felony, not whether it be Treaſon, and could not be declared Treaſon if not Felony before. In Caſes Capital at Common-Law they might declare it Treaſon, but in Caſes not Capital at Common-Law, they never exerciſed their Declaratory Power.

Among other things that Statute declares falſe Coin'd Money to be Treaſon, which is but Felony at Common-Law; afterward Money being imported, which was not according to the Stamp, there was no Puniſhment for it, but as a Miſdemeanour: Therefore 4 *Hen.* 7. Proviſion is made againſt that Practice, and it is made Treaſon; but if the Parliament's Declaratory-power could have made it Treaſon, what needed a Statute on purpoſe? So that I cannot think the Article before you is Treaſon, it not coming within the Words of the Statute.

Mr. *Vaugh.* I ſhall ſpeak to the firſt Queſtion, whether this Article was Treaſon at Common-Law; and firſt remove what ſome have aſſerted, Namely, That nothing is Treaſon, but what was Felony before 25 *Ed.* 3. where petty Treaſon is ſpoken of, the Wife killing the Husband, *&c.* Theſe words follow, If hereafter it come into Queſtion whether there be another Treaſon? It ſhall not be reſolved by the Judges, till the Parliament determine it; For in petty Treaſon, if it be Treaſon, it muſt be Felony, becauſe there is killing.

Then

Then comes more, whether raiſing, *&c.* and it follows whether it be Felony or Treſpaſs; And the thing it ſelf is more ſtrange. None ever doubted, but that all Treaſons of 25 *Ed.* 3. was Treaſon before, and was ſo reſolved 12 Q. *Eliz.* That by that Act the King declares what ſhould be Treaſon; Namely, If any Man Vitiates the King's Eldeſt Daughter, *&c.* But by this Doctrine if it were not Treaſon, what was it? Either Adultery or Fornication, when it is only the Eldeſt Daughter, not the Youngeſt.

It hath been in all Ages a Reputation to Perſons who have been Counſellors to Princes according to Emergencies to give Counſel to extricate them out of danger, and therefore hard to tax a Miniſter of State in a Caſe which he acquaints his Maſter with; for there can be no Treaſon but againſt the King himſelf.

I will ſhew you what I mean, It is true this is a Treaſon which cannot ariſe from Miſpriſion, becauſe it was ſpoke to the King himſelf; but as a Miniſter of State he has liberty to give Counſel for the King's ſafety. If a Perſon be able to Inform his Maſter what Alliances are good for him, it is his Duty; ſo what Trades are Profitable, what not, *&c.* So where Men or Money are wanting, to adviſe how to extricate is commendable; but when it comes to this, that he breaks in upon the Laws, invading the Contract between the King and his Subjects, it will be as if a Man adviſeth, That if the King wants Money, he may ſet up High-way Men to take it, and bring it to him, and ſo the skilfulleſt for breaking the Law ſhall be eſteemed the beſt Counſellor; therefore whoever thinks to ſerve his Prince by breaking the Laws, he is ſo far from a wiſe Man, that he is the higheſt Criminal, *&c.* Then for the Nature of the thing, The Treaſons declared 25 *Ed.* 3. were declared by the King's Commiſſion, and the Treaſons were of that Nature which concern'd Counſel, *&c.* they were not like to be declared. And there is a paſſage in *Glanvil*, called *Seductio Domini Regis*, that is, deceiving the King to what is pernicious to Him, and his People.

Now ſee the Nature of this Crime; If a Man Counſel his Prince, and Practice it ſuch a way as ſhall render him Prince of Conſcience, who hath broken his Oath, and all this to his Injury, ſo that he hath no Aſſent to it. Compare this with any Treaſon of 25 *Ed.* 3. Conſider it: Here is a Perſon who gives the King Advice, which at once muſt make his People ſee he hath broken all his Faith to his Kingdom (and is not the Counſel of Governing by an Army ſuch) all the Laws broken, to keep which the King has Sworn, and this the King put upon tho' not Inclin'd to: I aſſert not this upon the Earl of *Clarendon*, but upon the Article. Who doth this, Counſels the higheſt Treaſon againſt the Common-Law, becauſe others are ſo; but if a Man will pretend to give Counſel, wherein many ſhall have no benefit by the Law, he breaks all parts, and therefore I think this Counſel was Treaſon at Common-Law.

Mr. *Colem.* The Queſtion is, Whether it be in your Power to declare this Article Treaſon by 25 *Ed.* 3. If he adviſed an Army againſt the King's Conſent, it is againſt the Statute; but I ſuppoſe that the Expreſſion in the Article was Advice to the King in Aid of his Government. Your Enacting Power is a kind of Omnipotency, but in a Declaratory Power you can declare no more than is committed to you, and with ſafety to the Subject you cannot declare this Treaſon; Then what muſt be our Rule in Declaring, I dare not ſay: For ſcarce any Man can tell what was Treaſon before 25 *Ed.* 3. was made to bring things to a Certainty, and what was uncertain to them who made that Law can be certain to us now. As the Judges can declare no other Treaſon, ſo in your Declaratory-power, Neither can you declare Treaſon unleſs there be Reſemblance to ſome other like Caſe: The Advice ſaid in the Article to be given the King, cannot be within that Statute, unleſs the Counſellor muſt run the hazard of his Advice.

Mr. *Vaugh.* The greateſt Declarations of Treaſons which ever were, equal not thoſe 22 *Rich.* 2. in *Nottingham* Caſtle: the Judges are called to deliver their Opinions upon their Faith, and they, declare the Acts to be Treaſon becauſe Felony before, and tho' ſome of them were Hang'd for it, yet the Parliament declared the ſame thing.

Serj. *Mayn.* Was, what is mentioned, Treaſon by the Common-Law, tho' ſo ſaid by the Lords? and what was ſo declared was repealed, *H.* 4.

Sir *Tho. Littl.* Pray reſolve whether it was Treaſon by Common-Law; and if ſo, when made ſo. Some think not, becauſe they find not the Parliament declaring them Treaſons, as being ſo at Common-Law, and that that Statute was made to bound them, but that was only to bound Inferior Courts, not themſelves; for the Parliament makes not a new Crime and then Condemns it, but the Crime was before, and the Parliament declares it.

Sir *Ed. Thur.* Hath the Parliament declaratory Power now? Yes, but it muſt be by King and Parliament, ſo it was in the Caſe of the *Genoua* Ambaſſador. The Judges would not conclude the Articles Treaſon, nor would the Lords alone; and if you come to an equal declarative Power with them you muſt examine Witneſſes, or go by a Bill.

Serj. *Charl.* The Queſtion is, Whether it be Treaſon by the Practice of *England*, the Common-Law is the Cuſtom of *England*, and the Uſage is grounded on Precedents, I know not one Precedent where Words or Intentions were Treaſon at Common at Law, for they are not Treaſon where no Act follows.

Sir *Rich. Temp.* The Article is Treaſon by Common-Law, and Judges have recourſe to *Glanvil*, &c. who ſay, that giving Advice to over throw the Realm is Treaſon by Common-Law.

Serj. *Mayn.* The Queſtion is whether he ſhall be Impeached of Treaſon upon this Article? If you go to Treaſon at Common-Law before 25 *Ed.* 3. you fly out of ſight, for the Word *Seductio* was ſoon after called *Seditio*, Seducing, but not ſaid to what; nor were thoſe Authors ever reputed of Authority: It's true they are ſometimes quoted for Ornament, but not Argument, and not one Caſe in one hundred of *Glanvil* is Law; but when a Caſe comes that is the Sheet-Anchor of Life, and Eſtate, you ſhould be wary; for by Wit and Oratory That may be made Treaſon which is not; and this which is a great Crime, ought not, becauſe great, to be made Treaſon.

Object. But it will be ſaid, levying War againſt the Law, is againſt the King, and here was an intent to alter the Law.

Anſw.

Anſw. True, yet a Deſign to levy War is not Treaſon within the Statute, here is nothing of Act, but Words to that end; If a Counſellor gives bad Advice, it makes it not Treaſon, but by a Bill it may be made what you pleaſe. By that Statute of 25 *Ed.* 3. are more Treaſons than are mentioned; for it ſaith if any Caſe happen, the Judges ſhall ſtay till the King and Parliament hath declared, ſo that there is a Power, but the *Modus* is the Queſtion, whether by Impeachment or Bill; you may the latter, not the former. It was done, but you have repealed it, and have ſaid *None of which pretended Crimes are Treaſon*; and what was pretend againſt him? *That he had Traitorouſly Endeavoured (which is worſe than deſign'd) to alter the Government, &c.* Now where is the Difference? Here is Advice to Raiſe an Army, there to uſe an Army Raiſed, and theſe you have called pretended Crimes, and no Treaſon, which is not Comprehended by a Law; but to Impeach as a Traitor, and yet the thing No Treaſon is ſtrange. In this *Houſe*, other than by Bill, you have no Power; you carry your Impeachment to the Lords, and they may give Judgment without coming back to you; declaring by Bill is by way of Judgment, but, as an Impeachment, is only an Accuſation: ſo that whatſoever the Conſequence is, the Lords judge it, and it never comes back to you, and if you go by Bill you make it Treaſon, *ex poſt facto.*

* of *Strafford.*

Mr. *Vaug.* Concerning what you have declared about *Straffords*, that this Caſe is, if not leſs, equal to it, and you have declared that not one Charge againſt him is Treaſon is true thus far, when that Act was made I repaired to it, becauſe there were ſome Things which ſhould not have paſſed ſo, if there had not been ſomething to ſecure ſuch Charges as theſe; for there is no expreſſion of any Particular Charge, but that the Charge againſt the Earl of *Strafford* was not in the particular, Treaſon; and in the Cloſe of the Bill, it is ſaid, that the whole Proceeding ſhall be taken away; and if ſo, no Man ſhould ſpeak againſt the Particulars, but look on it as Repealed.

Then this is ſaid to be levying War, and it's true, it muſt be Actual, and ſo not within the Charge. And the Charge againſt *Spencer* was for Counſelling the King, *&c.* and is called levying War againſt the Kingdom, and the Judgment againſt him was but Baniſhment; becauſe the Sentence was mitigated at the inſtance of the King.

And for Counſel, tho' Counſel is given but in Words, yet Words are more than Counſel, and are an Action, otherwiſe a Counſellor is Sworn to nothing.

But it may be thought I have not dealt ingenuouſly with the *Houſe*, than which I abhor nothing more; when the Caſe of *Strafford* was before the Lords, I was of Opinion the Parliament had no Declarative Power left, becauſe 1 *Hen.* 4. there was an aboliſhing of all declared Treaſon, and that no Treaſon, for the future, ſhould be ſo, and then the Treaſon about the *Genoua* Ambaſſador was gone, and all declared Treaſons were gone; 1 *Hen.* 4. and no Statute hath recovered them, and if all Actual Treaſons were taken away 1 *Hen.* 4. or if not then, 1 *Ed* 6. then what doth the firſt of Q. *M.* do, unleſs it take away all declaratory Treaſon?

Upon the whole, the Queſtion was, whether to accuſe of Treaſon upon the firſt Article.

Yeas, 103.
Noes, 172.

275.

November, 11.

The Second Article was Read.

Mr. *Prynn.* Let the Act made by you, about defending the King be Read, becauſe it limits Proſecution to a Time, to ſee if this be within Time.

Mr. *Vaugh.* In things wherein there is a publick Defaming the King, it becomes no Man here to defend the Perſon accuſed, if the Charge be not proved, let the Party himſelf plead it; you had that which induced you to Impeach him, and have declared not to Impeach of Treaſon upon the firſt Article: And if any Man will add to the reſt of the Articles he may, but you ought to accuſe.

Mr. *Sollicitor.* None accuſeth but for Juſtice ſake, and ſhould be glad if the Party accuſed prove himſelf Innocent. There is a Duty to the King, and to Truth, and it is not fit that an Article of this Kind, brought into the *Houſe*, ſhould be laid by, upon pretence that the time is elapſed; for the Crime is more than what is mentioned in the Act made by you; it is an Offence at Common-Law, and if it be proſecuted by Fine and Impriſonment, no Time is limited.

The Third and Fourth Articles Read, and Voted.

Mr. *Vaugh.* Your reading every Article is needleſs, unleſs it be to ſee whether any one may be Charged as Treaſon, for if One may be Objected againſt, ſo may all as to Miſdemeanours.

Fifth Article, Read.

Sir. *John Shaw.* The Old Farmers had not the Cuſtoms till others ſaid they would give no more, and they had no reaſon to thank the *Chancellor*, becauſe they gave more than others: And I declare upon my Life I know no reward given him.

Sir. *Tho. Litt.* It appears by the Farmers Confeſſion, that they had it 50000 *l.* under, beſides time of Payment which was 30000 *l.* more.

Mr. *Seym.* You are at liberty to receive Objections to the Articles, but tho' others bad more, they were told they ſhould not have it, and had about 1000 *l.* each given them to bid no more.

Sixth, Seventh, Eighth and Ninth Articles Read and Voted.

The Tenth.

Mr. *Vaugh.* This is an Article of an high Nature, *Dunkirk* was then as much a Part of His Majeſty's Dominions as *Ireland*, and if the Sale of it be nothing, I know not what you would think of it if *England* ſhould be Sold, you lately debated whether on the firſt Article he ſhould be accuſed of Treaſon, and found by the Statute of

of 25 *Ed.* 3. he could not, tho' it was abſolute Treaſon at Common-Law, and it's reported abroad that I ſaid that the Right of the Parliament in declaring Treaſon is taken away, which I did not, for there are Treaſons not mentioned in that Statute. Therefore it provided that the Judges ſhould not upon any one Treaſon proceed to Judge, until declared before the King and Parliament, and what is ſignified by it? If we think before the King, Lords, and Commons, that is impoſſible; for how can the Commons poſſibly declare before the King and Lords? nor was that the Caſe, but this, that there is the ultimate Power of determining what the Law is in a doubtful Caſe. In Writs of Error let them paſs from Court to Court, at laſt they come to the Lords, 24 *Ed.* 3. If the Judges cannot reſolve what the Law is, it is to be brought thither, that is, where it is queſtionable, but that is not in the *Houſe of Commons*, any more than in a Writ of Error: How then is the Caſe here? If a Queſtion be whether a Thing is Treaſon or not, it ſhall be Reſolved where the Law uſeth to Reſolve, that is, before the King in Parliament, that is in the Lords *Houſe*. Had the Words of the Act been theſe, there ſhall be no Proceeding untill Reſolved by the King in the Lords *Houſe*, and Suppoſe that Clauſe taken away, That Treaſon ſhall not be Reſolved, but ſuppoſe it ſhall not be declared otherwiſe, doth it follow it is taken away? No, if you charge Treaſon which is not within the Statute, it is another Thing, but I ſaid not, there is no Treaſon at Common-Law.

Mr. *Sollicitor*, There was a great Miſchief in the declaring Treaſon by Parliaments; for *Mortimer* was made a Traitor for incroaching upon Royal Power, which every Man, who incroacheth upon any Power, doth. Hence the *Commons* Petition'd the King to explain what incroaching upon Royal Power was, and when no Anſwer could be gotten to it, 25 *Ed.* 3. They Petition'd it might be declared certainly, and ſo Treaſons were enumerated, and if the Judges be in doubt, it is *provided* that the King and Parliament ſhall firſt declare it.

Declaration in Parliament, is a Declaration before the King, Lords, and Commons. Would our Anceſtors leave what is to be Reſolved Treaſon to the Lords, and themſelves have no ſhare in it? And *Talbots* being declared Treaſon by the Lords, is ſaid to be no Treaſon by Judge *Cook*, becauſe the *Commons* had no hand in it, there is no Treaſon in Common Law, becauſe there can be no Treaſon, where there is no way to Judge it, which is not at Common-Law.

Mr. *Vaugh.* When the Law is made uncertain the Lords muſt declare it, it appears there were Treaſons at Common-Law not mention'd, 25 *Ed.* 3. It is one Thing for a Matter to be Treaſon before, and the Parliament declare it; another, for the Parliament to make a Thing Treaſon which was not.

Sir. *William Lewis.* I deſire to be Reſolved whether *Dunkirk* was annexed to *England*, becauſe a Bill to that end was carryed, but not Paſſed.

Mr. *Waller.* To ſhew that *Dunkirk* was annexed to *England*, conſider we were Paſſing a Bill for 1200000 *l.* But when we were making a Preamble to the Bill, we were to ſeek for Reaſons for giving the Money, ſeeing we had no War, ſome ſaid to keep *Dunkirk*, but we were told we ſhould take heed of looking upon it as annexed unto the Crown; but it was replyed, *Dunkirk* was look'd upon as a Frontier Town, and accordingly noted in the Bill. Therefore the Sale of it Treaſon.

Mr. *Coventry.* Had it been part of the Crown of *England*, what needed a Bill to make it ſo?

Mr. *Prynn.* It cannot be Treaſon, becauſe Sold by the King's Conſent.

Mr. *Vaugh.* If the King agreed to it, doth it follow that he, who adviſeth the King to a Thing deſtructive to his Kingdom and King, is not a Traitor? if any part of the King's Dominions may be alienated, eſpecially when a Parliament is Sitting, for they concuring, it may be alienated, by the ſame Reaſon the King may alienate *Ireland* or *England* too without the Parliament. For by what Act of Parliament doth the King hold *Ireland* or *England*? It is by Acquiſition; I ſay not *Tangier*, for that was part of his *Portion*, and is his own: But *Dunkirk* would have been the Kingdoms if not thus diſpoſed of, and tho' it might have been alienated with the Parliament, it could no more without, than *England* or *Ireland*.

Mr. *Ed. Hartl.* The Act of Parliament for annexing was not This Parliaments, but of the Convention, and came in thus; the King was pleaſed to tell me, that the *Spaniſh* Ambaſſador might preſs him to part with it, which he had no mind to do; therefore he would have a Bill to annex it to the Crown, which ſhews it was the King's Will to have it annexed, accordingly this Parliament paſſed it, and *Dunkirk* might have been as uſeful as *Calice*.

At length this Article was paſſed by, without determining whether Treaſon or not.

Eleventh, Twelfth, Thirteenth and Fourteenth Articles Read and Voted.

Fifteenth Article Read.

Lord *Vaugh.* I brought in this Article, his betraying the King's Counſels was to the *French* King during the War, and that in the Secrecy of State, which was the occaſion of the late Miſchiefs.

Sir. *Tho. Osb.* That is direct adhering to the King's Enemies, and if ſo, it is Treaſon.

Mr. *Sollicitor.* This muſt be Treaſon if you have any inducement to believe it.

Sir *Rob. How.* I have heard it from an Eye Witneſs who told it me, and added that we are neither to be truſted nor dealt with, who were ſo betrayed.

Serjeant *Mayn.* Betraying the King's Counſel to his Enemies is, doubtleſs, Treaſon. Correſponding is another Thing. Betraying muſt be without the King's Knowledge, otherwiſe it is but delivering the King's Words to his Enemies.

Sir *John Bramp.* Did this Information come from a Subject, or from one of the King's Enemies?

Sir *Rob. How.* I would not have brought you Information from one of the King's Enemies, nor did I ever Converſe with them during the War.

Coll. *Birch.* We cannot accuſe of Treaſon, except it be ſaid, Betraying the King's Counſel, or Correſponding with his Enemies.

Mr. *Vaugh.* You have declared that you have had inducement to Impeach, and ought to put the Queſtion, whether on this Article he ſhall be Impeached of Treaſon.

Mr. *Sollicitor.* To betray the King's Counſel, taken generally, is not Treaſon, for it may be to the King's Friends; but to his Enemies it is, if the Article be ſo.

Lord *Vaugh.* Let it be put, Betraying His Majeſty's Secret Counſels to his Enemies during the War.

Then the Queſtion was put whether theſe New Words delivered by the ſaid Lord *Vaugh.* ſhould be added.

Carryed in the Affirmative.

Sir *John Holl.* Was this Information given by an Enemy or by a Subject?

Mr. *Vaugh.* It muſt come from a Foreigner, or you could not know it; may not the King have from a Foreigner a diſcovery of Treaſon againſt him? The end of queſtioning it muſt be to know the Man, for it might as well be asked whether his Beard be Red or Black.

Sir *Thomas Meers.* The Words are diſcovered not betrayed, and diſcovering may be with the King's Conſent.

Lord *Vaugh.* Add the Word Betraying, for ſo I meant it.

Serjeant *Mayn.* They who give the Information ſay not they had it from more than one Witneſs, which *Stat. Ed* 6. requires, and only one of them Names the Earl of *Clarendon.*

Mr. *Seym.* This Exception is proper to be made before the Judges.

Then the Queſtion was put.

Whether to Impeach of Treaſon on this Article.

Yeas, 161.
Noes. 89.

250.

Sir *Tho. Litt.* That an Impeachment of Treaſon and other Crimes and Miſdemeanours be carryed up to the Lords againſt him by Mr. *Seym.*

Serjeant *Mayn.* For Miſdemanour he may have Councel, not for Treaſon: Therefore ſo diſtinguiſh the Charge, that he may have Councel.

Reſolved, *That a Charge be carryed up.*

Reſolved, *That the Speaker and the whole Houſe carry it.*

Nov. 12. It being conſidered that if the Speaker go up with the Charge, ſome diſpute might ariſe about carrying the Mace and otherwiſe.

It was *Reſolved*, That Mr. *Seym.* carry it.

Accordingly he went, where at the Bar of the Lords Houſe, the Lord-Keeper *Bridgman* being come to the Bar to meet him, he delivered himſelf to this purpoſe.

My Lords,

THE *Commons Aſſembled in Parliament, having been informed of ſeveral Traiterous Practices, and other high Crimes and Miſdemeanours committed by* Edward *Earl of* Clarendon, *a Member of this Honourable Houſe, have Commanded me to Impeach him, and I do accordingly Impeach him of High-Treaſon and other Crimes and Miſdemeanours in the Name of the ſaid* Commons, *and of all the* Commons *of* England: *And they have farther Commanded me to deſire your Lordſhips to Sequeſter him from Parliament, and to Commit him to ſafe Cuſtody, and in convenient time they will exhibit Articles againſt him.*

Nov. 15. The Lords ſent down to deſire a Conference in the Painted Chamber.

At which the Earl of *Oxford* delivered a Paper in writing (without any Debate) the Contents whereof were to this effect.

The Lords have not Committed the Earl of *Clarendon*, becauſe the Accuſation is only of Treaſon in general, without charging any thing in particular.

Mr. *Garraway.* I had rather the Houſe ſhould loſe the Puniſhment of this Man, (tho' a great Offender) than that this Houſe ſhould loſe its Privilege: For if this Houſe may at no time Impeach a Lord without giving in particular Articles, it may fall out to be at a time (as in the Duke of *B———s* Caſe) where a great Man by his Intereſt with the King procured the Diſſolution of the Parliament, and then the Accuſation falls.

Mr. *Vaugh.* Either you can juſtifie your Proceedings, ſo as to ſatisfie the Lords what you have done, or you cannot; you muſt name a Committee as well to conſider what you are to do, if your Reaſons ſatisfie not, as to draw thoſe Reaſons.

Mr *Sollicitor.* Without doubt this Houſe was not miſtaken in demanding that the Party accuſed for Treaſon ſhould be committed, That is, that Treaſon is worthy of Commitment, and you can but find Precedents that Perſons have been accuſed of Treaſon, and thereupon have been committed: But the Caſe is this, Treaſon is an Offence, for which Bail cannot be taken; the Lords tell you not they will, or will not Commit; But it is true, Perſons have been Committed for Treaſon, and Perſons accuſed of Treaſon, Judges may Commit, or not.

Conſider this Law. Let the Crime be what it will, an Impriſoning till the Charge is given is but an Impriſoning to ſecurity, not to Puniſhment; otherwiſe the Law is not Juſt, and if the Judges of the *King's-Bench* have a Judgment of Diſcretion, whether to Commit or not; can we wonder that the Lords have not Impriſoned, till they know the Article, when they have Judgments of Diſcretion tho' they knew it? You may find Precedents, but it is not an Argument it muſt always be ſo: But as the Judges have a Latitude much more than the Lords, the Impeachment from the Commons of *England* is properly the King's Suit, for there is no Treaſon but againſt him, and if the Judges may Bail in that Caſe, may not the Lords? But you are not told he ſhall be Bailed, but they deſire to know what his Crime is, and then you ſhall know their Anſwer, the Reſolution ſeems reaſonable, having gone no farther, I cannot except againſt it.

Sir *Thomas Litt.* The *Long-Parliament* had ſome good Precedents which we are not to caſt away leaſt we ſmart for it.

Reſolved, *To Reſume the Debate to Morrow.*

Nov. 16. Mr. *Vaugh.* The Lords do not ſay Commitments ſhould follow becauſe Treaſon is Bailable by the *King's-Bench*: it's true, the *King's-Bench* Bails for Treaſons, but how? If Perſons be brought thither for Treaſon directly, there is no Bail, but when a Commitment is by the Council-Table for Suſpicion of Treaſon, then if the

the Matter fall not out to be what was expected, they give notice to take Bail; elſe the great Article of the Great Charter, Namely, that Juſtice ſhould not be delay'd, nor denied, would be to no purpoſe; and in ſuch a Caſe a Man may be in Priſon for ever. On the other ſide, what is the Caſe of Committing for Treaſon? When a Perſon is Committed by the Council-Table, they ſay, they do no more but by ſpecial Command of the King, and that is the ground of his Committing, and were not this ſo, what would follow? Intelligence would be given of a Treaſon diſcovered, wherein many might be concerned, and if they who Commit ſhould Commit with the Treaſon, all the Complices would eſcape; and therefore ſometime they make it Treaſon General. Then for the Caſe, before you have gone up with a Charge of Treaſon generally, which is to the Lords a Warrant ſufficient for Committment, ſay they, we will know the Particulars; then will not the ſame Inconveniencies follow, if other Perſons be concerned, and ſo the danger of all expoſed upon the Nicety.

If a Buſineſs comes before this Houſe, which concerns others, and may prove Treaſon, if we go to the Lords (for we have not Juriſdiction except in Caſe of our Privileges) but are not yet ready to bring up Particulars, and deſire the Lords to apprehend ſuch Perſons, would it be reaſonable for them to refuſe it, there being no Inconvenience like to follow the doing it, much the not doing it? I ſay not to commit them, and we not proſecute, for that is delay of Juſtice.

Qu. But why do the Lords refuſe?

Anſ. Tho' I have great reſpect to the Lords, yet to clear ſomething in point of Privilege, the Lords have the ſame Privilege with us in point of Speech, their Members, *&c.* as they are eſſential to paſs Laws; but that great Privilege which they often aſſume as Peers, is as the King is there preſent in the higheſt Court: How then will it fall out in reſpect of this Privilege? If the King be there, there be many things which the Lords as Peers cannot pretend to, for the King hath often ſate there not only in paſſing Bills, but in Judgment. Had this Charge then come before the King there, it had been reaſon if the King ſhould have ſaid, *I deſire to know what this Treaſon is*, we muſt then have told it, becauſe he, whom it concerned, required it; or if we deſired Commitment, he, who could Releaſe or Pardon him, might ſay, *let him be Bailed.* The Lords indeed retain this Privilege, but it is in the King's Right, not as Peers.

Now we have carryed a Charge, if the Lords Bail him, I know not what would follow, for no Example can be given of it, and I think they will not do it, if the King do not direct it.

On the other ſide, I would be glad we might be no more troubled, than is neceſſary, becauſe others are liſtening what we do, and think there is nothing in the Caſe: Therefore I am not for delay, but ſatisfying others that what we have done is not barely for Impriſoning the Earl of *Clarendon*, but for Juſtice; and if you go this way, give the Lords the Reaſons why we ſent the Charge as we did, and yet keep up their Privileges, and declare ſo to them.

But then we muſt go up with more than that Head, on which we Reſolved to Impeach of Treaſon, for your Article muſt be ſo formed as to make it a Charge fit to be Anſwer'd for Time and Place, and that Article hath ſomething of that which muſt be penned ſo as to make it more certain, for the Article goes but thus. That there was Diſcovery and Betraying of the King's Counſels to his Enemies, and if you leave it there, thoſe who ſcruple doing any Thing, becauſe particular Treaſon is not mentioned will ſay; you ſay he hath diſcovered and betrayed Counſels to Enemies, but as we truſt you not what is Treaſon, but we will know it; ſo we know not whom you mean by Enemies; for we may think them not ſo, therefore appoint a Committee to form Articles.

Mr. *Sollicit.* It is a great miſtake to ſay, That the Power of the *King's-Bench* to take Bail for Treaſon, is no other but what is aſſerted, as if the Judges there had only Power from *Magna Charta*; when a Man is Committed upon Suſpicion of Treaſon, and no Proſecution follows, and the Party bringing his *Habeas Corpus*, the *Bench* Bails him, becauſe he ſhould not lie there eternally. It is not to be ſaid the Judges Bail for Treaſon; ſeeing no Crime is produc'd: For when a Man hath been accuſed of Treaſon for Coining falſe Money and brought to the Bar, the Judges have Bailed him not becauſe they ought, but from that diſcretionary Power wherewith the Law truſts them, they may Bail if they will, for no other Judicature, but they, can Bail in that Caſe; for ſeeing Impriſonment before Tryal is only that the Priſoner may be forthcoming, if they ſee there is no danger of eſcaping they may take Bail, for he is a Priſoner when Bailed, and the Bail is his Keeper; but there are few Caſes of this kind, wherein they will Bail, they have a fundamental Power to do it, placed in them to preſerve the Rights of the Crown; and the Lords will not think themſelves leſs truſted with the Rights of the Crown than the *King's-Bench.* Yet tho' the Lords may Bail, they will not exerciſe their Diſcretion, when there is a probable Truth in the Impeachment; ſhall we then refuſe this Intimation from the Lords, who ſaying, Becauſe they have not a particular Article of Treaſon do not ſecure, ſeem to imply, that if they had, they would, tho' they might refuſe. The Right of Bailing comes not from an imaginary apprehenſion of the King's ſitting there, tho' ſome Kings have ſate there in Judicature, but from their Inherent Authority of being truſted with the Right of the Crown: Let us do then what becomes us, and not let the Impeachment miſcarry upon a miſunderſtanding, but draw up the Article. But how is it poſſible to draw it as an Article which you expect he ſhould be impriſoned upon? For your Impeachment is in the Nature of an Indictment, and muſt contain ſo much of Certainty as to put him to plead, that ſo he may not Demur.

How may it then be Circumſtantiated, ſo as that he may be put to plead; if you do it according to 25 *Ed.* 3. (for diſcovering the King's Secrets to his Enemies is within that Statute.) The firſt part of the Article is not pleadable, for we muſt ſhew how he adhered to the King's Enemies, and we muſt add what the Counſel was that he betrayed, elſe he will deny to plead, and ſay, I can avoid it: Therefore conſider what kind of certainty this Article muſt have to make him plead, for the other Articles, it's enough to ſay them without proving Time or Place, if the Facts were after the Act of *Oblivion*; but in Treaſon, the Matter muſt appear in the Indictment, for he hath liberty not only

to plead not Guilty, but to avoid it: Therefore prepare the Article accordingly.

Mr. *Vaugh.* What is Moved is to put you upon an impoſſible Buſineſs, for an Article preſented from the Parliament needs not that Certainty, as if it were to be tryed at the *King's-Bench.*

Sir *Thomas Litt.* It is not for the Honour of this *Houſe* to recede ſo eaſily from ſuch a Privilege, for beſides, the Earl of *Strafford's* Caſe, we have expreſs Precedents for, but none againſt us. We have heard that we muſt have no more Impeachments, becauſe they are dangerous and tend to Rebellion. Conſider the Arch-Biſhop of *Canterbury's* Caſe, *Finch*, *Rateliff*, and others in the *Long Parliament*, and we ſhould not ſo eaſily part with them. *William Delapool* being commonly reported to be no true Man, (which is a leſs Charge than Treaſon) deſired he might acquit himſelf, and the Lords required no ſpecial Matter before they impriſon'd him, and afterward he was accuſed more Specially.

Sir *Rob. Atk.* In the Caſe of *Anſelm* Arch-Biſhop of *Cant.* the Commons Accuſed him, but the Lords did not Commit him, and gave no other Reaſon for it, but that he was a great Man; and yet afterwards he was Condemned as a Traitor, tho' the King reduced his Puniſhment only to be Baniſhment. Tho' a Privilege is much ſpoken of, yet I ſhall never be fond of any Privilege which ſhall Intrench upon my Liberty as a Subject.

Mr. *Vaugh.* I hear it Objected, That as you Charge a Lord generally, ſo may the Lords a Commoner, but that cannot be; for the Lords cannot cauſe a Commoner to be committed tho' for Treaſon, without your conſent: Therefore put a Queſtion, whether a Committee ſhall be named to draw up Reaſons to juſtifie what you have done.

Reſolved, *That the Queſtion ſhall be put.*

Reſolved, *That a Committee ſhall draw Reaſons.*

November 18.

The Committe brought in their Reaſons.

Firſt, What can or ought to be done by either *Houſe* of Parliament is beſt known by the Cuſtoms and Proceedings of Parliament in former times; and it doth appear by Example, that by the Courſe of Parliaments the Lords have Committed ſuch Perſons, as have been generally Charged by the *Houſe of Commons* for High Treaſon, to ſafe Cuſtody, tho' the particular Treaſon hath not been ſpecified at the time of ſuch Charge.

Second, That a Commitment for High Treaſon in general, is a Legal Commitment, and if the Party ſo Committted bring his *Habeas Corpus*, and the Cauſe of his Commitment thereupon be retnrned for High Treaſon generally; he may lawfully be remanded to Priſon by the Judges upon that Return.

Third, If before ſecuring the Perſon, the ſpecial matter of the Treaſon ſhould be Alledged, it would be a ready courſe that all Complices in the Treaſon might make their Eſcape, or quicken the Execution of the Treaſon intended, to ſecure themſelves the better there.

Fourth, If the *Houſe* of *Peers* ſhould require the particular Treaſon to be Aſſigned before the Party Charged be ſecured, they leave the Commons uncertain and doubtful (and that from time to time) how particular they muſt make their Charge to their Lordſhips Satisfaction; before the Offenders be put under any Reſtraint.

Fifth, The Commons Conceive, that if they ſhould deſire the Lords to ſecure a Stranger, or Native Commoner, upon the Suſpicion of Treaſon, which the Commons had of him, and which was by them under Examination to be Evidenced to their Lordſhips in due time; their Lordſhips in Juſtice for the Safety of the King and People, would ſecure ſuch Perſon or Perſons, upon the deſire of the Commons, and in ſuch Caſe there would be no difference between a Lord and a Commoner ſo deſired to be ſecured.

Sixth, The Proceedings of Inferior Courts, between the King and the Subject, or Subject and Subject, and the Diſcretion of Judges in ſuch Courts is bounded and limited by the Diſcretion of the Parliament which truſt them; and 'tis not left to the Diſcretion of the Judges in ordinary Juriſdiction to give the King, or take from him inconvenient Power for the Subject, nor to diſpence the Law Partially between Subject and Subject for Malice or Affection; but the Diſcretion of the Parliament, which is the whole Publick, comprehending the King, Lords and Commons (for the King's Preſence is ſuppoſed to be in the Lords *Houſe*) is, and ought to be unconfin'd for the Safety and Preſervation of the whole, which is it ſelf.

It cannot be malicious to a part of it ſelf, nor affect more Power than already it hath, which is abſolute over it ſelf and part, and may therefore do for Preſervation of it ſelf whatſoever is not repugnant to natural Juſtice.

Mr. *Prynn.* I like not the firſt Reaſon, becauſe it cannot be called a Cuſtom, where only one Parliament hath done it.

Mr. *Swinf.* The great ſtrength lies upon this firſt Reaſon, and is like to be a Precedent; for exact Precedents I find none, except that of *Michael Delapool*, and in the Long Parliament: But conſider the reaſon why there was no expreſs Precedent before, and what was the Cuſtom of Parliaments before. The Parliament was wont to proceed formerly by Bill, and thus far that Proceeding makes againſt the Lords now, and for committing the Party accuſed; for then the Proceedings upon Treaſon were by Common-Law, and becauſe the Judges could not proceed, therefore the Parliament went by Bill, and it cannot be ſuppoſed that the Parties were at liberty all that while.

Second, Third, Fourth and *Fifth* Reaſons Voted, *Sixth* Read.

Mr. *Solicit.* I am againſt this Reaſon, not as a Reaſon, but unneceſſary; for if the former Reaſons ſatisfie not, this will not, becauſe it ſuppoſeth things not in queſtion.

Our Debate muſt at laſt end in this Queſtion, betwixt Privilege of Parliament and former Proceedings; And there being no Privilege in Caſe of Treaſon, Why ſhould not former Proceedings Sway? Except we call that Treaſon which is not, for otherwiſe no Privilege will help.

Therefore add this to your Reaſon, That there is no Privilege for Treaſon, and the Lords ought not to think that the Commons will call that Treaſon which is not, or if they do, the Lords may by a ſpeedy Trial determine it.

Reſolved,

Reſolved, *That a Conference be deſired with the Lords, and the Reaſons carried up.*

November 21.

The Lords ſent down to deſire a Conference about the Subject Matter of the laſt Conference. But the Commons doubting that if they ſhould conſent to it, the Lords might afterwards refuſe a Free Conference, becauſe the Buſineſs in diſpute concerns Judicature, which belongs to the Lords, and ſo the Impeachment generally falls.

Reſolved, *To ſend an Anſwer by Meſſengers of their own, and accordingly did, with Order to acquaint the Lords how far they had proceeded, and they expected they ſhould rather have deſired a Free Conference.*

November 23.

The Debate about the Freedom of Speech in Parliament was reſumed.

And the Report read of Proceeding about Sir *John Elliot*, Mr. *Holles*, *&c.* 5 *Car.* 1.

Mr. *Solicit.* If you are ſatisfied that the Judgment paſſed upon them was Illegal, two ways you have to be ſafe; By taking notice of that Judgment, giving your Opinion upon it, and carrying it up to the Lords, that Judgment will be utterly Damned, elſe you may proceed by Act, but conſider then the Conſequence: For if you go by Act, you bound the Liberty of Speech, unleſs in Penning it you prevent it, but an unknown Limitation is better than bounding, for an Act it ſelf is ſubject to Expoſition, but your Vote, and the Lords Concurrence is not.

Mr. *Vaugh.* It is not ſafe for you to circumſcribe Privileges, therefore that muſt be done which may take away what deſtroys them.

The Laws and Rights of this Kingdom are Rights by Common Law, or Act of Parliament; what is an Act of Parliament, may be Repealed by Parliament; what is Common Law may be altered by Parliament, and whatever is both, may be altered by a *New Law*; and how is it poſſible to do one or the other without Liberty to ſpeak about it? And how can there be any Inconvenience about Freedom of Speech, about any thing which cannot be a Law, without paſſing King, Lords, and Commons.

Then it being moved to put the Queſtion for confirming that Report.

And it being reply'd that ſome Paſſages in that Buſineſs, *viz.* about keeping the *Speaker* in the Chair were not warrantable, and ſo not to be joined in the Queſtion with the reſt.

Mr. *Vaugh.* That Buſineſs which is ſo much talked of, and condemned, I ſhall ſtate to you.

The *Houſe* is to adjourn it ſelf, tho' ſometimes the King adviſeth them to adjourn themſelves (as then he did) but the Adjournment is always made by a Queſtion, and without it the *Speaker* cannot leave the Chair.

The *Speaker* acquainting the *Houſe* then with the King's Meſſage, Sir *John Elliot* ſtood up to ſpeak, but the *Speaker* would not hear him, but was going to leave the Chair, whereupon ſome ſaid, if you go out without a Queſtion the Parliament is diſſolved, upon which he was leaving the Chair; ſome kept him, and told him, if this be a *Houſe*, you, as *Speaker*, have no Place in it but the Chair; and this was all the Irregularity in that Buſineſs ſo much talk'd of.

Reſolved, *That the Judgment given againſt Sir* John Elliot, *&c.* 5 Car. *was an illegal Judgment, and againſt the Freedom and Privilege of Parliament.*

The Lords ſent for a preſent Conference, after which Report was made that the Lords had Voted the *Commons* denying them a Conference lately, was contrary to the Courſe of Parliamentary Proceedings, and gave Reaſons why it was not yet time for a Free Conference.

November 25.

After Debate whereof, it was *Reſolved* to grant them that the *Commons* agreed to the Conference formerly deſired.

At which the Lords declared that they had conſider'd of the Precedents and Reaſons formerly ſent them by the *Commons*, but were not ſatisfied to ſecure the Earl of *Clarendon*, or to Sequeſter him from Parliament, until ſome ſpecial Treaſon be aſſigned.

November 28.

The *Commons* ſent to the Lords to deſire a Free Conference upon the Matter of the laſt Conference.

To which the Lords concurring, Mr. *Vaug.* Sir *Rob. How.* Sir *Tho. Littl.* and others were appointed to manage it, who went up immediately to that End.

Mr. *Vaugh.* Made Report of the Conference with the Lords yeſterday to the Purpoſe following.

The Lords told us, *That no Precedent can be againſt the Law.*

We Anſwer'd.

If that can be made good, we ſhall preſs Precedents no more: But what they moſt ſtood upon was the *Petition of Right*, where 'tis *provided* that none ſhall be Committed without ſpecial Cauſe, whereby the Party may Anſwer according to the Law, thence they infer that our Proceedings are againſt Law; becauſe a general Charge is againſt the *Petition of Right.*

Commons. The Caſe of the *Petition of Right*, rightly ſtated, will clear this, which was This: Some Perſons were committed by no other Warrant, but the King's ſpecial Command, they bring their *Habeas Corpus* to the *King's-Bench* to know the Cauſe: This Cauſe was returned by the Judges, that they could not Bail a Man, when ſo committed, becauſe they knew not the Cauſe, nor had any way to bring him to his Trial.

Then the *Petition of Right*, provides That the Cauſe ſhould be returned, whereby the Crime might appear, and that before and after the *Petion of Right* to this Day, if upon bringing a *Habeas Corpus*, it be returned that the Party is impriſoned for Treaſon, the Judges ought to Remand, unleſs there be ſome ſpecial Cauſe to make them take Bail. So that the *Petition of Right* was againſt them, for they ſay, a Man ought not to be Impriſoned upon a general Charge, becauſe 'tis againſt the *Petition of Right*: We ſay it is not againſt the *Petition of Right*, becauſe the Judge may Remand the Party, if there be not ſpecial Cauſe.

Then

Then the Lords ſaid, *That the Reaſon why the Judges Remanded in that Caſe was, becauſe the Party Committed knew it was for Treaſon: Therefore they Re-committed.*

We owned it, becauſe it was the Rule for the Judges to proceed by, but that was no Rule for Proceeding of Parliament; for as a Magiſtrate commits for Treaſon, and is ſuppoſed to be acquainted with it; ſo alſo is he with the Probability upon the Proof: But the Lords inſiſt not now upon that, but ſpecifie Treaſon, and if the Courſe of Parliaments ſo much varied in ſuch Caſes, that was no concluding Proof, why they ſhould have ſpecial Treaſon. And for the other part,

That upon the Return, there ſhould be a Cauſe Returned, that ſo the Party might Anſwer; for when a Return is made, if the Cauſe be ſuch as that the Party ought not to be Impriſoned, the Judges free him; otherwiſe they leave him to come to his Tryal.

Then to the Precedent about the Earl of *Strafford*, they *Replyed*, That it was made in bad times. And we *Anſwered*, That as good Laws were made before, in, and afrer that Time as any other; and if the Lords then might make ſuch Laws, we could not ſee, why it ſhould be a good time to make Laws, and no good time to Adminiſter to Perſons the Laws already made.

Farther, to their *Objection*, that in the time whence thoſe Precedents were brought, there was a Face of War. We *Anſwered*, That could not alter the Caſe, for the Law calls no Time a Time of War, whilſt the Courts of Juſtice have Freedom, as they had when *Strafford*, *Finch*, *Canterbury* and *Ratcliff* were Impeached: And it was ſtrange that in the Parliament-Houſe there ſhould be ſuch a Conſternation as to make their Proceedings invalid, when in other Courts there were none: Beſides, in *Holland* for many Years there was a conſtant Scene of War, and can we imagine that there was not Juſtice done at that time.

Then they preſſed Precedents againſt ours, One 14 *Ed.* 2. againſt the *Spencers*, where a great Man moved the King to Commit one of them, and the King anſwered, *it could not be unleſs Cauſe was ſhewed.* We *Replyed*, This was a Precedent like that, a Man was Committed, becauſe he was Committed; for there was no Allegation of Treaſon.

Second Precedent was 38 *Hen.* 8. againſt Lord *Stanhope*, the *Commons* moved the King to Impriſon him, and the King Anſwered, *he would conſider of it.* We *Anſwered*, That was no Denial, but a thing uſual with the King, and that Motion was to the King himſelf, which differs from this Caſe, for that was not alledged to be Treaſon: Beſides, had it been Treaſon, it was againſt the King himſelf, and being an Offence againſt himſelf, he might (if he would) not Impriſon, becauſe he may diſcharge a Man, or pardon him, tho' for Treaſon; but this Caſe is not ſo, becauſe the Lords Juſtice is but miniſtred to the King.

21 *R.* 2. *Arundell* Arch-Biſhop of *Canterbury*, who as they ſaid was Impeached of Treaſon, but not Committed.

Anſwer. The Caſe was this. There was a Commiſſion iſſued out by *Ric.* 2. That that Biſhop and others ſhould regulate what was amiſs by evil Government, and the King was offended at the granting of it, and at *Nottingham* ſent for the Judges, and charged them upon their Allegiance to give true Anſwer to what Queſtions he ſhould ask them, and the firſt Queſtion was, *Whether that Commiſſion ſo granted, was not invading his Prerogative?* They Anſwered, *Yes.* Then he asked *how they ought to be puniſhed, who procured it?* They Anſwered, *as Traitors.* In the 21 the Biſhop is charged by the *Commons*, and the Treaſon alledged is, That he had procured himſelf to be put into the Commiſſion.

This being the Caſe, we ſaid, that if a Fact be called Treaſon, which afterwards appears to be none, there could be no Commitment. For if a Man call another Man's coming into his Ground Treaſon, it falls of it ſelf; therefore the Biſhop was not Committed.

The Lords ſaid farther, That all thoſe Articles were declared to be Treaſon, which before could not poſſibly be Treaſon to Commit a Man, becauſe the Nature of them muſt be Treaſon at Common-Law, and till theſe Treaſons were declared, which was not till 21 *Ed.* 3. they were not Treaſon ſo as to Impriſon, or Try any Man for them.

We *Reply'd*, All that Parliament was Repealed, yet the Precedent was the more authentick. But I think that Lord (it was the Earl of *Bridgwater*) underſtood not what he ſaid, at leaſt I did not.

Then about the Earl of *Strafford's* Precedent, the Lords ſaid, that the very Impeachment was taken away by the Act of this Parliament, becauſe the Impeachment is recited in it. Namely, Whereas the Earl of *Strafford* was Impeached, *&c.* But every Clauſe in that Act of Attainder is taken away now, therefore the Impeachment; and you cannot make uſe of any part of it.

We *Replyed*, It's true, the Act of Attainder is taken away, but the very Act of Repeal doth recite that very Clauſe (whereas *Thomas* Earl of *Strafford* was Impeached, *&c.*) and the Act cannot take away any thing which ſtrengthens its own Suppoſition.

Then the Lords ſaid, that they ſhould be willing to comply with the *Commons*, but that they muſt be tender of their own Judicial Proceedings.

Commons. It's true they ought, and we ſuppoſed that the Lords might be jealous that we ſhould Intrench on their Power; but the *Commons* were ſo far from that, that they thought the Judicial Power better lodg'd with them than in the *Commons* themſelves could be; but we would open the Objection.

Their Lordſhips being the Judges in this Caſe might think, that for the *Commons* to take upon them to know what was Treaſon, would be an aſſuming to themſelves what was only proper to the Lords, and that it was ſo now in Charging the Earl of *Clarendon* generally.

Lords. The *Objection* is right.

Commons. For our knowing Treaſon, we have many among us who are Juſtices of Peace, truſted by Law to know and Commit (and if the Parliament be not Sitting) even to Commit a Peer himſelf for Treaſon, and the knowing what is

Treaſon

Treaſon is ſo far from being improper to the *Houſe of Commons*, that every Man in the Nation is bound to know it; for was it ever known, that Ignorance of the Law could ever excuſe a Man from breaking the Law? Laws are made to be known by Subjects, eſpecially thoſe which concern the King; and unleſs they could find a Reaſon, why the Parliament Embodyed ſhould be more ignorant than particular Perſons, the preſent Caſe muſt be clear. That the Jealouſy of the Lords aroſe from a Fallacy thus, The Lords have Judicial Power concerning Treaſon, and muſt of neceſſity know it; the Commons have no Judicial Power over it, therefore cannot know it; that is, becauſe the Commons know what Law is, therefore they have Judicial Power over Law. To this was not any thing *Replyed*.

Farther, We ſaid that becauſe they inſiſted upon to ſpecifie Treaſon, becauſe by Commiting upon a general, they might wrong the Party by Committing him without Cauſe, and becauſe they themſelves were not inform'd in their Conſciences what they did: They would do well to conſider the many Inconveniencies which might follow, if the Charge of Treaſon was not general, but particular; and ſuppoſe it was Special, their Lordſhips would know no more by it. For ſuppoſe a Man Impeached for Counterfeiting the Great Seal, which is expreſs Treaſon, and he may be Impeached for it, yet neither their Lordſhips nor the Party could have any advantage by that Specification, becauſe there might be as many Queſtions what is Counterfeiting the Great Seal, or what is Treaſon.

For Inſtance. One *Leak*, a Clerk in *Chancery*, intending to Forge a Patent, puts together two pieces of Parchment, and had fitted them, and put them together with Mouth-Glew, that they appeared as one: Then a Grant was written upon the outmoſt, and a Seal affix'd, ſo that the Great Seal is put to a true Thing; then he cuts off the Edges of the Parchment, ſo as to ſever them, takes of the written One, and leaves the Seal on the Blank, then Forgeth the Grant and makes uſe of it. This was queſtioned before the Judges, whether 'twas Treaſon or not, that is, whether Counterfeiting the Great Seal or not? If it were, it was Treaſon, otherwiſe not. They *Reſolved*, it was not Counterfeiting the Great Seal, and ſo not, but Miſpriſon. And if it had been Treaſon, they *Reſolved*, that an Indictment had been enough to Impeach him. Then ſuppoſe you have ſuch an Impeachment before you for Counterfeiting the Great Seal, you have Special Treaſon, and Impriſon him; but when it is brought to Queſtion, it appears not to be Treaſon, therefore he is wrong Impriſoned: And if your Lordſhips will examine what Knowledge you have of this Fact, you have no more than if it had been a general Treaſon.

Lords. There is a Caſe put there, as we are content to take a Special Treaſon, but expect not the Proof as there it was.

Commons. If it were a Caſe put, ſo is your Lordſhips *Reply*, for it was put *ex Conceſſo*, becauſe you agreed that if the Treaſon was Special, the Party was to be Committed, and this Caſe was to ſhew their Lordſhips, they were in no better Caſe then, than if the Treaſon were general.

But the Lords ſtill preſſing that the Impeachment it ſelf of the Earl of *Strafford* was Repealed in the Act about him.

Commons. We *Reply*'d one part of the Act ought to be ſevered from the other, and that which is without Exception ſhall ſtand, tho' the other be taken away: For, ſuppoſe a Man proſecutes in a Court of Juſtice, for what he apprehends to be his Right, and yet the Cauſe goes againſt him, and he hath no effect of his Suit, afterward the Party (being an evil minded Man, and thinking to reach his Ends) Forgeth a Deed, or Suborns Witneſſes, and then begins a Suit in ſome other Court, and by thoſe ways attains his Ends. Then a Bill comes before this Parliament to Reverſe the Judgment, reciting that ſuch a Perſon hath been a Suborner of Witneſſes, *&c.* ſo, and ſo, and therefore the Judgment is made void; certainly tho' this Perſon is Named to be an evil-minded Perſon, yet this lays no blemiſh on his firſt Proceedings. So that it appears by the Act, that the Proceedings againſt the Earl of *Strafford* were legal at firſt, if thoſe afterwards, when the times became tumultuous, were not, it is not to be applied to what was well done and legal: Then we told them that we had preſſed them with four Precedents, and to three of them nothing was Replied.

Lords. They Anſwered, the Reaſon why my Lord *Finch* was Committed, was becauſe of his Flight.

Commons. He was fled before the Impeachment; but it was *Ordered*, That he ſhould be Committed when found.

Then we told them, That we muſt Report to them, that be the Treaſon what it would, we could not go to the Lords to have it puniſhed without that Diſadvantage, which the publiſhing the Treaſon before-hand would expoſe us to by making of Witneſſes, eſcaping of Parties, and the like; then bad them conſider, whether if we ſhould lay before them a Treaſon in every Thing circumſtanced as *Gun-Powder-Treaſon*, they would not Impriſon the Party till the whole Matter was opened.

Lords. They Anſwered to hear that Caſe put, for in Matter of State, other Courſes are to be taken, and they could ſee no Inconveniency in Publiſhing that to the Lords, which muſt be publiſhed before 400 in the *Houſe of Commons*.

Commons. The Commons may proceed with what Secrecy or Openeſs they pleaſe, and the Lords are not to take Notice of their Proceedings, whether open or ſecret.

Farther, That by a Matter of State muſt be underſtood, when a Parliament is not Sitting, and we know not whither to reſort, but when a Parliament is particularly called to prevent the Miſchiefs threatning the Kingdom, if that be not capable of Remedying, no other Council could, or we are not bound to reſort to that, we are excluded from that to which we ought to reſort.

Lords. That the Lords bad us take heed of the Liberty of the Subjects, to which they are now fain to have Regard, bidding us conſider the Biſhop of *Canterbury*'s long Impriſonment, without knowing the Cauſe, and they muſt ſatisfie their Conſciences, leſt they ſhould Commit for Treaſon, and it not prov'd ſo.

Commons.

Commons. It appears not that the Biſhop of *Canterbury* ſhould have lain leſs time, had the Impeachment been Special; and for the Liberty of the Subject, we know not how a Subject ſhould have more Liberty by Special Matter, than General; Special being but adding a formal Title, and the Subject goes to Priſon, as well for the one as the other.

For their Conſciences. Suppoſe a Perſon accus'd generally, they are then to know whether it be Treaſon, and is not it as much that they Commit an innocent Perſon? So as if the Matter was Special.

December 2.

The Lords ſent down a Meſſage to the Commons by two Judges, to this Effect, *That upon the Report made to them of the laſt Free Conference, they are not ſatisfied to Commit or Sequeſter from Parliament the Earl of* Clarendon *without the particular Treaſon be mentioned or aſſigned; who being withdrawn.*

Lord *Torring.* (General *M——cks* Son) Moved not to part with any Privileges of the *Commons* of *England*, but adhere to the General Impeachment.

Sir *Rob. How.* The Matter before us, is of as great Concernment as ever came before us, if there ſhould be Malice ſuppoſed in a Nation againſt it ſelf; it might be exerciſed by giving a particular Charge, as well as a general, many of the Lords are convinced by the Reaſons we gave, and concur, thinking our Precedents good, and have enter'd their Proteſtation in the Lords Houſe, aſſerting the Rights of the *Commons* of *England* to Impeach generally: So that (excepting the Spiritual Lords) I think I may ſay the Major part of the Lords are for us; and ſhould we give up this, we may be wreſted out of all Right, and the Commons have no way to proceed to an Impeachment, but ſome Men to be ſo great, as not to be fairly reach'd. Therefore adhere.

Mr. *Wall.* The Lords are a Noble Eſtate, but whatever the Matter is, they have of late ſome Advice given them, which makes them proceed as they never did yet; for ſcarce any Thing happens betwixt us, but they incroach upon us. The *Militia* is now as burthenſom to the Fifty Pound Man in the Country, almoſt as all other Taxes, and the Lords have gotten this Advantage of us, that they touch not the Burthen of it with their Finger: So in time of the Plague, the Commons muſt be ſhut up, but not They, inſomuch that a good Act provided to that Purpoſe paſſed not; we Impeach'd the Lord *Mordant*, and could not bring him to the Bar (tho' formerly I have known an Earl and a Lord brought thither) you deſired a free Conference about it, but could not obtain one to this Day. *Rome* was at firſt modeſt, and only medled with Spirituals, but afterwards concerned themſelves ſo much with other Matters, That every Thing almoſt was made to be in *Ordine ad Spiritualia*, and many Kingdoms thereupon break from them. The Lords now inſiſt upon one Thing, becauſe they ſay 'tis in order to their Judicature, perhaps hereafter they will tell us we muſt come to them on our Knees, becauſe it is in order to their Judgment. Conſider therefore whether there be any hope of giving them Satisfaction; then, whether you will adhere, and what you will do afterwards; for the preſent my Motion is to adhere.

Mr. *Vaugh.* It is truly ſaid, the Buſineſs before you ſeems to be as great as hath been in Parliament; many of the Conſequences being inviſible, therefore before you *Reſolve* what to do take the whole Matter before you.

The difference between the Lords and us, is upon a general Impeachment of Treaſon; the Lords after a Free Conference, ſay, they will not Commit unleſs Special Treaſon be mentioned or aſſign'd, thoſe whom you employed to Manage the Conference were very unwilling to differ with them, but it ſeems it hath produced nothing, and I have nothing to make me believe, but that the Reaſon is, that the Lords were *Reſolved* (ſay what we would) not to be ſatisfied; for I know nothing which they Offer'd, but it was fully Anſwer'd, nor any thing left undone to ſatisfie them if they would have been ſatisfied; what I have to ſay now is to clear ſomething which the Lords may make much ſound of.

When we urged Precedents, and made them our principal Reaſon, we told them, the way to decide what was in Difference betwixt the *Houſes*, is, the Uſage of Parliaments; but to our Precedents we received no full Anſwer.

Then the Lords uſed this Reaſon, Namely, that they cared not for Precedents, becauſe it was againſt the expreſs Law of the Land.

I Anſwer'd them, we would join with them, if they could ſhew Law againſt it, and expected what they would Anſwer, but heard nothing: Much Diſcourſe there was, without Application, of the Great *Charter*, and of a Statute of 28 *Ed.* 3. but not applied; ſo that I thought Law in a Lord's Mouth, was like a Sword in a Lady's Hand, the Sword might be there, but when it comes to cut, it would be awkward and uſeleſs.

But I hear ſince, that their Meaning was this (which muſt be cleared by mentioning ſome Laws) that by *Magna Charta*, it is provided, *That no Man ſhall be taken or Impriſoned, or Condemned, but by the Law*; and thence they infer, That no Man may be Impriſoned, but it muſt be by his Peers, or by the Law of the Land.

Again, 5 *Ed.* 3. No Woman ſhall be attached upon Accuſation, or be adjudged of Life or Limb, but according to the Law.

25 *Ed.* 3. No Man ſhall be taken by a Petition to the King or his Council, unleſs by Indictment of lawful People, or by Proceſs of Writ at Common Law, and (ſay they) this Caſe is to none of theſe.

28 *Ed.* 3. No Man ſhall be Impriſoned without due Proceſs according to the Old Law of the Land: But this Caſe being neither by Preſentment nor Indictment, the Lords would not ſtand upon our Precedents, but relied on this, as if it were enough in Bar of all our Precedents.

Therefore to open this, and the Danger of the Conſequence, there are in the Land many different Laws, and Proceedings in theſe Laws, and Impriſonment upon them; and yet not one of them by Preſentment, Indictment, or Tryal by Peers, tho' the Lords thought this was the Law and there was no other.

1. It is known that the Crown-Law, or Prerogative, is diſtinct Law from that between Party and Party.

2. There

2. There is the Law and Cuſtom of Parliament, called a Law, *ab omnibus quærenda, a multis ignorata, & a paucis Cognita.*

3. Then the Canon-Law, (and it is much the Biſhops forgot that) and there is nothing in that Law, more than ſtanding in a White Sheet, which proceeds not by Indictment or Preſentment, yet there is Impriſonment even in that Law.

4. There is the Law of Admiralty, and the Articles of *Oleron*, where there is Proceedings of another Nature, and by Impriſonment.

5. The Law of Merchants, or of the Staple.

6. The Law of Arms, where is Impriſonment and Death, and yet different Proceedings from the Common-Law in the Great *Charter*: Now no Man thinks that all thoſe Courſes of Proceedings are taken away by the Common Law, and it is groſs Ignorance to think it.

7. The Law of the Forreſt, which is moſt different: So that to urge *Magna Charta* to this Purpoſe, as if all Proceedings in thoſe Caſes muſt be according to the Common-Law, is abſurd.

Then there are divers Writs in the Regiſter.

One, When a Man hath received the King's Money to ſerve him, and went not, then there is a Writ to Arreſt him upon a Certificate from the Captain under whom he was to ſerve.

Then the ordinary Writ, which belongs to the Law Eccleſiaſtick, *de Excommunicato Capiendo.*

Another, *de Apoſtata Capiendo*, to recover a Regular run away from his Convent.

Another, called *ne exeat Regno*, to Impriſon a Man, who will not give Security not to go out of the Kingdom, and this is not Traverſable any where, becauſe it ſuggeſts that he will *Machinat* ſomewhat hurtful to the Kingdom, and upon that Suggeſtion he is Impriſoned.

Another, when a Man hath a *Leproſie.*

Another, to burn *Hereticks*, which concern'd the Biſhops alſo, if they had pleas'd to think of it.

Theſe Proceedings are no way agreeable to thoſe mentioned in the Common-Law.

Then conſider how this *Reſolution* of the Lords ſtrikes at the Law of Parliaments.

1. It is certain that all Impriſonment by Parliament is not by Preſentment, Indictment, *&c.* So that by this means that Power is taken away.

2. Contempt againſt Parliamentary Authority, whoſoever he is to appear before them, and diſobeys them, they may Impriſon him in the *Tower*, and yet it is not againſt *Magna Charta.*

Whither therefore tends this?

The Concluſion muſt be, that no Impeachment by the Commons muſt go on, unleſs it be by Preſentment, and ſo there is an end of all that, for which the Parliament is principally called, unleſs we are part of thoſe 500 contemptible Ones, who are only fit to give Money: That may be reſerved for us, but nothing elſe; tho' 23 *Ed.* 3. ſaith, *For Redreſs of Grievances in the Kingdom a Parliament ſhall be called every Year.* I would know which Way we ſhould redreſs Abuſes, if we are ſo far from remedying in Parliament, that we muſt be ſhut out to the Common Courſes in other Courts?

Obj. The Lords may ſay, if you find the Statutes broken, and ſhort, you ſhall have New.

Anſw. And when theſe New Ones are broken, then we ſhall have a Remedy; ſo riſe up Remedy, and go to the Remedy, *ad infinitum*, for there is no more Reaſon to think that a Second Law ſhall be maintained more than the Firſt, and what Way a Miſchief ſhall be redreſſed, other than by Parliament, I know not.

So that by this *Reſolution* of the Lords, and denying to Commit upon this Ground (for they ſhew'd no other) every Thing for which a Parliament is uſeful is denied us.

After all this come to the very Caſe.

If a Treaſon be Committed, and the Fame is that *A. B.* is guilty of it, it is lawful to Apprehend him for it. If a *Hue* and *Cry* purſue a Man, tho' he be not of evil Fame, yet he may lawfully be Impriſoned: If it proves falſe, he hath his Remedy; but that obſtructs not the Law to bring him to Trial. Any Watchman may Arreſt a Night-walker, and hath a Warrant in Law for it, and this is as good Proceſs in Law, as any original Writ.

And after all this, Conſider with what kind of Colour, when there are weighty Reaſons why we ſhould not mention ſpecial Treaſon, and that mentioning it generally, anſwers the Petition of Right, the whole Commons of *England* (who are in no degree repreſented by the Lords, they only repreſent their own Perſons) ſhould be denied the Securing a Perſon Impeached unleſs a particular Charge be given, how prejudicial ſoever to the Kingdom.

Another thing, there is no Right which a Man hath in this Land, or any part of the World, but his Right is ſuch, that if it be kept from him, he hath a Means to come to it, otherways it is *Damnum ſine Injuriâ*; for where the Law gives no Remedy, there is but a Suppoſition of Right: By the ſame Meaſure it will follow, that there is no civil Wrong can be done to any Man, but the Law provides a Remedy, if that wrong be done; and if by the Law there is no Remedy, it is no Wrong, conſider then this Caſe.

There are in this Kingdom in the Civil State of it, three Eſtates, which the King hath then in making Laws: There are three Eſtates, whereof the King is Principal; ſometimes they are mention'd as the King's three Eſtates, and he none of them: The Eſtates in general are, the Commons of the Kingdom, (who are perfectly repreſented in this *Houſe*) the Lords another, and the King another; and theſe are ſuch, that there is no Petitory Action, nor the Laws directed to any one of them, but the Laws you make, are to diſtribute Juſtice in other Courts.

For Inſtance, If all the Commons of *England* (who are one of the Eſtates) ſhould Accuſe one of themſelves, the Party can have no Wrong, becauſe the Parliament can have no Action brought againſt them, nor can they be ſuppoſed to do any thing for Malice.

It is the ſame between the Body of the *Lords* and *Commons*; and there is no Law either to Vindicate the one or the other; but they ſtand as if there were no communicable Law betwixt them; but the Meaſure between them is that which is

good for the whole; for they are the Makers of Laws for others, but no Laws can be fancied to reach the whole of the *Commons*, or of the *Lords*.

So that 'tis eaſily to be ſeen, how it hath been put upon us; ſo that now we are in ſuch a Caſe, we know not to what End we ſhall proceed upon this or any other Impeachment; for by this Judicial Power, you ſhall be excluded from any Proceedings by Laws of Parliaments, and ſo you take away the whole Right of the Kingdom.

Queſt. But now what ſhall you do?

Anſw. I ſee many Inconveniencies which may happen both ways, but I ſee ſo many this way, that if any Man gave ſuch Counſel as is charged upon the Earl of *Clarendon*, it is not ſo dangerous as the Caſe before you; for the Inconveniencies attending that Counſel would quickly ſhew it ſelf by the Miſery following: But this is a ſmall thing begun with, which, like a Canker, may eat till it be uncurable, and that is as abſolutely juſtifiable as this.

And now I have ſaid this, I am perplexed what to ſay more, for all can bear me witneſs, what Reſpect I have endeavoured to preſerve to the *Houſe* of *Peers*, but I am ſo ſenſible of this, that tho' I cannot forget my Reſpect to them, yet I muſt lament the Condition into which they have brought themſelves firſt, and us next, for they cannot think to avoid it.

The *Houſe* of *Peers* is but a new Stile, called ſo, as *Jurors* are called *Peers*, from the Word *Par*; for every Commoner hath his *Peers* as Lords have; and the whole Stile formerly was *Arch-Biſhops*, *Biſhops*, *Dukes*, &c. But *Pares Regni* is a new Stile. It is called the *Upper Houſe*, and is to be look't upon with Reverence. The Lords have a Juriſdiction; but in this Caſe, I muſt be plain, their granted Juriſdiction ariſeth from the *Houſe* of *Commons*, if you Impeach not there your Judicial Power will be very little. If a Lord be to be Tried for Treaſon, the Lords are but his Jurors; and tho' they Try him upon Honour, not upon Oath, yet they are no more his Tryers, than as out of Parliament: The Judge of Treaſon in the Lords *Houſe*, is Conſtituted by the King, as a Lord *High Steward*, and is no other Judge, therefore I know not the Judicature they ſpeak ſo much of.

There is another for Writs of Error, which are there determined, but the Juriſdiction of that is very little, for the Inconveniency of the Lords determining what could not be determined in other Courts, is ſo found out 25 *Eliz.* They are to be brought firſt into the Exchequer-Chamber.

There is another Way when Perſons carry Complaints to the Lords, which is a Queſtion, for Commoners ought not to carry Complaints there, except in ſome Caſes from *Chancery*; therefore this matter of Juriſdiction, which they talk of, is not ſuch a wonderful thing as they would make it.

Therefore whatever we ſhall do after it, your Rights being ſo much concerned, that you know not where the ſtay will be, it is neceſſary that you make a Committee to draw up a Proteſtation to be made by this *Houſe* concerning this Matter, The Invaſion of your Right in it, and the Danger to the Kingdom by it.

Mr. *Colem.* The Lords ſay, That committing upon a general Impeachment is againſt Law, and I think it will appear ſo; I deny not, but a *Mittimus* without ſpecial Cauſe is legal, and grounded upon the Petition of Right, the Reaſon of which is to ſecure Men againſt Commitment by a ſpecial Warrant, and a Judge ought not to diſcharge where Treaſon is alledged, but in this Caſe it is different; The Judges cannot diſcharge a Man Committed after Examination, but the Lords ought not to Commit a Man, except there be particular Treaſon.

If I come before a Juſtice of Peace, and ſay, I accuſe this Man of Treaſon, will any wiſe Man Commit him? he makes his Warrant indeed, but he that accuſeth muſt go farther and make it more particular, and the ſpecial Matter muſt appear before he Commits, and this is the preſent Caſe.

The Common-Law is, That no Man ought to be Committed without particular Cauſe; becauſe no Man can Commit in Capital Matters, without taking Examination before-hand, otherwiſe no Man can juſtifie a Commitment: Therefore I am not ſatisfied that the Lords had not reaſon to deny. The Commons are in the Nature of a *Grand Jury* to preſent, but the Lords are the *Judges*; Commitment is not the Judgment but in order to it, and the Lords have a diſcretionary Power in the Caſe: The Lords ſay not that they will not Commit, but that they are not ſatisfied to do it without ſpecial Matter, therefore we ought to ſend it up.

Sir *Rob. How.* I have attended the Reaſons given againſt making a Proteſtation, and whatever is ſaid, is but levelling a *Houſe* of Commons with every private Accuſer; a Juſtice of Peace (it is ſaid) muſt have Evidence before he Commit, and this *Houſe* has had Inducements to Impeach, and may not a *Houſe* of Commons Judge what is Treaſon as well as a Juſtice of Peace?

The Inconveniencies and Dangers laid before you, if you proceed, are nothing in compariſon of thoſe on the other ſide.

Had the Lords Impriſoned, they had before this had the particular Charge, and the Proteſtation is not to ſtop it, but to make way for it ſome other way; for it will reſolve into a Remonſtrance, by which you may give the Nation an Account of your Proceedings to come to a Trial of this Buſineſs.

Mr. *Vaugh.* By the Proteſtation ſpoken of, is meant to preſerve the Rights of this *Houſe* upon the whole Matter, and to give the Reaſons of your Proceedings.

Sir *Tho. Meers.* What is ſaid, not being explained; I know not what is meant by the Proteſtation, if it be but to enter it into our Books, I am not againſt it; if it be an Appeal to the Nation, pray conſider what you do.

Mr. *Vaugh.* This way of Proteſtation differs from entring in our Books, but the beſt way is to draw it up, and to bring it to you, and then any Man may take Exceptions againſt it; for the meaning is, that this *Houſe* claims its Rights.

Mr. *Garraw.* Firſt make your Proteſtation, and then Appeal to the King.

Mr. *Vaugh.* None can ſurmize that you mean an Appeal to the People by what is moved, for what is done, muſt be done to ſome part of the Parliament; the King, Lords, or your ſelves: And they who ſpeak of it (if it were done with evil intent) deſerve to be called to the Bar; when

when it is brought before you for your Approbation, you may either retain, or reject it.

Sir *Walt. Young.* I desire that the House may know before hand to whom they are to Remonstrate, and on what ground, and therefore to Adjourn their Debate now.

Mr. *Trev.* What Appeal you make ought to be to the King, but bring it in hither and give it what Name you please.

Sir *Rob. Atk.* As I would be tender of your Privileges, so, of giving Offence to the Lords, therefore we shall endeavour to be Unanimous in this *House*; a Protestation is Named, I am a stranger to it, and would understand clearly what it is before we do it; That it is a Course warranted by Precedents and Proceedings of Parliaments, considering what effect it hath had in late times, therefore we may do well to adjourn the Debate and Consider of it.

Sir *Tho. Lit.* This Protestation will be like that in the Lord *Maynard's* Case, but somewhat longer, and ought to go no farther than to one of the Estates, and be kept within the Walls.

Mr. *Swinf.* You sent up a Charge to the Lords in general, desiring that the Earl of *Clarendon* should be secured, and in convenient time you would send up Articles; from that time it hath not been done, and the Lords have passed several Votes about it since, but you have not passed one.

First they Voted, that they had not complied with your Desires for want of particular Treason; Then you give them Reasons, they are not satisfied with them; then a Free Conference, they are still unsatisfied; and all this while you have not come to any Resolution: So that till you come to a Vote, no Man knows but that you are satisfied with their Answer; for when the Matter of the Protestation is brought in, we shall not be ready for it till we have resolved, that what the Lords Insist on, is an Obstruction of Justice, and you cannot agree with them without great Inconvenience to the Nation; Therefore put a Question, *That the Lords, not having agreed to Secure the Earl of* Clarendon *upon the general Impeachment, have obstructed the Publick Justice of the Kingdom in Proceedings of Parliament, and is of dangerous Consequence:* This is necessary, because the Lords have heard nothing from you, but endeavour to satisfie them.

Sir *John Good.* This Question will be a greater Accusation of the whole *House* of Lords, than the other is of the Earl of *Clarendon.* If you will go by way of Protestation, and keep it within your own Walls, I like it better than this Question.

Sir *Rob. How.* The putting this Question is no Charge upon the *House* of Lords; and therefore if that Gentleman thinks it so great an one, sure he thinks the Charge against the Earl of *Clarendon* to be a very small one. Is there any Obstruction to Justice? If not, Why do we not Comply? If there be, we cannot it seems complain without Charging the Lords. Keeping it within your own Walls, is but like a Man, when he is alone, muttering Arguments to himself, and Commending himself for it. If you meet with any Obstructions, pray first put the Question, whether you are obstructed.

Sir *Rob. Atk.* It is no light matter to Charge the Lords with Obstructing Justice; therefore the thing being new, pray adjourn it till to morrow, that we may be more of one Mind.

Then the Question was stated, Namely,

That the Lords not having complied with the desire of the Commons in Committing the Earl of *Clarendon,* and Sequestring him from Parliament upon the Impeachment from this *House,* is an Obstruction to the publick Justice of the Kingdom, and is a Precedent of evil and dangerous Consequence.

Resolved, *That the Question be put,*

And being put, *Resolved* in the Affirmative.

Resolved, *That a Committee be appointed to draw up a Declaration to Vindicate the Proceedings of this* House.

December 3.

A Message from the Lords by two Judges, That they have received a large Petition from the Earl of *Clarendon,* which Intimates that he is withdrawn.

Sir *Tho. Tompk.* Moved to take care to get the *Sea-ports* stopt.

Sir *Tho. Lit.* I believe he is now past stopping, but we should do it, tho' it have no effect; lest it look as tho' we would have him escape.

Sir *Rob. How.* The Lords seem now mistaken in their Opinion at the Conference, they said there was no fear of his Running away; and in our *House* it hath been Jested that he was not like to Ride Post. Besides the Expression in the Message is (withdrawn) which may be an inward Chamber, therefore 'tis fit to desire to see the Petition, and Command some Members to prepare something to Vindicate your selves in discharge of your Duty.

Mr. *Seym.* You cannot take Notice to the Lords of the Petition, unless they think good to Communicate it to you, but make the Declaration.

Mr. *Vaugh.* I look upon what the Lords say as doubtful, therefore beware lest you do something misbecoming you. They only say, that he is withdrawn, but not what is his Petition; for the saying that he is withdrawn, is not the Matter of a Petition. Perhaps he is gone into the Country, the Message seems light, and you are to take no notice of it. If it be of Moment, and they think us Concern'd, they should let us know it; and I cannot think so of the Lords, that they would use that word, if he were fled: therefore send a Message, to know whether fled or withdrawn.

Mr. *Sol. Gen.* When a Delinquent signifies to his Judges, that he is withdrawn, it cannot signifie any thing, but that he is withdrawn from their Judgment. None but a mad Man will tell them that he is fled, fearing what may follow; it would be well if their Care would prevent his flying, but you cannot Answer it, if you hear they do nothing, and so seem to say, fare him well.

Upon all which Motions, *Ordered,*

That Sir *Tho. Clifford.* (Comptroller of the King's Houshold) be sent to the King, to desire the *Ports* may be stopped.

December 4.

The Lord *Fitzharding* makes Report from the King, that the Meſſage for ſtopping the *Ports* being delivered him, he had taken Care accordingly.

A Meſſage from the Lords to deſire a ſpeedy Conference:

From which Mr. *Solicitor* Reports.

We attended the Lords at the Conference, which was deliver'd by the Duke of *Buck.* who ſaid to this Purpoſe,

That the Lords had Commanded him to deliver to us that Scandalous and Seditious Paper ſent from the Earl of *Clarendon*, deſiring us to preſent it to you; and to deſire you in convenient time to ſend it to them again, for it had a Stile which they were in love with, and deſired to keep it.

Which ſaid Paper was read, and is as follows, *viz.*

To the Right Honourable the Lords *Spiritual* and *Temporal*, in Parliament Aſſembled, the humble Petition and Addreſs of *Edward* Earl of *Clarendon.*

May it pleaſe Your *Lordſhips*,

I *Cannot expreſs the unſupportable Trouble and Grief of Mind, I ſuſtain under the Apprehenſion of being Miſrepreſented to Your* Lordſhips, *and when I hear how much of your* Lordſhips *time hath been ſpent upon the mention of me, as it is attended with more Publick Conſequences, and of the Differences of Opinion which have already, or may probably ariſe between Your* Lordſhips *and the Honourable* Houſe *of* Commons; *whereby the great and weighty Affairs of the Kingdom may be obſtructed in the time of ſo general a Diſſatisfaction.*

I am very unfortunate to find my ſelf to ſuffer ſo much under two very diſadvantagious Reflections, which are in no degree applicable to me.

The Firſt from the Greatneſs of my Eſtate and Fortune, collected and made in ſo few Years, which if it be proportionable to what is Reported, may very reaſonably cauſe my Integrity to be ſuſpected.

The Second, That I have been the ſole Manager and chief Miniſter in all the Tranſactions of State ſince the King's Return into England, *to* Auguſt *laſt, and therefore that all Miſcarriages and Misfortunes ought to be imputed to me and my Counſels.*

Concerning my Eſtate, Your Lordſhips *will not believe, that after Malice and Envy hath been ſo inquiſitive and ſo ſharp ſighted, I will offer any thing to Your* Lordſhips, *but what is exactly true; and I do aſſure Your* Lordſhips *in the firſt place, That (excepting from the King's Bounty) I have never received nor taken one Penny but what was generally underſtood to be the juſt lawful Perquiſites of my Office, by the conſtant Practice of the beſt Times, which I did in my own Judgment conceive to be that of my Lord* Coventry, *and my Lord* Elſmore; *the Practice of which I conſtantly obſerved, altho' the Office in both their Times was lawfully worth double to what it was to me, and I believe now is.*

That all the Courteſies and Favours which I have been able to obtain from the King for other Perſons in Church *or* State, *or in* Weſtminſter-Hall, *have never been worth me Five Pounds: So that Your* Lordſhips *may be confident I am as innocent from Corruption as from any diſloyal Thought, which after near Thirty Years Service of the Crown, in ſome Difficulties and Diſtreſſes, I did never expect would be objected to me in my Age.*

And I do aſſure Your Lordſhips, *and ſhall make it very manifeſt, That the ſeveral Sums of Money, and ſome Parcels of Land, which His Majeſty hath Bountifully beſtowed upon me ſince his Return into* England, *are worth more than all I have amounts unto; ſo far I am from advancing my Eſtate by indirect Means. And tho' this Bounty of his hath very far exceeded my Merit, or my Expectation, yet ſome others have been as fortunate at leaſt in the ſame Bounty who had as ſmall Pretences to it, and have no great Reaſon to envy my Condition.*

Concerning the other Imputation of the Credit and Power of being Chiefeſt Miniſter, and ſo cauſing all to be done that I had a mind to; I have no more to ſay, than that I had the good Fortune to ſerve a Maſter of a very great Judgment and Underſtanding, and be always join'd with Perſons of great Ability and Experience, without whoſe Advice and Concurrence, never any thing hath been done.

Before his Majeſty's coming into England, *he was conſtantly attended by the then Marqueſs of* Ormond, *the late Lord* Culpeper, *and Mr. Secretary* Nicholas, *who were equally truſted with my ſelf, and without whoſe Joint Advice and Concurrence, when they were all preſent (as ſome of them always were) I never gave any Counſel. As ſoon as it pleaſed God to bring his Majeſty into* England, *he Eſtabliſhed his* Privy Council, *and ſhortly, out of them he choſe a Number of Honourable Perſons of great Reputation, (who for the moſt part are ſtill alive) as a Committee for Foreign Affairs, and Conſideration of ſuch things as in the Nature of them required much Secrecy, and with theſe Perſons he vouchſafed to join me: And I am confident this Committee never tranſacted any thing of Moment (his Majeſty being always preſent) without preſenting the ſame firſt to the Council-Board; and I muſt appeal to them concerning my Carriage, and whether we were not all of one Mind, in Matters of Importance.*

For more than two Years I never knew any Differences in the Councils, or that there were any Complaints in the Kingdom, which I wholly impute to his Majeſty's great Wiſdom, and the intire Concurrence of his Counſellors, without the Vanity of aſſuming any thing to my ſelf; and therefore I hope I ſhall not be ſingly Charged with any thing that hath ſince fallen out amiſs. But from the time Mr. Secretary Nicholas *was removed from his Place, there were great Alterations; and whoſoever knew any thing of the Court and Councils, know well how much my Credit hath ſince that time been diminiſhed, tho' his Majeſty graciouſly vouchſafed ſtill to hear my Advice in moſt of his Affairs: Nor hath there been, from that time to this, above one or two Perſons brought to the Council, or preferr'd to any conſiderable Office in the Court who have been of my intimate Acquaintance, or ſuſpected to have any Kindneſs for me; and moſt of them, moſt Notoriouſly known to have been very long my Enemies, and of different Judgment and Principles from me, both in* Church *and* State, *and have taken all Opportunities to leſſen my Credit with the King, and with all other Perſons, by Miſ-repreſenting and Miſ-reporting all that I ſaid or did, and perſuading Men I have done them ſome Prejudice with his Majeſty, or croſſed them in ſome of their Pretenſions. Tho' his Majeſty's Goodneſs and Juſtice was ſuch, that it made little Impreſſion upon him.*

In my humble Opinion, the great Misfortunes of the Kingdom have proceeded from the War, to which it is notoriously known that I was always most averse, and may without Vanity say, I did not only foresee, but declare the Mischiefs we should run into, by entring into a War, before any Alliances made with the Neighbouring Princes. And that it may not be imputed to his Majesty's want of Care, or the Negligence of his Counsellors, that no such Alliances were entred into, I must take the boldness to say, his Majesty left nothing unattempted in order thereunto; and knowing very well, that France *resolved to begin a War upon* Spain, *as soon as his* Catholick Majesty *should depart this World, which being much sooner expected by them, they had in the two Winters before been at great Charges in providing plentiful Magazines of all Provisions upon the Frontiers, that they might be ready for the War, his Majesty used all possible means to prepare and dispose the* Spaniard *with that Apprehension, offering his Friendship to that Degree, as might be for the Benefit and Security of both* Crowns.

But Spain *flattering it self, That* France *would not break with them, at least, that they would not give them any Cause by administring Matter of Jealousy to them, never made any real Approach towards a Friendship with his Majesty, but, both by their Embassadors here, and to his Majesty's Embassador at* Madrid, *always persisted, as Preliminaries, upon the giving up of* Dunkirk, Tangier, *and* Jamaica.

Tho' France *had an Embassador here, to whom a a Project of a Treaty was offered, and the Lord* Hollis, *his Majesty's Embassador at* Paris, *used all Endeavours to pursue and prosecute the said Treaty, yet it was quickly discerned, That the principal Design of* France *was to draw his Majesty into such a nearer Alliance as might advance their Design; without which, they had no mind to enter into the Treaty proposed.*

And this was the State of Affairs when the War was entred into with the Dutch, *from which time, neither* Crown *much considered the making any Alliance with* England.

As I did from my Soul abhor the entring into this War, so I presumed never to give any Advice or Counsel for the way of managing it, but by opposing many Propositions, which seemed to the late Lord Treasurer and my self to be unreasonable, as the Payment of the Seamen by Tickets, and many other Particulars which added to the Expence.

My Enemies took all Occasions to enveigh against me, and making their Friendship with others out of the Council, of more licentious Principles, and who knew well enough how much I disliked and complained of the Liberty they took to themselves of Reviling all Councils and Counsellors, and turning all things Serious and Sacred into Ridicule. They took all ways imaginable to render me ungrateful to all sorts of Men, (whom I shall be compelled to name in my Defence) persuading those that miscarried in any of their Designs, that it was the Chancellor's doing; whereof, I never knew any thing. However, they could not withdraw the King's Favour from me, who was still pleased to use my Service with others, nor was there ever any thing done but with the joint Advice of at least the Major part of those who were consulted with. And as his Majesty commanded my Service in the late Treaties, so I never gave the least Advice in private, nor wrote one Letter to any one Person in either of those Negotiations but upon the Advice of the Council, and also after it was read in Council, or at least by the King himself, and some other; and if I prepared any Instructions or Memorials, it was by the King's Command, and the Request of the Secretaries who desired my Assistance; nor was it any Wish of my own, that any Embassador should give me any Account of the Transactions, but to the Secretaries, to whom I was always ready to advise; nor am I conscious to my self of ever having given Advice that hath proved mischievous or inconvenient to his Majesty; and I have been so far from being the sole Manager of Affairs, that I have not in the whole last Year been above twice with his Majesty in any Room alone, and very seldom in the two or three Years preceding.

And since the Parliament at Oxford, *it hath been very visible, that my Credit hath been very little, and that very few things have been hearkned to, which have been proposed by me, but contradicted,* eo nomine, *because proposed by me.*

I most humbly beseech Your Lordships *to remember the Office and Trust I had for seven Years, in which, in Discharge of my Duty I was obliged to stop and obstruct many Mens Pretences, and refused to set the Seal to many Pardons and other Grants, which would have been profitable to those who procured them, and many whereof, upon my Representation to his Majesty, were for ever stopt, which naturally have raised many Enemies to me: And my frequent concurring, upon the Desires of the late Lord* Treasurer, *(with whom I had the Honour to have a long and vast Friendship to his Death) in representing several Excesses and Exorbitances, the yearly Issue so far exceeding the Revenues, provoked many Persons concerned, of great Power and Credit, to do me all the ill Offices they could. And yet I may faithfully say, That I never medled with any part of the Revenue or the Administration of it, but when I was desired by the late Lord* Treasurer *to give him my Assistance and Advice, having had the Honour formerly to serve the* Crown *as* Chancellor *of the* Exchequer, *which was for the most part in his Majesty's Presence. Nor have I ever been in the least Degree concerned, in point of Profit, in letting any Part of his Majesty's Revenue; nor have ever Treated or Debated it, but in his Majesty's Presence, in which my Opinion concurr'd alway, with the Major part of the Counsellors who were present.*

All which, upon Examination, will be made manifest to Your Lordships, *how much soever my Integrity is blasted by the Malice of those who I am confident do not believe themselves. Nor have I in my Life, upon all the Treaties, or otherwise, received the value of One Shilling from all the Kings or Princes in the World, (excepting the Books of the* Louvre *Print sent me by the* Chancellor *of* France, *by that King's Direction) but from my own Master, to whose intire Service, and the Good and Welfare of my Country, no Man's Heart was ever more devoted.*

This being my present Condition; I do most humbly beseech Your Lordships *to entertain a favourable Opinion of me, and to believe me to be Innocent from those foul Aspersions, until the contrary shall be proved; which I am sure can never be by any Man worthy to be believed: And since the Distempers of the Times, and the Difference between the Two* Houses *in the present Debate, with the Power and Malice of my Enemies, who gave out that I should prevail with his Majesty to Prorogue or Dissolve this Parliament in Displeasure, and threaten to expose me to the Rage and Fury of the People, may make me to be look'd upon as the Cause which obstructs the King's Service, and Unity and Peace of the Kingdom.*

I most humbly beseech Your Lordships, *that I may not forfeit Your* Lordships *Favour and Protection, by Withdrawing my self from so powerful a Persecution, in hope that I may be able, by such Withdrawing, hereafter to to appear and make my Defence, when his Majesty's Justice (to which I shall always submit) may not be Obstructed, or Controlled, by the Power and Malice of those who have sworn my Destruction.*

CLARENDON.

Mr. *Vaugh.* I think it not convenient to loſe more time about this Paper, ſince the time of the Earl of *Clarendon*'s Name being mention'd here, I had nothing to Charge him with till now, but moſt of the Heads of this Charge are ſo weighty, that I am confident, they will be eaſily and thoroughly proved, tho' I know not how; ſo that I admire at his Confidence, to Charge this Houſe, and ſo the Nation, as his Perſecutors, and that in ſuch a Condition, as he hopes to vindicate himſelf. Its the firſt time that ever I heard an Innocent Man run away under the greateſt Charge, with hopes to return again and vindicate himſelf.

Then mark one Expreſſion, he ſaith, *he is as far from Corruption, as from Diſloyalty.* If he ſaid he was guilty of neither, he had ſaid ſomething; but by that Expreſſion he may be guilty of both: So inſolent a Paper I never met with in this Kingdom, nor have I ever read the like in any other; ſo inconſiderable a part of the Nation as he is, to lay it upon the Nation, who, if innocent, might defend himſelf; if Guilty, why doth he Charge the Nation with perſecuting? Therefore without troubling your ſelves with it, do, as the Lords have done; who deliver it to you as a Scandalous and Seditious Paper; it hath Malice in it, and is the greateſt Reproach upon the King, and the whole Nation that ever was given by Man. Therefore put the Queſtion whether his Paper ſhall not have the Character, that it is a *Scandalous and Malicious Paper, and a Reproach to the Juſtice of the Nation.*

Reſolved upon the Queſtion.

That the Paper ſent to the Lords by the Earl of *Clarendon*, and by them ſent down to the *Houſe of Commons*, and now read, is *Scandalous and Seditious, and doth Reproach the King and the Publick Juſtice of the Nation.*

Sir *Rob. How.* You have voted this Paper Scandalous, and therefore it ſhould not live, wherefore I move it ſhould be burnt by the *Hangman.*

Mr. *Garraw.* The Paper is the Lords, and you muſt ſend it to them, but enter it into your Books, and your Vote upon it.

Reſolved, *To have it burnt.*

Sir *Rob. Car.* The Paper is the Lords, therefore move them to concur that it may be burnt.

Sir *Rob. How.* The meaning of my Motion is, becauſe the Duke of *B*——*ks* deſired the Paper again for the admirableneſs of the Stile, it is entered into their Books already, and they need it not to that End; therefore deſire the Lords Concurrence to burn it.

Reſolved, *To ſend it to the Lords to that End.*

December 5.

A Motion being made to ſend to the Lords in purſuance of the Vote about burning the Paper.

Mr. *Vaugh.* I am againſt ſending up to the Lords to that purpoſe, becauſe you have Ordered to enter the Paper into your Books, and when a Paper is burnt, it is not to ſtand upon Record, but ſhould be raſed out; which two Things are a perfect Contradiction, therefore let it reſt as it is; We have Voted it *Scandalous*, &c. The Lords tell us not that they have done any ſuch thing, tho' they ought to have done it firſt.

As for the Earl of *Clarendon*, he being now gone, if ſuch a like Occaſion ſhould fall out, we are in a worſe Condition than we were; for there is this Precedent againſt us, in a Caſe now manifeſt: And it becomes us to do ſomething in order to the Lords Concurring, that ſo a good Underſtanding may be got; therefore I ſhall propound this to you, to be ſent up to them to that End.

Namely, when any Subject ſhall be Impeached by the Commons before the Lords in Parliament with deſire to ſecure him, ſuch Perſon by the Law of the Land ought to be ſecured accordingly. This you have in effect Voted already, in ſaying the *Juſtice of the Kingdom is obſtructed by their not doing it.*

Secondly, when ſuch Impeached Perſons ſhall be ſecured, the Lords may limit a certain Time for bringing in the Charge, to prevent delay of Juſtice.

This may ſalve all, and prevent ſuch Ways as may be diſpleaſing to the Lords, and perhaps us alſo, in ſome Caſes hereafter.

Mr. *Swin.* I am perſuaded that according to Rules of Parliament, when you Charge by Impeachment generally, and promiſe in due time to ſend up your Charge, they ought to ſecure, but they not having done it, I queſtion whether you could do what you have; but the Earl of *Clarendon* flying, it is manifeſt Juſtice was obſtructed; for he might have been brought to his Trial, if the Lords had ſecured him; but now your Vote is made good, which ſeems to lay the Advantage on your ſide.

Sir *Rob. How.* I think this Meſſage to the Lords, will deſtroy the way of vindicating our ſelves by Declaration; therefore finiſh the Declaration, and then Reſolve before you publiſh it, whether to ſend up this Meſſage.

Mr. *Vaugh.* If the Lords agree with us, we may ſpare the Declaration, but if they agree not now, they will much leſs hereafter: Your Declaration can amount to no more but this, make a Narrative of the Invalidity of the Lords Precedents; but then you muſt of neceſſity do ſomething more, elſe your Labour is in vain; therefore this Meſſage with theſe Votes are neceſſary.

Sir *Rich. Temp.* I expected that when the Earl of *Clarendon* had been fled, the Lords would have deſired the King to iſſue out a Proclamation to Apprehend him, ſeeing they have been the Occaſion of his Eſcape; therefore now deſire their Concurrence to go to the King to that End, and if they Concur, they have upon the Matter granted Commitment upon a general Impeachment.

Mr. *Vaugh.* I thought it my Duty to offer you what I have done, if you like it not, I deſire to be excuſed in ſerving you in the Declaration, and that they who think it neceſſary would be pleaſed to take the Pains to do it.

Sir *Tho. Lee.* If you declare, it will beget an Anſwer, and where will that end? If you ſend up your Votes, and the Lords agree, your End is Anſwered; for it is a yielding that which they

they have yet denyed; your declaring, and entring it upon the Journal, will be to no purpoſe. It is but like a Man, who having been beaten publickly, in the Chamber calls him who did it Rogue.

Mr. *Hampd.* I deſire that the Words *(Law of the Land)* may be left out, and the Words *(Law of Parliament, or, Uſage of Parliament)* put inſtead of them; for it hath been ſhewed us, that there are ſeveral ways of Impeachment beſides Common-Law.

Mr. *Vaugh.* Thoſe words were purpoſely put in, becauſe at the free Conference, when we preſſed the *Law of Parliaments*, the Lords preſſed the *Law of the Land* by way of Negative, as if the *Law of the Land* were otherwiſe, but rather than that ſhall be any obſtruction, put it *by Law.*

Mr. *Stew.* Leave out the Words *(by Law)* for if a Man be ſecured, it is Impiyed by them who do Commit that it is according to Law.

Then it being Moved to draw both Votes in one.

Sir *Tho. Litt.* Tho' you ſhould put both Votes into one, it will not Anſwer your end, for the Lords will not Concur with the firſt Part, and yet may make uſe of what Part you grant of it, that is the laſt, and ſo have advantage againſt you; but there is another Reaſon, why you ſhould forbear theſe Votes, Namely, *Prudence.*

The Earl of *Clarendon* being gone, there is an expectation that a Bill ſhould be prepared to do ſomething farther, wherein I hope both Houſes will join; if you ſend up this, you will give diſturbance to that Bill, and if you ſhould enter this in your Books, in Order to ſend it up hereafter, they will hear of it, as done to make them ſwallow their former *Reſolves.* Therefore defer it for the preſent.

Mr. *Trev.* Conſider whether the Matter betwixt you and the Lords is not well as it is: You have Voted, That when a Man is generally Impeached, he ought to be ſecured, and that the Lords not having done it, is an obſtruction to Juſtice; and what will it ſignifie to carry it to the Lords; what hath ſince fal'n out, juſtifies you, and lays the diſadvantage upon the Lords. The World expects now what you will do farther, and that muſt be by Concurring with the Lords.

Sir *Tho. Cliff.* We all agree to theſe Votes, in Order to juſtifie your Rights; but what is the uſe of it? You have already done it in your Books, and you cannot expect the Lords ſhould go ſo much againſt their own Votes, this therefore will but widen the Gap, it being telling them they muſt eat their Words.

Sir *Tho. Litt.* Thoſe, who have had a hand in the Charge againſt the Earl of *Clarendon*, have been thought ſometimes too Violent, ſometimes too Remiſs, as not able to make out the Charge: But what I ſpeak now, is for your Honour, which will be wrong'd in this Proceeding; I am for bringing the Impeachment to ſomething; and therefore againſt theſe Votes: Now you make a Declaration of your own Rights, and entring it upon your Books, that not only the Vote may appear, but the Ground of it, but not to declare to the Lords, which will beget an Anſwer and exaſperate. It is now unſeaſonable to make the Lords retract, therefore lay it aſide; for tho' I am confident that Gentleman did it to no ſuch end, yet if I would Deſign any Thing to the Earl of *Clarendon's* Advantage, I could not take a better way than this.

Mr. *Vaugh.* This is but the affirming all which hath been done already, and I am for none of thoſe, who are contriving for any Thing out of the Houſe.

Sir *Will. Covent.* This Queſtion is not now ſeaſonable, tho' it is a better expedient than the Declaration as Things now ſtand, and conſidering what hath paſt, I am apt to think the Lords may do it of their own accord, and you would not willingly have a Negative to your Votes. Therefore ſeeing your Votes may be of uſe hereafter, put no Queſtion at all, but adjourn the Debate to a proper Seaſon.

Mr. *Vaugh.* I am againſt the Adjourning of it, and have given Teſtimony, that I have done nothing to be thought to do that which is ſo much for the Advantage of the Earl of *Clarendon*, and ſhall take heed of doing any Thing hereafter to be ſo reflected on.

Sir *Tho. Litt.* I hope I avoided any ſuch Reflection, nor ſpeak any Thing to ſuch purpoſe, I do not believe, nor ever did think any ſuch Thing, and hope that Gentleman himſelf belives, that no Man in this Houſe hath more Honour for him than I.

Sir *Job Charle.* Let the World ſee that you do not intend to reſtrain your Proceedings to the Earl of *Clarendon*, but make it a general Care; and therefore are concerned in Honour to put the Queſtion.

Reſolved upon the Queſtion.

That the Queſtion be put.

Reſolved, *That both the Queſtions propounded by Mr.* Vaugh. *and put ſingly in the Affirmative, be carryed up to the Lords.*

December 13.

A Bill was brought from the Lords, to Baniſh the Earl of *Clarendon*, and read.

After reading, ſeveral Objections being made, and it being Alledged, that it was an abuſe put upon the *Commons* by the *Lords*, and that a Bill of Attainder being propounded, after ſome Debate, the *Houſe* paſs'd this Vote.

Reſolved, *That this Houſe taking notice of the Flight of the Earl of* Clarendon, *being under an Impeachment of High Treaſon by this Houſe; the King's Majeſty be humbly deſired to Iſſue out his Proclamation for Summoning the ſaid Earl to appear by a Day, and to apprehend him in Order to his Trial.*

Reſolved, *To ſend to the Lords for their Concurrence to this Vote.*

December 14.

A Meſſage from the Lords for a Conference, at which they deliver'd two Reaſons, why they could not Concur.

1. *Firſt, for that they conceive a Proclamation in the way propoſed, would be ineffectual, ſince it is not* ſub pœna Convictionis, *which cannot be till particulars in Order to Trial be declared.*

2. *That*

2. *That what the* House of Commons *hath propoſed, and do propoſe at preſent, is intended in Order to a judicial way of Proceeding; but ſince the Earl of* Clarendon's *Flight, their Lordſhips upon Conſideration of the whole State of Affairs, and of the Kingdom, have upon Grounds of Prudence and Juſtice, thought fit, for ſecuring of King and Kingdom, to proceed in a Legiſlative way againſt the ſaid Earl, and have to that end, paſt and ſent down to them a Bill of Baniſhment and Incapacity againſt him, with which this Vote is inconſiſtent.*

December 16.

The ſaid Reaſons from the Lords being Reported and Conſidered, and it being Moved that the Houſe would declare themſelves unſatisfied with them.

Sir *Tho. Cliff.* I am againſt paſſing a Vote at preſent upon the Lords Reaſons, but read the Bill ſent down from thence, and Summons him by it to appear by a Day.

Mr. *Trev.* Some are againſt the Bill, becauſe it goes too far, Condemning before Hearing, others would have it to go farther. Summons is in Order to Hearing, Trial, and Judgment; of thoſe he hath made himſelf incapable by Flight, and hath in his Paper told you, *That he will neither be heard, nor Tried by you:* Tho' you expected to have him ſecured by a general Accuſation, yet you never expected Judgment upon it. Then it is ſaid, *This Baniſhment falls ſhort of Treaſon,* but we are not to paſs Sentence for Crimes, but as a Council propound to the King what is neceſſary in this Caſe: Then conſider whether this Bill will Anſwer our Ends, and if it doth, delay will make it worſe. I think we ſhould make it reach them, what if he hath Life in other Parts, his Family Untainted, and his Children alive, and enjoy his Eſtate.

Sir *Rob. Carr.* You have Ordered to conſider the Reaſons from the Lords, therefore do it.

Mr. *Hen. Covent.* The Motion to read the Bill is not againſt your Order, becauſe part of the Reaſons given by the Lords is, *That you have a Bill, and till you have read the Bill, you cannot lay by the Reaſons.* The Earl of *Clarendon* is fled, you have a tye upon him in having his Innocent Relations, and by Proceeding farther, you make him deſperate, you are now in an even way with the Lords; therefore read the Bill.

Mr. *Swinf.* You may go upon the Reaſons, and yet not reject the Bill; for when you ſent to the Lords about a Proclamation, and went not upon the Bill, it was, becauſe what the Bill drives at, is the higheſt Puniſhment next to Death. Therefore Conſider what weight is in the Reaſons. One of them ſeeming to put you upon the Bill, they put you thereupon on a Legiſlative Way; they will neither Secure nor Summon him, but will Condemn him Unheard. They cannot Secure him upon a Charge of Treaſon, nor yet Summon him, but they can Condemn him; and this they put you upon, which is againſt Honour and Juſtice, eſpecially to do it upon Reaſon of State. The Legiſlative Power of Parliaments is great, it hath no bound, but the Integrity and Juſtice of Parliaments. If Reaſon of State be a Motive of Parliament to Baniſh one Man, ſo it may be for many. If you go in this Legiſlative Way, you bring upon your ſelves all the Diſhonour of the Buſineſs, but the Lords will have ſome Excuſe, which you cannot, for they look'd upon the Charge ſo ſlight, as not to Impriſon him, the Party is gone, becauſe he was not Secured, apprehending (he ſaith) fear of the Multitude, not of his Trial, ſo that the Lords not giving Credit to your Charge againſt him, he ſays, *he flies not from Juſtice.* Now, if upon this Bill you ſhall Baniſh him, it would be ſaid you could not make good the Charge; and therefore laid this Sentence upon him.

The Precedent is alſo dangerous: If having gone ſo far in a Judicial Way, you ſhould now go in a Legiſlative. If upon Reaſon of State, Lords may be Baniſhed, it may be by dozens: As you proceed Juſtly, ſo you will be Juſtified.

Nor is the Danger greater if the Lords go by Proclamation, and he be put into Cuſtody when he comes, if he can practiſe any Thing, will not he be leſs capable when under the Proclamation, than when this Bill is Paſſed, which Condemns him without Hearing, and I am not for any Puniſhment till Heard. In *Cromwell's* Caſe, who Moved in *Hen.* VIII. time, to Attaint a Lord Unheard, the Judges declared they might, and it would ſtand, afterward the ſaid *Cromwell* was Attainted and Condemned Unheard, and ſuch Counſel uſually falls upon thoſe that Counſell'd it.

Sir *Rob. How.* The Earl of *Clarendon* ſaith, *That he doth not withdraw from your Juſtice, but fear of Tumults*; but that Reaſon any Man may give for his flying, if it will be an Excuſe; but he might have ſecured himſelf from Tumults by rendring himſelf, and his Innocency upon his Trial would have cleared him. This at laſt may come to a free Conference, then you may be left to go along with the King; the Houſe riſeth and doth nothing, and then the World will ſee that this Buſineſs will aſſure the King of *France,* That he hath a Man with him ſo Great, as to hinder us from doing any Thing againſt him: Therefore as you ought to do ſomething againſt him, ſee whether it may not be done by the Bill by reſuming his Lands, *&c.* if he come not in by a Day.

An Exception may be againſt this way, Namely, That there is no Attainder, but if there had been ſuch a Bill, the Thing which ſhould ſway me ſhould be the Duke of *York's* Marriage: So that if you Commit this Bill, you may add all Severities, except that of Attainder, and if he come by a Day, then all to be void. If you go by Proclamation, the Lords may not Concur, and you loſe your Ends. By this Bill all Favour that he can expect is ſhewed, and this way will be the beſt Confutation of the Lords Reaſons; therefore Commit the Bill.

Mr. *Secretary Morr.* I am for Committing the Bill, tho' it be condemning Unheard; becauſe he could not but conclude it would be ſo. *Et volenti non fit Injuria.*

Sir *Rich. Temp.* You have proceeded againſt this Earl in all ordinary Ways, and have been baffled by the Lords. In *Edward* the *Third's* Reign, *Adam de Berry* fled, and a Proclamation went againſt him, and the Commons neither did, nor ever were bound to deliver their Articles till the Party appeared, and in that Caſe they delivered not their Articles till the laſt Day, when he not appearing was Convicted. When you would go by Attainder, they tell you, Deliver ſpecial Matter, and we will Summon

mon him; when you ask a Proclamation, they tell you, Deliver ſpecial Matter: If you declare the Matter to the Court, it is upon Record, and all may know it. You have tried all ways Legal and Regular, and they will do you Juſtice in neither. Now what can you do? except you and the Lords combine in Juſtice together, he muſt eſcape, and if you can be made to differ, he goes away in a Smoak. If you go to the King for a Proclamation, you muſt return to the Lords for Juſtice. I am ſorry the *Ivey* hath been ſo near the *Oak*, that you cannot touch it, without touching that. There remains a Bill before you, and in that you are upon equal Terms with the Lords; therefore give him a Day to be heard, and if he come, let him, but then his Penalties are too low for his Crimes; therefore read the Bill, go higher, degrade him of Honours, forfeit his Lands, and whether you will go ſo far, I leave with you.

Mr. Soll. Gen. It is not poſſible to agree with the Lords in their Reaſons, but the Reaſon muſt be becauſe the Bill is good. But if any Man thinks it is good upon the Lords Reaſons, he is miſtaken; and therefore my Advice is to proceed upon the Bill, tho' not upon the Reaſons from the Lords. Some think the Puniſhment in the Bill too little for the Crime, others too much, becauſe not Summon'd; ſo that it muſt fall out, That a Perſon Impeached by the *Houſe of Commons* muſt ſee the *Houſe* riſe without any marks of Diſpleaſure upon him: Can any Man be heard, who will not be heard? Why ſhould not you proceed in ſuch a way againſt him, as whoſe very Flight amounts to a Confeſſion? And have you not burnt his Paper for reflecting upon the *Houſe*? and can you think he will appear who is departed in deſpair of the Court? and now you are contending to give him time.

Then conſider the Thing in it ſelf. Suppoſe the King had a mind to Attaint him, the King can do it without your help, for he may be *Outlawed* for High Treaſon; for tho' that be Reverſable at Common-Law, if he be beyond Sea, yet by two expreſs Acts of Parliament it is otherwiſe, but the King cannot Baniſh him without your Concurrence: Suppoſe him Fled and Attainted, ſo that the Queſtion is not upon his Life, but his Eſtate, ſuppoſe your Juſtice ſatisfied in that, is it not paſt all manner of Conſideration that the King cannot upon Application reſtore it, ſo, that all you lookt for by Attainder, is done by this Bill of Baniſhment, for his Life is ſaved by Flight, as would his Eſtate by Compaſſion; but there is ſomething in this Bill, which, without it, you can never get, that is, you put him under your Diſpleaſure, which, the King cannot Pardon; and will you have it thought abroad, that the Earl of *Clarendon*, fled as he is, hath been ſomething too hard for the Two *Houſes*?

Sir *Tho. Litt.* If there be a neceſſity of differing with the Lords, and I thought the difference would produce ſuch Effects, I ſhould not ſpeak, but they only tell you 'tis unneceſſary and ineffectual. You have Impeached, and are now told if you proceed, it will make difference; but I fear another greater Danger than this difference. The World will ſay you were willing he ſhould fly, becauſe you could not prove by flying he hath Forfeited his Eſtate, if the King give it him again it is his Mercy; but do you Juſtice: Therefore preſs for a Proclamation, for the Bill is inconſiſtent with your Honour.

Mr. *Vaugh.* I have liſtned with much Attention to this Diſcourſe, and underſtand it as little now as at the beginning, the Diſcourſe being nothing adequate to that End. You have Reaſons from the Lords why They agree not with you, and if you agree with the Reaſons, the Sum is to read the Bill; but if you agree not, you muſt deſire a Conference, and if they concur, you may have a Proclamation, if not (as I think they will not) you are where you were: We ſuppoſe him not to be in *England*, and if ſo, what is the Proclamation more than the King's Writ? it reacheth no Man out of the Kingdom. Its true, in ſome Caſes, if the Perſons are gone out of the Land they are Summon'd, and if they come not, their Lands are Seized, but it is not by Proclamation, which ſignifies nothing if the Party be gone.

Then go on, ſuppoſe the Lords join in deſiring a Proclamation, the end of which is Appearing and Apprehending, poſſibly you gain one part, that if he be apprehended, they do Impriſon him upon a general Impeachment; but if they agree not, what Benefit have you by it? None: But if he appears, to what is it? there is no Charge, if apprehended, to Anſwer the general Charge.

Then the Third Way is, if the Lords agree not, that you ſhould go to the King; and there is a more dangerous Rock in that, than in any thing; for we never heard of a Commitment *per ipſum Dominum Regem*, but *per mandatum Domini Regis*, becauſe againſt the King lies no Damages: What then muſt you do? many think it Injuſtice to proceed, if he be not called by Proclamation. But it is plain, if you proceed upon this Bill, you go not upon your Impeachment, but becauſe he is fled from the Juſtice of the Land, wherewith you have Charged him in burning his Paper; and it imports little, that he ſaith he is Innocent; for why then doth he fly? Shall we abate him of what he ought to ſuffer for his ſaying ſo? He is fled from the Juſtice of the Parliament, and therefore is proceeded with, and for what others ſay, you ought not to regard popular Reaſons, but to purſue your own; it is enough for you to hear ſome Proofs made: When was it known in any Court, that Proofs ſhould be taken only on one ſide? So that you cannot acquit your own Juſtice, nor bring him any ways to Anſwer, he being gone, nor can you have any Effect of the Proclamation, tho' the Lords join in it: Therefore unleſs you will have nothing done after all this, (for he may not be Guilty of all Charged, who yet hath made himſelf Guilty of what is Charged by flying) read the Bill.

At laſt the Queſtion was put, whether the Bill ſhould be Read and Committed.

109 *for it.*
55 *againſt it.*

164

December 18.

The Bill for Baniſhing the Earl of *Clarendon* was Reported from the Committee, and Read.

Sir *Rob. How.* I deſire that to the *Preface* of the Bill this Addition may be made.

That whereas the Earl of Clarendon *was Impeached of Treaſon by the* Commons, *who deſired he might be ſecured, but was not, and thereupon is fled.*

And this to the End the proteſting Lords may be gratified, who took ſo much Care of the Commons.

Sir. *Rob. Carr.* Seconds the Motion.

Sir *John Talb.* I cannot Concur with that Motion, becauſe we cannot take Notice of what the Lords do.

Sir *Rich. Temp.* We may take notice of Things in the Lords Books which are Records, and there the Proteſt is entered; and tho' not to gratifie them who owned our Right, yet we ought to take Care of our own Right: And that the World may ſee we have ſome Cauſe to Paſs this Bill, neither deal ſo modeſtly with a Man who flies from Juſtice, as to uſe his own Word (*withdrawn*) but call it flying.

Sir. *Tho. Gow.* Let the Words be, *that having been Impeached, and moved to be Secured, hath withdrawn himſelf.*

Mr. *Sollicitor.* The Word *Moved*, deſtroys the Bill it ſelf, the Word of the Bill is to unite the Two *Houſes*, and this Amendment tends to deſtroy that End, for the Addition to the *Preface* being inſiſted on, the Lords will add the Reaſons for not Committing, and ſo revive the whole Matter again.

Let the Lords add in their Books what they will, your Books will as much juſtifie you, as theirs them.

Sir *Hum Win.* Let the Words be added whether the Lords agree, or not, that it may appear upon our Books.

Mr. *Hugh Boſcow.* The *Preface* is but Hiſtory, yet add the Words, and let the Lords inſert what they pleaſe, I ſhould rather Concur with them, than leave out thoſe Words.

Mr *Vaugh.* Put no Queſtion upon theſe Words, but whether the *Preface* ſhall go as it is; The Bill in Probability is a ſafe Bill, becauſe it came from them: But if you begin an Alteration, you your ſelves render it unſafe; for if you put in theſe Words, then the Lords will add, *for want of Special Matter*, and ſo it will come to nothing.

Then the Bill was read the Third time.

Mr. *Vaugh.* I am againſt the Word *Withdrawn*, and for the Word *Flight* inſtead of it, and in regard the Juſtice of this Bill depends upon the Word (*Flight*) put it expreſly.

Sir *Rob. Carr.* I am againſt this Bill, tho' I was as earneſt in the Matter as any one while I thought there was Proof, but now none appearing, I am againſt the Bill, becauſe you are Confirming what the Lords have done.

Mr. *Vaugh.* Many Men wonder that no Reaſon is given for paſſing this Bill, but the Queſtion is miſtaken, the Bill is grounded upon his Flight after his Impeachment, and his flying implies ſome Guilt, if none, it is the ſafeſt Argument for any Man to run away, and then there is nothing to catch him. A Proclamation to a Man out of the Kingdom ſignifies nothing. But in the whole it is plain, that he ſaith, that finding the King's Juſtice obſtructed in Parliament, he is fled.

Obj. But it will be ſaid upon bare Flight, never was any Man puniſhed.

Anſw. If one Man kills another and flies, tho' upon his Tryal he ſhall be acquitted, yet he ſhall never recover his Goods becauſe of his Flight.

There has been ſeveral Acts of Baniſhment, *Spencer*, &c. And in this, is ſomething more ſevere than in them, Namely, that none ſhall Correſpond with him; then there is ſome Advantage, Namely, that if he come in by the Firſt of *February*, all ſhall be void; but when the Crime is laid, and his Flight makes him Guilty, he ought not to have a Day.

Then the Queſtion was put for paſſing the Bill.

65 *For it.*
42 *Againſt it.*

107

And then the Houſe Adjourned.

Articles of High-Treaſon, and other Heinous Miſdemeanors, Exhibited againſt *Edward* Earl of *Clarendon*, Lord High-Chancellor of *England*, in the Houſe of Lords; on the 10th of *July*, 1663. By the Earl of *Briſtol.*

THAT being in Place of higheſt Truſt and Confidence with His Majeſty, and having arrogated a Supream Direction in all His Majeſty's Affairs, both at Home and Abroad, hath Wickedly, and Maliciouſly, and with a Traiterous Intent to draw Scandal and Contempt upon His Majeſty's Perſon, and to alienate from him the Affections of his Subjects, abuſed the ſaid Truſt in Manner following, viz.

That he hath Traiterouſly and Maliciouſly endeavoured to Alienate the Hearts of his Majeſty's Subjects from him, by Words of his own, and by artificial Inſinuations of his Creatures and Dependences, that His Majeſty was inclined to Popery, *and had a Deſign to alter the Religion Eſtabliſhed in this Kingdom.*

That in purſuance of that Traiterous Intent, he hath to ſeveral Perſons of His Majeſty's Privy-Council, *held Diſcourſes to this Effect,* viz.

That

That His Majeſty was dangerouſly corrupted in his Religion, and inclined to Popery.

That Perſons of that Religion had ſuch Acceſs, and ſuch Credit with him, that unleſs there were a careful Eye had unto it, the Proteſtant Religion *would be overthrown in this Kingdom; and in purſuance of the ſaid Wicked and Traiterous Intent, upon His Majeſty's admitting Sir* Henry Bennet *to be Principal* Secretary *of* State, *in the Place of Mr. Secretary* Nicholas, *he hath ſaid theſe words, or words to this effect.*

That His Majeſty had given 10000 l. *to remove a zealous* Proteſtant, *that he might bring into that Place of High Truſt a concealed* Papiſt, *notwithſtanding, that the ſaid Sir* Henry Bennet *is known to have ever been both in his Profeſſion and Practice conſtant to the* Proteſtant Religion.

That in purſuance of the ſame Traiterous Deſign, ſeveral near Friends and known Dependences of his, have ſaid aloud, that were it not for my Lord Chancellor's *ſtanding in the Gap,* Popery *would be introduced in this Kingdom, or words to that effect.*

That in purſuance of the aforeſaid Traiterous Deſign, he hath not only adviſed and perſwaded the King to do ſuch things contrary to his own Reaſons and Reſolutions as might confirm and encreaſe the Scandal, which he had endeavoured to raiſe upon His Majeſty as aforeſaid, of his favour to Popery, *but more particularly to allow his Name to be uſed to the Pope and ſeveral Cardinals in the ſollicitation of a Cardinals Cap for the Lord* Aubigny, *one of his own Subjects, and great* Almoner *at preſent to his Royal Conſort the Queen.*

That in purſuance of the ſame Wicked and Traiterous Deſign, he had recommended to be employed to the Pope one of his own Domeſticks, Mr. Rich. Bealing, *a Perſon (tho' an avow'd* Papiſt*) known to be truſted and employed by him in Diſpatches and Negotiations concerning Affairs of greateſt Concernment to the Nation.*

That in purſuance of the ſaid Traiterous Deſign, he being chief Miniſter of State, did himſelf write by the ſaid Mr. Rich. Bealing, *Letters to ſeveral Cardinals, preſſing them in the King's Name to induce the Pope to Confer a Cardinal's Cap on the ſaid Lord* Aubigny, *promiſing, in Caſe it ſhould be attained, exemption to the* Roman Catholicks *of* England *from the* Penal Laws *in force againſt them; by which Addreſs unto the Pope for that Eccleſiaſtical Dignity for one of His Majeſty's Subjects and Domeſticks, he hath, as far as from one Action can be inferred, traiterouſly acknowledged the Pope's Eccleſiaſtical Soveraignty, contrary to the known Laws of this Kingdom.*

That in purſuance of the ſame traiterous Deſign, he has called unto him ſeveral Prieſts and Jeſuits, whom he knew to be Superiors, of Orders here in England, *and deſired them to write to their Generals at* Rome, *to give their help for the obtaining from the Pope the Cardinal's Cap for the Lord* Aubigny, *as aforeſaid, promiſing great Favour to* Papiſts *here, in Caſe it ſhould be effected for him.*

That he hath promiſed to ſeveral Papiſts *he would do his endeavour, and ſaid he hoped, to compaſs the taking away all* Penal Laws *againſt them, which he did in purſuance of the traiterous Deſign aforeſaid; to the end they might preſume and grow vain upon his Patronage, and by their publiſhing their hopes of a Tolleration, encreaſe the Scandal endeavoured by him, and by his Emiſſaries, to be raiſed upon His Majeſty throughout the Kingdom.*

That in purſuance of the ſame traiterous Deſign, being intruſted with the Treaty betwixt His Majeſty, and His Royal Conſort the Queen, he concluded it upon Articles ſcandalous and dangerous to the Proteſtant Religion.

That in purſuance of the ſame traiterous Deſign, he concluded the ſame Marriage, and brought the King and Queen together, without any ſettled Agreement in what manner the Rights of Marriage ſhould be performed, whereby the Queen refuſing to be Married by a Proteſtant Prieſt, in caſe of her being with Child, either the Succeſſion ſhould be made uncertain for want of the due Rights of Matrimony, or elſe His Majeſty to be expoſed to a ſuſpicion of having been married in his own Dominions by a Romiſh Prieſt, *whereby all the former Scandals endeavoured to be raiſed upon His Majeſty by the ſaid Earl, as to point of* Popery, *might be confirmed and hightned.*

That having thus traiterouſly endeavoured to Alienate the Affections of His Majeſty's Subjects from him upon the ſcore of Religion, *he hath endeavoured to make uſe of all the malicious Scandals and Jealouſies, which he and his Emiſſaries had raiſed in His Majeſty's Subjects, to raiſe from them unto himſelf the popular Applauſe of being the zealous Upholder of the* Proteſtant Religion, *and a promoter of new Severities againſt* Papiſts.

That he hath traiterouſly endeavoured to Alienate the Affections of His Majeſty's Subjects from him, by venting in his own Diſcourſe, and by the Speeches of his neareſt Relations and Emiſſaries, opprobrious Scandals againſt His Majeſty's Perſon and courſe of Life, ſuch as are not fit to be mentioned, unleſs neceſſity in the way of Proof ſhall require it.

That he hath traiterouſly endeavoured to Alienate the Affections of his Highneſs the Duke of York *from His Majeſty, by ſuggeſting unto him Jealouſies as far as in him lay, and publiſhing abroad by his Emiſſaries, that His Majeſty intended to Legitimate the D. of* Monmouth.

That he hath Wickedly and Maliciouſly, contrary to the Duty of a Privy-Counſellor of England, *and contrary to the perpetual and moſt important Intereſt of this Nation, perſwaded His Majeſty, againſt the Advice of the Lord* General, *to withdraw the* Engliſh *Garriſons out of* Scotland, *and to demoliſh all the Forts built there, at ſo vaſt a Charge to this Kingdom.*

That His Majeſty having been graciouſly pleaſed to communicate the Deſires of the Parliament of Scotland *for the remove of the ſaid Garriſons to the Parliament of* England, *and to ask their Advice therein, the ſaid Earl of* Clarendon, *not only perſwaded His Majeſty actually to remove thoſe Garriſons, without expecting the Advice of his Parliament of* England *concerning it, but did by Menaces of His Majeſty's diſpleaſure, deter ſeveral Members of Parliament from moving the Houſe, as they intended, to enter upon conſideration of that Matter.*

That he had Traiterouſly and Maliciouſly endeavoured to Alienate His Majeſty's Affections and Eſteem from this his Parliament, by telling His Majeſty that there was never ſo weak and inconſiderable a Houſe of Lords, nor never ſo weak and ſo heady a Houſe of Commons, or words to that effect, and particularly, that it was better to ſell Dunkirk, *than to be at their Mercy for want of Money, or words to that effect.*

That he hath Wickedly and Maliciouſly, contrary to his Duty of Counſellor, and to a known Law made laſt Seſſions, by which Money was given, and particularly applyed for the maintaining of Dunkirk, *adviſed and effected the Sale of the ſame to the* French *King.*

That he hath contrary to Law, enriched himſelf and his Treaſures by the Sale of Offices.

That contrary to his Duty he hath wickedly and corruptly Converted to his own uſe, great and vaſt Summs of publick Money raiſed in Ireland *by way of Subſidy, private and publick Benevolences, and otherwiſe, given and intended to defray the Charge of Government*

in that Kingdom. By which means a ſupernumerary and diſaffected Army hath been kept up there, for want of Money to pay them off, occaſion'd it ſeems to be becauſe of the late and preſent Diſtempers of that Kingdom.

That having arrogated to himſelf a ſupream Direction of all His Majeſty's Affairs, he hath, with a malicious and corrupt Intention, prevailed to have His Majeſty's Cuſtoms Farmed at a far lower Rate than others do offer, and that by Perſons, with ſome of whom he goes a ſhare in, that, and other Parts of Money reſulting from His Majeſty's Revenue.

July 10th, 1663. BRISTOL.

The Earl of Briſtol *having Exhibited againſt the Lord* Chancellor, *Articles of High-Treaſon, and other Miſdemeanours. This Order was made by the* Houſe *of* Peers.

Die Veneris, 10 July, 1663.

ORdered, by the Lords Spiritual and Temporal in Parliament aſſembled, That a Copy of the Articles or Charge of *High-Treaſon* Exhibited this Day by the Earl of *Briſtol*, againſt the Lord Chancellor, be deliver'd to the Lord Chief Juſtice; who, with all the reſt of the Judges are to conſider whether the ſaid Charge hath been brought in regularly and legally, and whether it may be proceeded in, and how, and whether there be any Treaſon in it or no, and make Report thereof to this Houſe on *Monday* next if they can, or elſe as ſoon after as poſſibly they may.

Whereupon, all the Judges met at *Serjeants-Inn* in *Fleet-ſtreet*, and my Lord of *Briſtol* repaired to us thither, deſiring to ſee the Order; which being read, he told us he came out of Reſpect to know of us whether we were informed how it came into the *Houſe of Peers*, whether as a Charge or not; but one of the Judges, who had been preſent when it was delivered in, ſaying, *we were tied up by our Order*, his Lordſhip took ſome Exception at the manner of his Expreſſion, as if his Lordſhip's Addreſs was unneceſſary at that time, and taking it as a Rebuke unto him, went away; but according to our Order, which ſuppoſed it to be a Charge of *High-Treaſon*, and not mentioning *Miſdemeanor*, we did upon Conſideration unanimouſly agree upon this enſuing *Anſwer*, which on *Monday* the 13th of *July*, the Lord Chief Juſtice *Foſter* did deliver in, *viz.*

We conceive that a Charge of High-Treaſon *cannot by the Laws and Statutes of this Realm be originally Exhibited by one Peer againſt another unto the* Houſe of Peers, *and that therefore a Charge of* High-Treaſon *by the Earl of* Briſtol *againſt the Lord Chancellor, mentioned in the Order of Reference to us of the* 10th *of this Inſtant* July, *hath not been regularly and legally brought in, and if the Matters alledged in the ſaid Charge, were admitted to be true, altho' alledged to be traiterouſly done, yet there is no* Treaſon *in it.*

Which *Anſwer* being given in, the Earl of *Briſtol* took ſome Exceptions at it, and ſome of the Lords inferred thence, that if it were Irregularly and Illegally brought in, it was a Libel; but we ſatisfied them that it was not under Conſideration of us, whether it came in as an Information or Charge; our Order required us to give *Anſwer* to it as a Charge.

Secondly, We did not meddle with any thing concerning accuſing him of *Miſdemeanor*, for our Order reached only to *Treaſon*.

Thirdly, It did not follow that if this Charge were Irregular, or Illegal, that therefore he was Criminal: There might be Precedents to give Colour to ſuch kind of Proceedings, for which, till it be declared or known that they are Illegal, they are Titular, and ought not to be puniſhed.

But it was much inſiſted on, That we ſhould deliver the Reaſon of our Opinions, the Lord of *Briſtol* and his Friends ſeeming unſatisfied.

We *Replyed*, That it was never known, that when the Juſtices to whom *Queſtions* were referred from Parliament had unanimouſly agreed in their Opinions, that Reaſons were required from them. Yet notwithſtanding, it being the deſire of the Lords, after ſome things premiſed, and a deſire that this ſhould not be drawn into an Example, (which the Lords aſſented unto as I took it, for no Order was entred concerning it, there being no Order as I think for delivering our Reaſons entred) and it was agreed amongſt us, that no Note ſhould be reduced, leſt we might be required to deliver our Reaſons in Writing; nor had I time to digeſt it in Writing, having only *Monday* Night after Conference with my Brethren to think upon it, I did on the next *Tueſday*, being the 14th of *July*, deliver the Reaſons of all the Judges, of their Opinions, by their Conſents. To the firſt Point, *That a Charge of* High-Treaſon *cannot originally be Exhibited by one Peer againſt another unto the Houſe of Peers*, the Emphaſis of the Word *Originally* was ſhewed.

For *Firſt*, an Indictment of *Treaſon* againſt a Peer may be removed up to the Lords Houſe to be tried, as it was in the 31 *H.* 6. in the Earl of *Devonſhire*'s Caſe, but a Steward was then to be made.

Secondly, If an Impeachment came from the *Houſe of Commons* unto the *Lords Houſe*, we did not take upon us the Conſideration, whether this could be proceeded in or not, for it was not the Caſe to which we were required to give *Anſwer*.

We *Replyed*, Upon the Statute 1 *H.* 4. *cap.* 14. which recites the many great Inconveniencies and Miſchiefs by Appeals, and provides that all Appeals of Things within the Realm, ſhall be Tried and Determined by the good Laws of the Realm made and uſed in the time of the King's noble Progenitors, and Appeals of Things out of the Realm before the Conſtable and Marſhal: But we relied upon the Clauſe enſuing, and thereupon it is accorded and aſſented, That no Appeals be from thenceforth made, or in any wiſe purſued in Parliament in time to come. I ſhewed Appeals in this Statute, and Accuſations by ſingle Perſons were one and the ſame Thing, and that this Statute reached to all Appeals, Charges, Accuſations or Impeachments deliver'd in, in Parliament, whereupon the Perſon accuſed was to be put to his

Anſwer,

Anſwer, and that they were but ſeveral Names of the ſame Thing, I ſhewed firſt Hiſtorically, that the Appeals the 11 *R.* 2. and 21 *R.* 2. were but Accuſations by thoſe Lords of Felons againſt the other, and differed from the Caſe of the Duke of *Hereford* and *Norfolk*, which was to be tried as 21 *R.* 2. *Pl. Cor.* in *Parl. No.* 19. is by the Courſe of the Civil Law, and thereupon Battle was waged. That tho' it concerned *H.* 4. in Intereſt to confirm the 11 *R.* 2. and repeal the 21 *R.* 2. he being Appellant in the former, yet he ſaw the Miſchief ſo great, that he himſelf made Proviſion againſt them for the time to come; and indeed, the Miſchief was ſo great, that it ceaſed not after the Deſtruction of many Lords and Families (there being *Lex talionis* in that 21 *R.* 2. uſed towards moſt of thoſe Appellants in the 11 *R.* 2.) till it tumbled King *R.* 2. firſt out of his Throne, and then into his Grave.

That there were but two ſorts of Proceedings in *Capitalibus*, the Suit of the Party which was called an Appeal, or the Suit of the King, who ought to proceed by Indictment, and ſo to Trial by virtue of *Magna Charta*. *Nec ſuper eam ibimus*, &c. and that, in an Appeal, being the Suit of the Party, there was no Prerogative of Appearance if it were an Appeal at the Common-Law, 10 *Ed.* 4. Lord *Gray*'s Caſe. That an Appeal was taken in our Law-Books frequently for an Accuſation by the Party, I cited *Weſtm.* the 1*ſt*, *Cap.* 14. where the Words Appeal reaches to Indictment. And 9 *Cook*, 119. Lord *Zanchar*'s Caſe, that an Appeal of two Significations, one general and frequent in our Books for an Accuſation, and *Stamford*, 142. In Caſe of an Approver, the Felon after Confeſſion may Appeal, that is (ſaith he) accuſe others, Coadjutors with him to do the Felony. *C. C.* 189. Appellant, cometh from the *French* Word *Appeller*, which ſignifies to *accuſe*, or *appeach*, and *C. C.* 287. Appel ſignifieth an *Accuſation*; and therefore to Appeal a Man is as much as to accuſe, and in ancient Books he that doth Appeal a Man is called *accuſator*, *vide* 9 Ed. 2. *Articuli Cleri*, *cap.* 16. That I knew no reaſon why in thoſe tumbling Times of *R.* 2. (which cauſed this Statute, for the Statute-Roll is *comant ad autermant eſte us en temps la darren Roy*, R. 2.) They ſhould proceed by way of Appeal, but becauſe they were then allowed at the Suit of the Party, to accuſe any other of *Treaſon*, but at the King's Suit there ought to be an Indictment, and an Indictment could not be found but by Jury.

That in all other Caſes, an Appeal was to be brought by the Party concerned, the Wife or Heir, or Party robbed, *&c.* But in Caſe of *Treaſon*, any Man may Appeal another, and therefore in all Reaſon it muſt be underſtood of an Accuſation, and any Man might accuſe another of *Treaſon*; and if it can be proved by Witneſſes, it muſt not be Tried by Battle, as other Appeals may. I concluded that the 8 *H.* 6. *No.* 38. this Statute, the 1 *H.* 4. *cap.* 14. is recited, and deſired it ſhould be duly kept and put in Execution, which was granted, that *Stamford* 78. See *Pl. Cor.* 31. 132. agree that Appeals of *High-Treaſons* were not commonly uſed to be ſued in Parliament, till the 1 *H.* 4. *cap.* 14. Since which time his manner of Appeal hath gone out of uſe; and I ſaid, I had ſearched many Precedents, and tho' of late, there may be a Precedent (as it was of the Earl of *Briſtol*'s Father againſt the Duke of *Buckingham*, of ſome kind of Impeachment) yet I did confidently believe there was not ſince that Statute, 1 *H.* 4. *Cap.* 14. any one Precedent of ſuch an Impeachment at the Party-Suit whereupon there was any Indictment: In truth in the Earl of *Briſtol*'s Caſe, the *Commons Houſe* did Impeach the Duke of *Treaſon*, and ſo the Earl of *Briſtol*'s Impeachment proceeded not.

For the *Second* Point, *That there was no* Treaſon *in the Charge, tho' the Matters in it are alledged to be Traiterouſly done.* I ſaid we had peruſed each Article *ſeriatim*, and we had found no *Treaſon* in them, the great Charge, which is endeavoured to be proved by many Particulars, was, *That he did Traiterouſly, and Maliciouſly, to bring the King into Contempt, and with an intent to Alien the Peoples Affections from him*, ſay, *&c.* ſuch and ſuch *Words*, &c.

And ſo it runs on, That in purſuance of the *Traiterous Intent*, &c. he did, *&c.* and that in farther purſuance of the ſaid *Traiterous Deſign*, &c. And in like manner was moſt of the Articles upon which the Characters of *Treaſon* ſeemed to be fixed. I ſaid that it is a tranſcendent Miſpriſion or Offence to endeavour to bring the King into Contempt, or to endeavour to Alienate the Peoples Affections from him, but yet it was not *Treaſon*. This Statute, 13 *Car.* 2. *Cap.* 1. makes *Treaſon* during the King's Life: But if a Man calls the King *Heretick*, or *Papiſt*, or that he endeavours to introduce *Popery*, (which is more in expreſs Terms than the Article of that kind inſinuates) or by Words, Preaching, Prayer, to ſtir up the People to hatred or diſlike of the Perſon of his Majeſty, or the Eſtabliſhed Government; the Penalty is only Diſability to enjoy any Place Eccleſiaſtical, Civil, or Military, and ſubject to ſuch Penalties as by the Common-Law or Statute of this Realm may be inflicted in ſuch Caſe, (which is Fine and Ranſom, with Impriſonment) and it limits a time and manner of Proſecution.

There was an *Objection* made yeſterday upon the 25 *E.* 3. That this being in Parliament, the King and Parliament had Power to declare *Treaſon*, and then we ought to have delivered our Opinions with a Qualification, unleſs it be declared *Treaſon* by Parliament where this Charge is depending; to this I *Anſwer'd*.

Firſt, 'Tis not *Treaſon* in *præſenti*, and if ſuch a Declaration ſhould be *non conſtat*, whether it would relate to the time paſt.

Secondly, That I conceived that the Statute as touching that *Declaratory Power*, extended but to ſuch Caſes as were clearly *Felony*, as ſingle Acts, if not *Treaſon*, (the Words being) *Whether it be Treaſon or other Felony*; but in reſpect of the doubts of *Eſcheats*, which, if *Treaſon*, belonged to the King; if *Felony*, to the Lords of the *Fee*, it was left to the Parliament. I did not ſay we Reſolved the Point.

Thirdly, That admitting the *Declaratory Power* did extended to other Caſes than ſuch as were before the Judges, and was not taken away by 1 *M. Cap.* or any other Statute, yet I read my Lord *Cook*'s Opinion at large, *Pl. Cor. Fol.* 22. That this Declaration muſt be by the King, Lords and Commons, and by any two of them alone; and we were now in a judicial Way before

fore the *House of Peers* only; and I did affirm as clear Law, that by this judicial Way no *Treason* could be declared nor adjudged, but as were expresly within the Letter of the 25 *E.* 3. and said, That Statute 25 *E.* 3. was a second *Magna Charta*, and that their Ancestors thought it their greatest Security to narrow, and not to enlarge *Treason*, and cited 1 *H.* 4. *cap.* 10. to which in the Parliament-Roll is added *Rot. No.* 17. (it coming of the King's Free Grace) That the Lords did much rejoice and humbly thank the King: And I read the Statute 1 *M. cap.* 1.

That the now Earl of *Bristol* in my Lord of *Strafford*'s Case, was the great Assertor of the Law against Constructive and Accumulative *Treason*, which if admitted, their Lordships could better suggest unto themselves, than I express, how great a Door they would let open to other Inconveniencies and Mischiefs to the Peerage. I concluded with reading the Act, 14 *Car.* 2. for Reversing the Attainder of the Earl of *Strafford*; the first Part whereof I read to them, wherein is expressed, That they who Condemned him, did purposely make an Act of Parliament to Condemn him upon an Accumulative *Treason*, none of the pretended Crimes being *Treason* apart, and so could not be in the whole, if they had been proved.

After I had spoken to this Effect, the Earl of *Bristol* seemed to acquiesce, insomuch as concerned our Opinions as the Case was delivered to us, but it being to be put to the *Question*, whether the Lords did concur with the Judges Opinions, and himself being concerned in the Illative, that therefore the Charge was Illegal and Irregular; yet not being intended by him, as he said, as a Charge, but an Information, he desired (tho' as the Case was put to us, it was a good Inference) that the Voting of that might be spared till it was *Resolved* by the Lords whether he delivered it in as a Charge, or only as an Information for the Matter of the Charge if it should be thought fit for their Lordships to proceed in it: After some Debate upon the Question, the Lords *Resolved* the same Day according to our Opinions.

First, That a Charge of *High-Treason* cannot by the Laws and Statutes of this Realm be originally Exhibited by one Peer against another, unto the *House of Peers*.

Secondly, That in these Articles, if the Matters alledged in them were admitted to be true, there is no *Treason* in them, and because the Lords unanimously Concurred in them, (my Lord of *Bristol* freely as any other) it was by Order entred, that these Votes were *Nemine Contradicente*.

Note, That in Judge *Hatton*'s Reports, *Fol.* the Resolution of the Judges is expressed to be, That a Peer cannot be Impeached but by Indictment, and Mr. *Rushworth* in his Collections, *Fol.* 272. expresses such an Opinion to be deliver'd by the Judges in 1 or 2 *Car.* but upon search it was found to be entred in the Journal of Parliament of that Time, but it was cautious referring to the Common-Law only. But that for Proceedings in Parliament it did not belong to them to determine, or to that Effect; but no mention of 1 *H.* 4. *cap.* 14. It hath been credibly reported that some of the Judges in my Lord of *Strafford*'s Case, being asked some Questions, did with the like Caution deliver their Opinions, and did speak with Reservations, (as the Case is put) tho' they upon Hearing, did know the Case misput; which, after, troubled the Conscience of one of them, *(ut audivi)* being a grave Learned Man. *Vide Peacock*'s Case, *Cook Fol.* But we having the Case referred to us in Parliament upon Articles exhibited in Parliament, did *Resolve* to deliver our Opinions without any such Reservation; and the Act of 1 *H.* 4. being expresst against Appeals in Parliament, (and of Acts of Parliaments after they are once made, none under the King, and without him are Interpreters but the Judges. *See King's Answer printed in the Old Print of* 3 Car. 1. *at the end of the Petition.*) And therefore did deliver these Opinions which I conceive of great Benefit to the Lords themselves, and a just Ground for farther Enquiry to be made, whether such Impeachments may be in the *House of Peers* for other *Misdemeanors*, without the King's Leave, or being exhibited by his Attorney.

And secondly to take into Consideration the Validity of Impeachments of *Treason* by the *House of Commons*, notwithstanding the late Precedents which yet ended in a Bill, and so in the Legislative, not Judiciary Way.

The

The Trials of Peter Meſſenger, Richard Beaſley, William Green, Thomas Appletree, John Earles, William Wilks, William Ford, Richard Farrell, Edward Cotton, Edward Bedle, Richard Latimer, John Sharpleſs, Richard Woodward, Thomas Limerick, John Richardſon, *for* HIGH TREASON, *in tumultuouſly Aſſembling themſelves in* Moorfields, *and other Places, under Colour of pulling down of* BAWDY-HOUSES, April 4. 1668.

UPON *Eaſter-Monday* laſt, being the 23d Day of *March*, in the 20th Year of the Reign of our Sovereign Lord the King that now is, it being the uſual time of the Apprentices Liberty for their Civil Recreations, a rude Multitude of People met together in *Moorfields*; where being ſo Aſſembled, were inſtigated by ſome Factious Perſons amongſt them; who, to colour their Deſign, inſinuated into the Rabble the pulling down of *Bawdy-Houſes*: Under which colour of reforming *Bawdy-Houſes*, they at length raiſed a great Hubbub; and ſo increaſing in their Diſorders, in a tumultuous Manner committed many notorious Crimes. But by the Vigilancy of the Magiſtrates of the City, with the Aſſiſtance of his Majeſty's Guards, were at laſt reduc'd: Some of the Ringleaders whereof were apprehended, and committed to the Goal for their Offences, to receive their Trials according to the known Laws of the Land.

And having been ſeveral times examin'd, upon Confeſſion of ſome, and pregnant Proof againſt others, by a ſpecial Jury of ſeveral Knights, Eſquires and Gentlemen, of very great Worth and Eſteem, of the County of *Middleſex*.

Theſe Perſons following, to wit,

Peter Meſſenger,	*Edward Cotton,*
Richard Beaſley,	*Edward Bedle,*
William Green,	*Richard Latimer,*
Thomas Appletree,	*John Sharpleſs,*
John Earles,	*Richard Woodward,*
William Wilks,	*Thomas Limerick,*
William Ford,	*John Richardſon,*
Richard Farrell,	

Were indicted of High-Treaſon, for levying of a Publick War againſt our Sovereign Lord the King: And at the Goal-Delivery of *Newgate*, held at the Seſſions-Houſe in the *Old Baily*, *London*, *Apr.* 1. 1668, and continued till the fourth Day; on which ſaid fourth Day, in the Preſence of

Sir *John Kelyng*, Kt. Lord Chief Juſtice of his Majeſty's Court of *King's-Bench*,

Sir *Edward Atkins*,
Sir *Chriſtopher Turner*,
Sir *Richard Rainsford*,
} Barons of his Majeſty's Court of *Exchequer*:

Together with Sir *William Wild*, Recorder of the City of *London*; theſe Priſoners following, *viz.*

Peter Meſſenger,	*William Green,*
Richard Beaſley,	*Thomas Appletree,*

Were firſt called to the Bar to receive their Trials; where, after Proclamation being made, they ſeverally pleaded to their Indictments, and put themſelves for their Trial upon their Country.

The Names of the Jury ſworn,

Anthony Hall,	*Thomas Jennins,*
William Knight,	*John Nichols,*
Henry Francis,	*Ralph Bradſhaw,*
John Baker,	*John Saving,*
Robert Shaw,	*John Marſh,*
Thomas Conſtable,	*Henry Kent.*

The Jury being ſworn, the Court proceeded to Trial.

King's Counſel, Mr. North. You Gentlemen of the Jury, theſe four, *Peter Meſſenger, Richard Beaſley, William Green,* and *Thomas Appletree,* ſtand indicted for High-Treaſon; having left their Obedience to our Sovereign Lord the King, and being inſtigated by the Devil, upon the 24th Day of *March* laſt paſt, did contrive a Deſign to levy War and Rebellion againſt the King, being at the Head of four or five Hundred arm'd and array'd. If this Matter be prov'd againſt them, you muſt find them Guilty.

2*d Counſel, Mr.* Pemberton. You Gentlemen of the Jury, theſe Priſoners at the Bar did contrive and levy War, and fell upon the King's Officers, and beat them, and broke the Priſon, and let out the Priſoners, ſome for Felony: Among the Multitude theſe were four of them, as we ſhall endeavour to prove.

The Names of the Witneſſes call'd and ſworn,

Richard Dowſon,	*James Martin,*
John Cowley,	*Abraham Brookes,*
Henry Ball,	

The

The OATH.

THE Evidence you ſhall give between our Sovereign Lord the King and the Priſoners at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth. So help you God.

Counſel. Sir, pray tell my Lord what you ſee theſe do on *Eaſter-Tueſday*.

Witneſs. My Lord, I ſaw this *Richard Beaſley* at the Head of four or five Hundred; he had a Sword, and I took his Sword from him: he had Colours, a green Apron upon a Pole. I heard ſome of them cry, *Down with the Redcoats*; and I did ſee *William Green* there too, but not *Appletree*.

Lord Chief Juſtice. Did they go with the Multitude or no, or were they with them?

Witn. They were with them; but I cannot ſay they went along with them.

Counſ. Pray tell my Lord what the Multitude ſaid at that Time.

Witn. When we fell on them, they run away.

Ld. Ch. J. Did *Beaſley* lead them on?

Witn. They ſaid he was their Captain.

John Cowley Second Witneſs.

Counſ. Mr *Cowley*, tell my Lord what you ſaw.

Cowley. My Lord, he cut me and wounded me on the Hand. The Conſtable charg'd them to be gone, and diſperſe themſelves; with that they ſtruck at the Conſtable, and knock'd him down.

Ld Ch. J. Under what Pretence did they pull down any Houſe?

Witn. The Conſtable, and ſome more of us, beat them up *Nightingale Lane*; I know not what their Pretence was: I ſaw *Appletree* there, for he was the Firſt that ſtruck at the Conſtable. This was on *Eaſter-Tueſday*.

Ld Ch. J. Did you ſee *Green* there?

Witn. I cannot tell.

Ld Ch. J. Did you ſee them pull down any Houſe? What did you hear them ſay?

Witn. They ſaid, *Down with the Bawdy-houſes.*

Ld Ch. J. Did you hear them talk of the Redcoats there? Was *Green* amongſt them as one that help'd and acted with them?

Witn. I ſaw him in *Moorfields* on *Monday*, *Tueſday*, and *Wedneſday*, ſhout and throw up his Hat.

Third Witneſs.

Ld Ch. J. What did you ſee them do?

Witn. All that I ſaw, was, that *Peter Meſſenger* came along with the Colours in his Hand, and I took him and carry'd him to Priſon my ſelf: I did not hear them cry, Down with honeſt Houſes, but *Bawdy-houſes*: I did not ſee all thoſe, but only theſe two, (pointing to two at the Bar.)

Ld Ch. J. Ay, that was the Captain and the Enſign.

Fourth Witneſs, *Henry Bull.* My Lord, I ſaw this *Beaſley* and *Meſſenger* in *Moorfields*, pulling down Houſes on *Monday*, and on *Tueſday* at the Head of three Hundred; and at that time we routed them. On *Wedneſday* they came with four or five Hundred, and cry'd, *Down with the Redcoats.*

James Martin, Fifth Witneſs.

Ld Ch. J. What can you ſay?

Witn. All I know is, *Beaſley* made a Blow at our Enſign, and ſtruck at him with his Sword.

Ld Ch. J. What was their Pretence?

Witn. I cannot tell that.

Another Witn. I ſee *Thomas Appletree* help to pull down *Peter Burlingham*'s Houſe, and broke another.

Serj. *Wild.* What Company had they?

Witn. About Three hundred.

Ld Ch. J. Had they any Colours? What did you hear them declare?

Witn. I heard them declare nothing, for I had like to have been knockt on the Head.

Ld Ch. J. to the Priſoner *Beaſley*; Well, what do you ſay for your ſelf? you hear it is ſworn againſt you, that you were at the head of this Rabble, and they call'd you Caprain, and you led them up; and when the Conſtable came to command Peace in the King's Name, you fell on him, and wounded him, ſo that he is hardly able to be here this Day: Why did you gather this Multitude together? It will behove you to make your Anſwer; what Reaſon had you for it?

Beaſley Priſ. I do not know the Reaſon.

Ld Ch. J. I ſpeak to you, that you ſhould give a Reaſon: After all this Trouble that we have had in this Nation, it is a ſad thing that a great Number of giddy-headed People muſt gather together, under Pretence of Reformation, to diſturb the Peace of the Nation again; if you can ſay no more for your ſelf, there will be little trouble with you.

Serj. *Wilde.* What was the meaning of your gathering together?

Beaſley Priſ. We went to pull down Bawdy-Houſes.

Ld Ch. J. How did you know which were Bawdy-Houſes? If you had known them, you might have indicted them, there is Law againſt them; but this is a ſtrange kind of Reformation, if a Rabble come, and ſays, This Man is a Papiſt, and this keeps a Bawdy-Houſe, and would pull it down; this is a mad Reformation.

Meſſenger Priſ. My Lord, that Man has ſworn I was out on *Tueſday*, it was *Wedneſday* before I came forth; but ſtaid at home with my Wife, becauſe I would not be among them.

Ld Ch. J. Did not you carry a green Apron on a Pole for your Colours?

Priſ. My Lord, as I paſs'd along by the Rout, they flung a Bottle at me, and had like to have knockt me down, and tore my Apron off, and charg'd me to carry it on a Pole; and I would fain have come away from them, and could not.

Ld Ch. J. Make this appear, that you would fain have got away, and that they did force you to do what you did, and I ſhall be glad of it.

Priſ. There is none of them here now that were there then.

Ld Ch. J. Then all that you ſay is of little uſe; for it is no great thing to make a Lye to ſave one's Life.

Priſ. God is my Witneſs.

Ld Ch. J. Have a care what you ſay.

A Conſtable Witneſs ſworn.

Ld Ch. J. What ſay you of theſe four at the Bar?

Conſt. My Lord, I heard they were pulling down Houſes, and I did what I could to preſerve the King's Peace; and that Day I did ſave a great many Houſes and Goods. The next Day they were near my own Houſe, and I did endeavour to do the ſame, and this Fellow with his Company did ſurprize my Men, and knockt me down; yet I commanded the Peace, and they beſet me round about, and cut me over the Hand: I do remember that *Beaſley*. We were in a Place where there were three Turnings, but they knockt me down, and beat me ſo, that I could not tell who it was that did hurt me.

Ld Ch. J. Do you know any more of this Company?

Conſt. No, my Lord: for if the Soldiers had not come, they would not have left till they had kill'd me.

Counſ. Had you your Staff?

Conſt. Yes; but they took it away from me.

Another Witn. I ſaw *Meſſenger* on *Tueſday*, tho' he ſays to the contrary.

Ld Ch. J. *Meſſenger*, you hear what is ſaid againſt you; you ſay you were not out on *Tueſday*: He hath ſworn you were at the Head of a Company, with a green Apron on a Stick, and led them up.

Priſ. I was not there.

Henry Bull, Witn. I ſaw him, my Lord, on *Tueſday*, he and *Beaſley*, about Eleven of the Clock in *Moorfields*, and they had gather'd a great Multitude of four or five hundred, and then they made an Attempt to come into our Pariſh, and they cry'd, *Down with the Redcoats.*

Meſſenger Priſ. Pray, my Lord, let my Witneſſes be called in, for they ſwear falſe.

Ld Ch. J. Your Witneſſes ſhall be call'd, a little of due Conſideration beforehand would have done you more good than now.

Mr. Glover, *and Mr.* Bennet, *the Priſoner's Witneſſes.*

Ld Ch. J. What ſay you concerning the Priſoner?

Glover. I can ſay, my Lord, he was till Five of the Clock on *Wedneſday* at Mr. *Bennet*'s Houſe in *Golden-Lane.*

Ld Ch. J. Where was he on *Monday* and *Tueſday?*

Glover. I know not.

Bennet. On *Wedneſday* he was at a Kinſman's Houſe.

Ld Ch. J. Theſe two Witneſſes give no Account at all of you, where you were on *Monday* and *Tueſday.*

Ld Ch. J. *Greene*, what ſay you?

Greene. I was not among them.

Ld Ch. J. It is ſworn you were amongſt them, and threw up your Cap. Were you not knockt down?

Priſoner. Yes, my Lord.

Ld Ch. J. How could you be knockt down if you were not amongſt them?

John Cowley Witneſs.

Ld Ch. J. Did you not ſee *Greene* in the Multitude?

Cowley. I ſee him do nothing; but I ſee him with a Staff in his Hand, I did not ſee him act any thing but follow the Colours.

Greene Priſ. I was not among them but as I came home.

Ld Ch. J. You mean you did not take part with them, but you were there; it is ſworn you were upon *Tueſday*, following your Captain and the Colours; it is ſworn by Mr. *Bull* you were among the Rabble, and were knockt down: now if the Jury do not believe that you did act among them, we will leave it to them.

Ld Ch. J. *Appletree*, what ſay you?

Appletree. As I was paſſing along (my Lord) I ſaw a Croud, and I went to know what was the Matter, and there came a Company down, and ſome running after me did me a miſchief; I did not ſee the Conſtable, nor ſay, Knock him down.

Ld Ch. J. It is ſworn that you were the firſt Man that ſtruck the Conſtable, and that you were at the pulling down of *Burlingham*'s Houſe.

Priſ. I did not offer to pull down his Houſe, nor ſtrike the Conſtable.

Abraham Brooks, Witn. My Lord, he was in *Peter Burlingham*'s Houſe, and broke it down ſo that you might have riden a Horſe thro' it; I ſpake to him two or three times to leave off, and if I had not ſtoopt ſuddenly he had ſtruck me down with a Bedſtaff.

Cowley Witn. I did ſee him on *Tueſday* with their Company, and I did ſee him ſtrike at the Conſtable.

Ld Ch. Juſtice to the Jury. Gentlemen of the Jury, you have heard what theſe ſay; the Priſoners are indicted for High Treaſon, for levying of War againſt the King. By levying of War is not only meant, when a Body is gathered together, as an Army is, but if a Company of People will go about any publick Reformation, this is High Treaſon, if it be to pull down Incloſures, for they take upon them the Regal Authority, the way is worſe than the thing. Theſe People do pretend their Deſign was againſt Bawdy-Houſes; now for Men to go about to pull down Houſes under the pretence of Bawdy-Houſes, with a Captain, and an Enſign, and Weapons; if this thing be indur'd, who is ſafe? It is High Treaſon, becauſe it doth betray the Peace of the Nation, for every Subject is as much wrong'd as the King; for if every Man may reform what he will, no Man is ſafe: therefore this thing is of deſperate Conſequence, we muſt make this for a publick Example: There is reaſon we ſhould be very cautious, we are but newly delivered from Rebellion, and we know that that Rebellion firſt began under the Pretence of Religion and the Law, for the Devil hath always this Vizard upon it; we know that that Rebellion began thus, therefore we have great Reaſon to be very wary that we fall not again into the ſame Error, but it ſhould be carried on with a watchful Eye. And becauſe Apprentices hereafter ſhall not go on in this Road, we will have the ſolemn Reſolution of all the Judges, and therefore you are to find it ſpecially. You muſt find the matter of Fact, and we will aſſemble all the Judges together in a ſober way,

to give their Judgment, whether it be High Treaſon or no; not that we do doubt of it now, for we know it is High Treaſon, but for general Satisfaction. It is prov'd that *Beaſley* went as their Captain, with his Sword, and flouriſh'd it over his Head; *Meſſenger* was there with his Green Apron on a Pole in *Moorfields* on *Tueſday*, and on *Wedneſday* he was in the ſame Poſture again.

Priſoners. My Lord, we would have our Witneſſes heard.

Ld Ch. J. You ſhall have no Wrong done to you.

As for *Green*, it is prov'd he was with them ſhouting, and caſting up his Cap: now the Act that any one does in ſuch a Tumult is the Act of all, if they all join together. He was on *Tueſday* following there, and on *Wedneſday* he was taken. And then for *Appletree*, he was the firſt Man that ſtruck the Conſtable, and pull'd down *Burlingham*'s Houſe.

Edmund Bedle, Richard Latimer, to the Bar.

Bill of Indictment. You that are now call'd, being mov'd thro' the Inſtigation of the Devil, and having not the Fear of God before your Eyes, have withdrawn your Obedience to our Sovereign Lord the King, and againſt him did imagine and contrive War and Rebellion the 24th Day of *March*, with four or five hundred Perſons in a Warlike Manner, array'd with long Pikes and other Arms, there met and aſſembled, againſt the Peace of our Sovereign Lord the King, his Crown and Dignity, *&c.*

Witneſſes ſworn.

William Badley, John Maldey,
William Riggs, John Williams.

King's Counſel. Gentlemen of the Jury, *Bedle* and *Latimer* ſtand indicted for High Treaſon; wanting that Love and Obedience that every Man ought to have of his King, did, the 24th of *March*, aſſemble themſelves together, to the Number of four or five hundred Perſons, to levy War and Rebellion: If we prove this, you muſt find them guilty of High Treaſon.

Goaler of Finsbury *Priſon, Witneſs ſworn.*

Counſ. Tell my Lord what you ſaw.

Witn. I can charge no particular Perſon, I was from home; and when I came home I found the Priſon-Doors open, and they had let out their own Company and two others; and I lock'd up the Priſon-Doors, and they gather'd together about the Priſon, and there came their Captain with his Half-Pike, and commanded me to open the Door. I told them I would not open the Door. They told me, we have been Servants, but we will be Maſters now; and if you will not open the Door, we will do your Buſineſs for you by and by. They had Swords, and Belts, and Half-Pikes, and they did puſh at me; and I came to a Parly with them when I ſaw there was no Remedy. I let their Captain in, and when he could find none of his Company there, he went away; but had it not been for the Company that ſtood without, I would have kept him faſt enough.

Another Witneſs ſworn.

Ld Ch. J. Were any of theſe that ſtand at the Bar, at *Clerkenwell* with a Stick in his Hand?

Witn. Yes, my Lord, I ſaw *Latimer* there knocking at the Gate, and the Priſon was broke open, and there came down Juſtice *Welſh* to them to diſperſe them; but they let out two of their own Rabble, and two of the Felons.

Another Witneſs ſworn. Nine of the Clock on *Friday*, I went to the Gate of the *New Priſon*, and they came and clapt a Bar in between the Gates to open them, and I ſaw *Latimer* throwing Stones at the Windows. Juſtice *Welſh* being there, would have taken ſome of them; and they cry'd out, *One die, and all die.*

William Riggs, Witneſs, ſworn. I ſaw *Bedle*, and took him; their number was about four or five hundred; and I got out two Files of Men, and took four Men more, whereof this *Bedle* was one of them.

Judg. What do you ſay to this?

Latimer. This Man hath a Spite againſt me, my Lord; for getting up behind the Coach, I let my Whip fall and gave him a Laſh.

Ld Ch. J. But what ſays the other againſt you? What made you there? And *Bedle*, what do you ſay for your ſelf?

Bedle Priſ. My Lord, I was in *Southwark*, and came from thence to *Biſhopſgate-Street*, and met with a Friend, and we drank four Flaggons of Beer, ſo that I got a little too much Drink in my Head, and I ſtood and look'd a while at the Priſoners in *Biſhopſgate*; and my Uncle coming along, I went with him a little way, and then turn'd about and left him. And there was a Man came and ſaid, *Brother, will you not go and ſee what they do in the Fields?* and it was my hard Fortune to be among them, but did not any hurt, bleſſed be God; but I follow'd them without doing any harm, and they went down *Old-ſtreet* to *Clerkenwell*; but I did not break the Priſon, nor do not know where the Priſon is: for there was a Company made up to them, and they began to run.

Ld Ch. J. What did you ſay when they run away? Did you not ſay, *Face about?*

Priſ. Your Lordſhip heard ſo, but I did not ſay, Face about.

Ld Ch. J. You Gentlemen of the Jury, you ſee what their Indictment is: They gather'd a multitude together at *Clerkenwell*, and they had a Captain with a Half-Pike, that came to the Priſon and forc'd open the Door, and brought out two of their own Crew, and two of the Felons; and they ſaid, they had been Servants before, but now would be Maſters; and they cry'd out, *One die, and all die.* And you have three Witneſſes that ſwear, that theſe two were there, *Latimer* eſpecially. The Keeper ſays, he was forc'd to come to a Parly with them, and took in their Captain, to give him Satisfaction that there was none other there of their Gang. *Bedle* ſays he was there but he was drunk, which is no ſufficient Excuſe.

Richard Cotton, Richard Farrel,
John Earles, William Ford, Call'd
William Wilde, to the Bar.

Their Indictment read.

Sir

Sir Philip Howard, *Witneſs, ſworn.*

Ld Ch. J. Sir *Philip*, ſpeak what you know of theſe Men.

Sir *Ph.* I deliver'd theſe men into the Conſtables Hands.

Counſ. Did not you ſee a multitude of theſe People gather'd together in a Warlike Way? if ſo, tell my Lord?

Sir. *Ph.* There came ſome ſober People and told me that the Tumult was greater than it was when my Lord *Craven* was there, and they did deſire my Aſſiſtance; and ſo I went into the Fields, and divided my Men half on the one ſide, and half on the other: and the People look'd upon us ſo contemptibly, that they told us we ſhould quickly be unhors'd; therefore I charg'd my Men not to let any Man come within my Arms.

Ld Ch. J. Had they any Colours?

Sir *Ph.* They had a Sheet for their Colours, and when they ſaw my Horſe they got into the Field, and ſtood as if they did not fear us; and I order'd ſome of my Men to go and take him that had the Colours, and ſo our Men did; and I call'd for a Conſtable, but there was no Conſtable to be found: and I thought my ſelf to govern them, and to bring them into better order. At length this Man came with his Watch, and I deliver'd them into his Hands, and I believe theſe are the Men that I deliver'd to the Conſtable.

Sir Edward Fiſh, *Witneſs, ſworn.*

Counſ. Pray, Sir, look upon the Priſoners, and ſee if you know any of them.

Witn. I cannot ſay that theſe were any of the Perſons that we did take, but there was a multitude of them gather'd together, and we did deſire them to go home; and they took up Brickbats in their Hands and ſaid, *They had as much to do there as we had.* I took a Hanger from one of them my ſelf, which is here in the Court.

Robert Hoydon, *Witneſs, ſworn.*

Counſ. Tell my Lord what you heard this Rabble of People ſay.

Witn. There came a Troop, and they thought it had been the Duke of *York*'s Troop, and they ran with Brickbats in their Hands to them, and ſaid, *That if the King did not give them Liberty of Conſcience, that* May-day *muſt be a bloody Day.*

Another Witneſs ſworn.

Ld Ch. J. Speak what you know of theſe People.

Witn. My Lord, they ask'd if the Duke of *York* were there, and Anſwer was made, Yes, thinking they would have been ſatisfy'd and diſpers'd; but notwithſtanding they came up to the Windmills, and flung Stones amongſt us.

Capt. Wilding, *Witneſs, ſworn.* My Lord, we did deſire them, by fair means, to diſperſe themſelves, and go home; they told me *No, They would be with us e're long at* White-hall.

Another Captain ſworn. My Lord, I was forc'd to make ſome Reſiſtance, but they flung Stones very thick at us, ſaying, *Theſe Life-Guard Rogues are but a few;* and becauſe I commanded one of my Officers to ſeize on one of them, they cry'd, *Knock down the Rogue.*

Another ſworn. My Lord, I deſir'd them to go home; their Anſwer was, *That we were Rogues and Dogs, and e're long they would come and pull* White-hall *down:* and their Word was, *Hey now or never.*

Conſtable ſworn. My Lord, I had theſe three at the Bar; but *Wilde* was none of them, pointing to the third.

Ld Ch. J. You ſay the other were.

Conſtable. Yes.

Pike *and* Gillington, *Witneſſes, ſworn.*

Pike. I did ſee this *Cotton* breaking down *Burlingham*'s Houſe.

Gillington. I can ſpeak of the tall Man *Cotton*, I will ſwear he was one of them.

Ld Ch. J. Sir *Philip Howard* ſays he deliver'd Five to the Conſtable, and the Conſtable ſays he does not know whether theſe be the Perſons or no, but it is the ſame thing if they were among thoſe that did it.

Serj. *Wilde.* Yea, the thing is the ſame.

Ld Ch. J. You hear your Indictment is for High Treaſon, you are Perſons of the ſame Company, what do you ſay for your ſelves?

Priſoners. We were not there.

Serj. *Wilde.* The Conſtable ſwears it.

Conſtable. I cannot ſay, theſe were they, but two of them, *Farrell* is one.

Priſ. I was walking to *Iſlington*, and I did march a little way with them, but did nothing.

Ld Ch. J. Where were you taken?

Priſ. By *Hollawell-Lane*, and I was all alone, and a Horſeman rode after me, and ask'd me, if I were not one of them.

Ld Ch. J. All the Conſtable can ſay is this, There were Men deliver'd to him from the Guard, and this Man does not deny but that the Guard took him, but he did nothing; but many People are walking abroad in the Holidays; it is pity to take away a Man's Life without ſufficient Evidence.

Ld Ch. J. Farrel, What do you ſay?

Farrel. I was with my Father and Mother all the Holidays.

Ld Ch. J. Cotton, What ſay you?

Cotton. I came through *Moorfields* about Noon, and I was taken by one of the Life-Guard.

Serj. *Wilde.* But you were pulling down a Houſe.

Witn. He was pulling down a Houſe on *Monday*, I was inform'd, and he was commonly among the Players at Pidgeon-holes; and after he had been pulling down a Houſe, he was looking about to ſee what he could light of.

Priſ. As I have a Soul to ſave he ſwears falſly.

Ld Ch. J. Have a care what you ſay.

You Gentlemen of the Jury, here are five Men more that are indicted for the ſame Diſorder that the reſt were, and we have now a little more Diſcovery of their Riſing, and we have diſcover'd other Colours,- for they thought the Duke of *York* had been in the Fields, and that enrag'd them the more, they taking Sir *Philip Howard* for the Duke of *York*; and when they did deſire them to diſperſe themſelves and go home, they ſaid, They would not for ſuch Rogues as the King's Life-Guard were, but they

would ſoon be at *White-hall*: but you ſhall ſee what a Diſguiſe is put upon it, If the King will not give us *Liberty of Conſcience*, *May-day* ſhall be a *bloody Day*. This is, Gentlemen, to give us an Alarm, that we may not be too ſecure: And this muſt be puniſh'd as High Treaſon, elſe we do deſtroy all. I think no body would have the Innocent to ſuffer: I had rather a guilty Perſon ſhould eſcape, than a guiltleſs Perſon ſuffer. You hear the Conſtable cannot ſwear that all thoſe were the Men, and ſome others, becauſe in ſuch a Hurry a particular Perſon cannot be known: Except you know any of them by ſight, I cannot ſee how you can find them guilty; God forbid.

John Richardſon, *Richard Woodward*,
Thomas Limberick, to the Bar.

Counſ. You Gentlemen of the Jury, theſe three that were call'd laſt to the Bar ſtand indicted as the others, for levying War and Rebellion in *Holbourn*; you ſhall hear the Evidence, and if we make good the Evidence, you muſt find them guilty.

William Rogers, *ſworn Witneſs*. My Lord, I found this Man at the head of a Party, and I took him, and committed him to the charge of a Company.

Ld Ch. J. Was he leading them on? Are you ſure he was there?

Witn. He will not deny that he was there, but he made no Reſiſtance at all; for we had three or four Companies ready to ſurpriſe them.

Mrs. Burlingham, *Witneſs*, *ſworn*. My Lord, this was the firſt Man that laid hands to pull down my Houſe.

Serj. *Wilde*. Miſtreſs, was yours a Bawdy-houſe?

Mrs. *Burlingham*. No; but they dragg'd me out of it.

Ld Ch. J. Was your Houſe pull'd down?

Husband's Anſw. Yes: and all my Goods deſtroy'd, and Ten Pounds in Gold taken out of my Wife's Pocket.

Another Witneſs ſworn.

Judg. What can you ſay of *Woodward*?

Witn. I cannot ſay he did take any thing out of the Houſe that I know of.

Ld Ch. J. I do not ask you that; But did he go along with them, or had he a Staff in his Hand?

Witn. That *John Richardſon*, my Lord, is a Tapſter; I heard him ſay he had made Work for us, for he had help'd to pull down a Houſe.

John Hand, *Witneſs*, *ſworn*. My Lord, on *Saturday* laſt at ſix of the Clock, I heard him in the red Hair ſay, *I have made Work for you all*; I do not know what he is.

Ld Ch. J. What do you ſay for you ſelf?

Limerick Priſoner. My Lord, I went up to ſee what the Tumult was doing, for I lodg'd hard by; and when they had pull'd down the Houſe, ſome run one way, and ſome another; and I was going to *Weſtminſter*, and as I was walking up *Holbourn*, the reſt of them were at my Heels.

Ld Ch. J. That was becauſe you was their Captain, and dragg'd the Woman out of the Houſe that ſays ſhe hath loſt all ſhe had. *Woodward*, what ſay you?

Woodward. My Lord, Mr. *Brooks* gave me a black Pot to drink, and I ſtaid no longer than the drinking of that.

Ld Ch. J. What do you ſay that *Richardſon* pull'd down the Woman's Houſe?

Priſ. My Lord, there was a Whore that clapped hands on me, and I wrung my ſelf from her, and told her that her Houſe ſhould be pull'd down.

Ld Ch. J. Truly I ſee ſcarce an Apprentice among you all, and I am glad of it there is no more.

Witn. I dogg'd him home to his Maſter's Houſe, but did not lay hold on him.

Priſ. I am very innocent of any thing of hurt that I did.

Ld Ch. J. Prove it.

Priſ. I was alone, How can I prove it? I was not all the Holidays abroad.

The Apprentice's Maſter. All *Monday* he was at home, and on *Tueſday* he was at home.

Serj. *Wilde*. It is impoſſible for him to be one of them, you might miſtake.

Ld Ch. J. You Gentlemen of the Jury, in this Caſe take notice: As for *Woodward*, they ſay he was there with a Stick in his Hand. I would have you take notice that there is but one Witneſs: for the other you have his own Brags, if you will believe him, that he pull'd down a Houſe, you have no other; if you will believe him to be a bragging Fool, you may. And now for *Limerick*'s Witneſs, he ſhall be heard.

The Priſoner's Witneſs.

Ld Ch. J. What do you know of the Priſoner at the Bar?

Witn. This Man, my Lord, did lie in my Houſe, and he did never ſtay out after Nine or Ten of the Clock: He was at home every Night betimes, and did give me all his Money to lay up, and he did earn Sixteen Pence a Day.

Another Woman, Witneſs, ſworn.

Ld Ch. J. What can you ſay?

Witn. My Lord, I can ſay nothing but that he is a very honeſt Man.

John Sharpeliſſe, Priſoner at the Bar.

His Indictment read.

Counſ. Gentlemen, he at the Bar ſtands indicted for High Treaſon, and ſtirring up Rebellion in *Poplar* at the Head of Five hundred Perſons, and pulling down Houſes in *Ratcliff-Highway*, which we ſhall endeavour to prove.

John Harding, *Owen Maxum*, Witneſſes call'd, but came not in againſt the Priſoner.

Ld Ch. J. Gentlemen of the Jury, you know for Matter of Fact you are Judges: if you are not ſatisfied in the Evidence, then you cannot find them guilty. Conſider who thoſe Perſons are, where the Evidences have not given ſufficient Satisfaction.

The Sum of the Jury's Verdict.

THE Jury being diſmiſs'd to conſider of their Verdict, after a ſhort ſtay they return'd, and found as to *Meſſenger*, *Appletree*, *Beaſly*, and *Greene*, that according to the Time in the Indictment mention'd, they were met together in a riotous manner in *East Smithfield* in *Middleſex*,

ſex, and about *Moorfields*, under colour to pull down the Bawdy-Houſes. That their Captain was *Beaſley*, who led them on with his Sword drawn, and that they had their Enſign carry'd by *Meſſenger*, which was an Apron carry'd upon a Pole, and ſo they march'd with their Conductor. That they reſiſted the Conſtable who charg'd them in the King's Name to keep the Peace, and ſtruck him, and took away his Staff; and that theſe ſeveral Perſons were Abetters in that Tumult.

And as to *Bedell* and *Latimer*, they found that a great Number of People were met together arm'd with Swords, Clubs and Staves, *&c.* at *Clerkenwel-green*, to break *New-Priſon* there; and had their Commander, who had a Pike in his Hand, and came to *New-Priſon*, and releas'd the Priſoners, ſome whereof were committed for Felony; and that when they were commanded to be gone, they cry'd out that they had been Servants, but now they would be Maſters; and that theſe Perſons were ſeen acting in the Tumult, and there taken.

As for *Cotton*, they found, that the riotous Perſons were met together upon the 24th of *March* with a great Number of People arm'd with their Swords, and ſuch like warlike Weapons, for pulling down Bawdy-houſes: that when Sir *Philip Howard* with the King's Guards came up to them, and commanded them to depart, they refus'd; and when it was given out that Sir *Philip Howard* was the Duke of *York*, thinking thereby they would be appeas'd, they were enrag'd the more, and declar'd, that if the King would not give them Liberty of Conſcience, thay would make *May-day* a bloody *May-day*, theatning to pull down *White-hall*; and very contemptuouſly ſlighted the King's Guards, becauſe they were but a ſmall Number: and this *Cotton* was prov'd to be one of them in the Action, and all along acting in the Riot.

And further, as to *Limerick*, he was met with the ſame Pretence of pulling down of *Bawdy-houſes*, being arm'd as the reſt were, and was own'd by the Rabble to be the Captain of their Company: that he with his Companions pull'd down the Houſe of *Peter Burlingham*, and ſtole his Goods. The reſt were found Not guilty.

The Jury having thus found it ſpecially, my *Lord Chief Juſtice* commanded the Priſoners again to the Bar, to whom he ſpoke to this Effect: That we all now ſee what great Cauſe we have to bleſs God, that we live under ſo merciful a Prince, and ſo good a Law as we now find we do live under; and that not only one Prince hath been ſo merciful, but ſuch has been the Graciouſneſs of other former Kings of *England*, that we ſhall rarely find any Severity us'd in the execution of Penal Statutes, where any fair means (which conſtantly hath been us'd) could have any Effect at all. That our Juſtice is not privately but publickly adminiſtred in the ſight of all People, like a Beacon that gives warning to all; ſo that all might take notice thereof, and avoid the like Danger that others have fallen into. That the Priſoners more eſpecially ought to bleſs God, and ſeriouſly to reflect within themſelves this great Mercifulneſs of our King and Law: for hereby they ſee they have not been ſerv'd ſo as they have ſerv'd others (for then upon the very apprehending of them they might have receiv'd their Execution) but contrariwiſe, they have had a fair Trial, not by Strangers, but by their own Country and Neighbours, having had the Liberty to ſpeak what they could for themſelves, and Witneſſes for them, ſo that if it were poſſible all might have been found innocent; and he heartily wiſh'd all could have been ſo found; and that ſome bleſſed be God, are not found Guilty, and to them he hop'd this would be a ſufficient Warning, *&c.*

Now as to all theſe Eight, againſt whom the Verdict was ſpecially found, the Court took further time (becauſe they would adviſe thereof) before they would give their Judgment whether High Treaſon or no, it being declar'd by my *Lord Chief Juſtice* to be Matter of Law; and in the mean time theſe Perſons are to remain in ſafe Cuſtody in his Majeſty's Goal at *Newgate*.

And for the other Six, *viz.*

John Earls,	*Richard Farrel,*
William Wilks,	*John Richardſon,*
Richard Woodward,	*William Ford;*

The Jury found them Not guilty, and ſo acquitted them of the Offence whereof they ſtood charg'd, who after ſeveral Admonitions by the Court for their future good Behaviour, were diſcharg'd.

The Lord Chief Juſtice KELING'S *Report of the Judgment of the Judges in relation to the aforeſaid Trial.*

Meſſenger, Appletree, Beaſly, Green, and others, indicted for levying War and pulling down Bawdy-Houſes, and breaking open Priſons.

Memorandum, That at the Seſſions at the *Old Baily*, after *Eaſter*, in the Twentieth Year of K. *Charles* II. ſeveral diſſolute Perſons having on *Eaſter-Tueſday* and *Wedneſday* next before, aſſembled together, and led by Perſons whom they call'd Captains, and having Colours, *viz.* Aprons, *&c.* on Staves, went to ſeveral Places on pretence to pull down Bawdy-Houſes, and break open Priſons and ſet Priſoners at Liberty; and having actually pull'd down ſome Houſes, and broke up the Priſon at *Clerkenwell*, and let out four Priſoners there, were by the Direction of the King's Counſel, *viz.* Mr. *Attorney*, Sir *Jeffery Palmer*, having Order to proceed againſt them, he directed four Indictments to be preferr'd againſt them, who were taken, *viz.* one Indictment againſt *Peter Meſſenger*, *Richard Beaſly*, *William Green*, and *Thomas Appletree*, and another Indictment againſt *Edward Cotton*, and a third againſt *Edward Bedell* and *Richard Latimer*, and a fourth againſt *Thomas Limerick*. All the Indictments were, that they with other Perſons to the Number of 500, unknown to the Jurors, being arm'd in a warlike Manner with Swords, Half-pikes, Halberts, long Staves, and other Arms offenſive and defenſive, with Force and Arms, unlawfully and traiterouſly aſſembled themſelves together, and levied War againſt the King; *&c.* And firſt I told them they had not done well to make ſo many ſeveral Indictments, for by that means the King's Evidence would be broken; whereas if all had had been put into one Indictment, the Evidence as to the main Deſign would have been intire againſt all: and then the aſſembling in ſeveral Places to the ſame Intent had made

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the Matter more foul, and would have been aptly given in Evidence againſt them all to the ſame Jury, and the ſeveral Acts which each of them did, would have come in better. But however we proceeded upon the Indictments as they were; and after the Evidence given againſt the four in the firſt Indictment, when I came to give Directions to the Jury, I told them that altho' I was well ſatisfy'd in my own Judgment, that ſuch aſſembling together as was prov'd, and the pulling down Houſes on pretence they were Bawdy-houſes, was High-Treaſon, becauſe they took upon them Regal Power, to reform that which belong'd to the King by his Law and Juſtices to correct and reform; and it would be a ſtrange Way and miſchievous to all People to have ſuch a rude Rabble without an Indictment to proceed in that manner againſt all Perſons Houſes which they would call Bawdy-houſes, for then no Man were ſafe; therefore as that way tore the Government out of the King's Hands, ſo it deſtroy'd the great Privilege of the People, which is not to be proceeded againſt, but upon an Indictment firſt found by a Grand-Jury, and after upon a legal Trial by another Jury, where the Party accus'd was heard to make his Defence; yet I told them, becauſe the Kings of this Nation had oftentimes been ſo merciful, as when ſuch Outrages had been heretofore done, not to proceed capitally againſt the Offenders, but to proceed againſt the Offenders in the Star-Chamber, being willing to reduce their People by milder Ways if it were poſſible to their Duty and Obedience; yet that Lenity of the King in ſome Caſes did not hinder the King when he ſaw there was need to proceed in a ſeverer way, to take that Courſe which was warranted by Law, and to make greater Examples, that the People may know the Law is not wanting ſo far to the Safety of the King and his People, as to let ſuch Outrages go without capital Puniſhment, which is at this time abſolutely neceſſary, becauſe we our ſelves have ſeen a Rebellion rais'd by gathering People together upon fairer Pretences than this was: For no ſuch Perſons uſe at firſt to declare their wickedeſt Deſign; but when they ſee that they may effect their Deſign, then they will not ſtick to go further, and give the Law themſelves, and deſtroy all that oppoſe them. But yet becauſe there was no body of the Long Robe there but my Brother *Wilde*, then Recorder of *London*, and my ſelf, and that this Example might have the greater Authority, I did reſolve that the Jury ſhould find the Matter ſpecially, and then I would procure a Meeting of all the Judges of *England*, and what was done ſhould be by their Opinion, that ſo this Queſtion might have ſuch a Reſolution as no Perſon afterwards ſhould have reaſon to doubt the Law, and all Perſons might be warn'd how they for the time to come mingle themſelves with ſuch Rabble on any kind of ſuch Pretences: and thereupon the Jury as to the firſt four in the firſt Indictment gave a Special Verdict to this Effect, *viz.*

A Special Verdict as to Meſſenger, Appletree, Beaſly, *and* Green.

They find that the 24th of *March* laſt, a great Number of Perſons to the Number mention'd in the Indictment, were aſſembled in *Eaſt-Smithfield* and *Moorfields*, in the County of *Middleſex*, with Arms mention'd in the Indictment, on pretence of pulling down Bawdy-houſes; that *Beaſly* led them, and was called their Captain, and had in his Hand a naked Sword which he brandiſh'd over his Head; and that *Meſſenger* had a piece of green Apron on a Staff, which he flouriſh'd as Colours in the Head of the Company; and that *Beaſly* and he led the Company as their Leaders; that they did the like on *Wedneſday* the 25th of *March*, and were breaking down Houſes. That *Peverell*, one of the Conſtables of *Middleſex*, having a Conſtable's Staff in his Hand, came to them with other Perſons to aid him, and charged them to depart and keep the Peace, and thereupon *Beaſly* with his Sword ſtruck him, and wounded him; and ſeveral Perſons aſſembled with him, ſtruck him down, and took away his Conſtable's Staff. That the ſaid *William Green* was among them, caſting up his Cap, and hollowing, with a Staff in his Hand; and that whilſt he was amongſt them he was knock'd down by a Party of the King's Soldiers that came to ſuppreſs them, and was then taken. That *Beaſly* ſtruck at the Enſign that led thoſe Soldiers. That the ſaid *Appletree* was amongſt them both Days, and was the firſt that ſtruck at *Peverell* the Conſtable, and was amongſt them at *Burlingham*'s Houſe on *Saffron-hill* in the County of *Middleſex*, and pull'd part of the Houſe down, and the next Houſe to it, and ſtruck at one that admoniſh'd him to be quiet. And if upon the whole Matter, it ſhall ſeem to the Court that they are guilty of the Offence mention'd in the Indictment, then they find them Guilty, *&c.*

Special Verdict alſo as to Cotton.

On the Second Indictment as to *Cotton* alone, the Jury did find that at the Time and Place mention'd in the Indictment, a great Number of Perſons, to the Number mention'd in the Indictment, met together arm'd with Swords, Clubs, Staves, and other Weapons, under pretence of pulling down Bawdy-houſes, and had a Cloth on a Staff for an Enſign carry'd before them. And that Sir *Philip Howard*, with a Troop of the King's Guards, found them arm'd in ſuch a ſeditious Manner, and commanded them to diſperſe; that they refus'd ſo to do, and threw Stones at him; that ſome of them enquir'd who it was that led thoſe Guards, whether it was the Duke of *York*? and being told it was, they preſently threw Stones at Sir *Philip Howard* who led the Horſe; and ſome of them ſaid, that unleſs the King would give them Liberty of Conſcience, *May-day* ſhould be a bloody Day; others bid kill the Guards, and others ſaid, that they would come and pull down *Whitehall*; and others ſaid, they would be with them at *Whitehall*, (the King's Capital Palace) and that they car'd not for the Guards, for they were but Two or Three hundred, and they could eaſily knock them on the Head; that they continu'd many Hours till they were diſpers'd by the Guards. That *Cotton* who was indicted, was one of them aſſembled in this Manner, and that *Cotton* was amongſt them the next Day when they were aſſembled in the ſame Manner, and was pulling down a Houſe in the Pariſh of St. *Leonard Shoreditch* in the County of *Middleſex*; and if on the whole Matter, *&c.*

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Special Verdict on the third Indictment, Bedell and Latimer.

On the third Indictment againſt *Bedell* and *Latimer*, the Jury find that the Day and Place mention'd in the Indictment, a great Number of Perſons to the Number mention'd in the Indictment, armed as in the Indictment, did meet together on *Clerkenwell-Green* in the County of *Middleſex*, on pretence of breaking open Priſons, and releaſing Priſoners; that one of them who had a Halfpike in his Hand, own'd himſelf to be their Captain; that they came ſo aſſembled together to a Place there call'd the *New Priſon*, being a publick Priſon of the County of *Middleſex*, and then and there ſaid, that they came to ſearch for Priſoners; and brake open the Priſon-Doors, and let out four Priſoners, two whereof were committed thither for Felony, and two for other Offences; and that they being charg'd to depart, reply'd, they had been Servants long, but now they would be Maſters; that ſome being taken, they cry'd, One die, and all die. That *Latimer* was amongſt them, and active in breaking of the Priſon, and was with the reſt in the Priſon after it was broken open; and that *Bedell* was there, and being purſu'd by one of the King's Soldiers, call'd out to the reſt of the Company to face about, and not to leave him: And if on the whole, *&c.*

Special Verdict as to Limerick.

On the fourth Indictment againſt *Limerick* the Jury find, that the Day, Year and Place in the Indictment mention'd, a great Number of Perſons to the Number, *&c.* aſſembled together on pretence of pulling down of Bawdy-houſes; and being arm'd *prout* in the Indictment, they marched in warlike Manner, and the ſaid *Limerick* led them as their Captain with a Club in his Hand, and was own'd by the Company to be their Captain: That the ſaid *Limerick* had the ſaid Perſons to the Houſe of *Peter Burlingham*, and they pull'd down the ſaid Houſe, and deſtroy'd and took away divers Goods of the ſaid *Burlingham*'s, to the Value of 30 *l.* And if on the whole Matter, *&c.*

And in *Eaſter* Term following, all the Judges met at my Chamber, there being then but Eleven. My Lord *Bridgeman*, who was Chief Juſtice of the Common Pleas, being then Lord Keeper, the Judges were my ſelf, Chief Juſtice of the *King's Bench*, Sir *M. Hale* the Chief Baron, and my Brother *Atkins*, Brother *Twiſden*, Brother *Tyrell*, Brother *Turner*, Brother *Wyndham*, Brother *Archer*, Brother *Rainsford*, Brother *Morton*, and Brother *Wyld*.

And on the whole Matter the Chief Baron *Hale* deliver'd his Opinion, that there was no Treaſon in the Caſe, becauſe he ſaid that the Stat. 1 Q. *Mary*, *cap.* 12. is, That if any Perſons, to the Number of Twelve, or more, aſſemble to the Intent to pull down Incloſures, *&c.* with force, and continue together an Hour after Proclamation made for their Departure, it ſhall be Felony; and if thoſe Actions had been Treaſon at Common Law, it had been to no purpoſe to make it Felony.

But all the other Judges anſwer'd, That this was the Objection made by ſome Judges in the Caſe of *Bradſhaw* and *Burton*, which is reported by *Popham* in his Reports, *pag.* 122. and there it was reſolv'd, that if any Perſons aſſembled with Force to alter the Laws, or to ſet a Price on Victuals, or to lay violent Hands on the Magiſtrate, as on the Mayor of *London*, and the like, and with Force attempt to put the ſame in Execution, this is Rebellion and Treaſon at the Common Law; and they there reſolv'd, that that Statute of 1 *Mary* was to be intended, where Perſons, to the Number of Twelve, or more, pretending any or all of them to be injur'd in particular, as by reaſon of their Common, or other Intereſt in the Land inclos'd, and the like, aſſemble to pull it down forcibly in Caſes where they have an Intereſt, or where in particular they are annoy'd or griev'd, that is not Treaſon: But in caſe their Act goeth generally to pull down Incloſures, in which they, or any of them, are not particularly concern'd, this Act, if it be put in Execution by Force, is Treaſon at Common Law. And it was agreed by us all, that the Statute of 13 *Eliz.* which maketh the Intention in many Caſes Treaſon, extends to nothing, but where if the Act had been done, it had been Treaſon at the Common Law.

And therefore all the reſt of the Judges did unanimouſly agree, that this Riſing, with Intent to pull down Bawdy-houſes in general, or to break open Priſons in general, and let out Priſoners, and putting their Intention in Execution by Force, any of theſe Inſtances was a levying War againſt the King, and High Treaſon at Common Law, within the Declaration of the Statute of 25 *Edw.* 3. and for that, beſides the Reſolution in *Popham*'s Reports before cited, we conſider'd the Caſe of the Apprentices, reported in the ſecond Part of *Anderſon*'s *Reports*, *p.* 4, 5. where it was reſolv'd, that by the Statute of 13 *Eliz.* if any intend to levy War for any thing, which the Queen by her Laws and Juſtice ought to do, and reform in Government as Queen, this ſhall be an Intendment to levy War againſt the Queen within that Statute of 13 *Eliz.* And as we ſaid before, nothing can be Treaſon by the Intention within the Statute, which had not been Treaſon by the Common Law, if it had been actually put in Execution. And ſee the ſame Book of *Anderſon*, *Part* II. *pag.* 66. and by the Caſe of ſeveral Perſons in *Oxfordſhire* riſing to pull down Incloſures in general, reſolv'd accordingly; in which Caſe it was alſo reſolv'd, that if any Perſons riſe and aſſemble together, with intent to levy War, the Juſtices of the Peace and Sheriffs may uſe Force to ſuppreſs ſuch Rebels, without any ſpecial Commiſſion or Warrant, and this by the Common Law. And ſee *Popham*'s *Reports*, *p.* 121. and a Reſolution of all the Judges, 39 *Eliz.* that any Juſtice of the Peace, Sheriff, or other Magiſtrate, or any other Subject of the King, may, by the Common Law, arm themſelves, to ſuppreſs Riots, Rebellions, or reſiſt Enemies, and endeavour themſelves to ſuppreſs ſuch Diſturbers of the Peace: But they ſaid the moſt diſcreet way was for every one to attend and aſſiſt the Juſtices in ſuch Caſe, or other Miniſters of the King in doing it: And *Cook*, *Pl. Cor.* 9. If any levy War to expulſe Strangers, to deliver Men out of Priſon, to remove Counſellors, or to any other End pretending Reformation on their own Heads without Warrant, this is a levying of War againſt the King, becauſe they took upon them Royal Authority. And *Moor*'s *Reports*, *pag.* 620, 621. in the Caſe of the Earl of *Eſſex*, in which,

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amongſt other things, it was reſolv'd, that his Attempt with Force to remove the Queen's Counſellors was High Treaſon; and likewiſe that the Earl of *Southampton*, who adher'd to him, altho' he knew of no other Purpoſe of the Earl of *Eſſex*, but a private Quarrel againſt ſome of the Queen's Servants, yet this was Treaſon in him, the Act of the Earl of *Eſſex* being Rebellion and Treaſon; and ſo it was alſo reſolv'd, that all thoſe who went with him out of *Eſſex-Houſe* in aid of him, it was Treaſon in them, whether they knew any thing of his Intent or not. And *Cro. Part* I. *p.* 583. in *Benſtead*'s Caſe, it was reſolv'd by all the Judges, That going to *Lambeth-Houſe* in warlike Manner with Drums, and a Multitude, as in the Indictment, to the Number of Three hundred, *&c.* to ſurprize the Archbiſhop, who was a Privy Counſellor, was Treaſon. And, 2*dly*, it was reſolv'd that the Juſtices of Oyer and Terminer, may ſit, enquire and try Priſoners all in one Day. 3*dly*, It was reſolv'd, that the breaking of a Priſon, wherein Traytors were in durance, and cauſing them to eſcape, was Treaſon, altho' the Parties did not know that Traytors were there. And ſo to break a Priſon whereby Felons eſcape, this is Felony, tho' they do not know them to be in Priſon for ſuch Offence. *Note*, That Reſolution as to breaking a Priſon where Felons, *&c.* are, muſt (as I think) be intended only where the Intent was only to break open one Priſon, and no more; for if the Deſign was to break open Priſons in general, and they put that in Execution as to one Priſon, that is High Treaſon according to the Books beforecited; but then on the Evidence it muſt be prov'd that their Intent was ſuch, and by ſuch Proof as ſatisfieth the Jury.

After this Reſolution in general, we went to conſider the particular Caſes as they were found upon the ſeveral Special Verdicts; and thereupon it was agreed by all of us, except the Chief Baron, who ſaid he doubted on the main; That as to *Meſſenger* and *Beaſly* in the firſt Verdict, and to *Cotton* in the ſecond Special Verdict, and as to *Limerick* in the fourth Special Verdict, that the Matter, as it was found againſt theſe four, was High Treaſon in them all, and accordingly they had Judgment, and were Executed: But as to *Appletree* in the firſt Special Verdict, and as to *Latimer* in the third Special Verdict, there was difference in Opinion amongſt us, whether the Verdict was ſufficiently found againſt them to judge it High Treaſon or not. For beſides the Chief Baron, who was againſt all, my Brother *Atkins*, *Tyrell*, *Windham*, and *Wyld*, held that the Verdict was not ſufficient againſt thoſe two, for to give Judgment that they were guilty of Treaſon; becauſe, they ſaid, it was not expreſly found that they were aiding and aſſiſting. But my ſelf, Brother *Turner*, *Twiſden*, *Archer*, *Raynsford*, and *Moreton*, thought the Verdict, as it was found againſt them, to be as full and plain as any of the reſt. For firſt as to *Appletree*, the Verdict firſt finds in general, that the Number in the Indictment were aſſembled, as in the Indictment, with an Intent to pull down Bawdy-houſes: That *Beaſly* led them as their Captain; that *Meſſenger* had a green Apron upon a Staff, which he flouriſh'd as Colours; and then that *Appletree*, the Perſon now in queſtion, was amongſt them both the Days, and was the firſt that ſtruck at *Peverell* the Conſtable, and was amongſt them at *Burlingham*'s Houſe at *Saffron-Hill*, and pull'd part of that Houſe down, and the next to it, and ſtruck at one that admoniſh'd him to be quiet; ſo that here are ſeveral Acts of Force found to be actually committed by him in purſuance of their Deſign, and then there is no need to find him to be Aiding and Aſſiſting: for that Clauſe, we ſaid, was only neceſſary to be found where the Jury find a Perſon was there among them, and find no particular Act of Force done by him, but only his Preſence, there it is neceſſary that they find he was preſent Aiding and Aſſiſting. And for the ſame Reaſons we held the Verdict to be full alſo againſt *Latimer*, becauſe it was firſt found that the Multitude was aſſembled, as in the Indictment, on pretence of breaking Priſons and releaſing Priſoners in general, which is agreed by all (except the Chief Baron) to be Treaſon; and then they find that *Latimer* was amongſt them, and active in breaking open the Priſon at *Clerkenwell* (where Priſoners, ſome for Felony, and others were let looſe) and that he was with the reſt in the Priſon after it was broken open, and ſo an Act fix'd upon him. But altho' ſix of us were well ſatisfy d in our Judgments as to them, yet when I waited on the King, I acquainted him there was ſome Difference in Opinion as to thoſe two upon finding of the Special Verdict; and altho' the greater Number of us were of Opinion, that the Verdict was well found as to thoſe alſo, yet I intreated his Majeſty to make uſe of that difference in Opinion to ſhew his Mercy towards them, the rather becauſe we had agreed, that as to four of them the Verdict was clearly good as to proceed to Judgment againſt them, and that I hop'd would be Example enough to deter others from the like Practices; and beſides it would appear an Inſtance of his Majeſty's great Mercy, that he would not proceed to the laſt Extremity againſt any, where there was not a full Concurrence of all his Judges: which his Majeſty was pleas'd to take very graciouſly, and order'd me to proceed accordingly, and ſo they two were ſpar'd. But as to *Green* in the firſt Special Verdict, and *Bedell* in the third Special Verdict, we all agreed that the Verdict was not full enough as to them for us to judge it Treaſon in them, becauſe the Verdict only finds that they were preſent, and finds no particular Act of Force committed by them, and doth not find that they were Aiding and Aſſiſting to the reſt; and it is poſſible one may be preſent amongſt ſuch a Rabble only out of Curioſity to ſee: and whether they were Aiding and Aſſiſting is Matter of Fact, which ought to be expreſly found by the Jury, and not be left to us upon any colourable Implication; and accordingly theſe two were diſcharg'd.

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The TRIAL *of* ROBERT HAWKINS, *Clerk, late Miniſter of* Chilton, *at* Ailesbury, 11 March, 1668.

UPON *Tueſday*, being the 9th of *March* 1668, I went to *Ailesbury*, and got thither about Four of the Clock in the Afternoon, and about the ſame time came in the Reverend Judges, *viz.*

Sir *Matthew Hale*, Knt. (then Lord Chief Baron of his Majeſty's Court of *Exchequer*, but now) Lord Chief Juſtice of *England*; and *Hugh Windham*, Serjeant at Law. And upon *Wedneſday* the 10th of *March* the Aſſizes began, and in the Afternoon of the ſame Day, *Larimore* (by the Advice of Sir *John Croke*, who had then got Leave to come to the Aſſizes) carried his Bill of Indictment againſt me, to the Grand Jury: Their Names were as followeth,

John Hill, Gent.
Samuel Grange, Gent.
Richard Cokeman, Gent.
Jacob Sale, Gent.
Thomas Redding, Gent.
Thomas Berringer, Gent.
Clement Summerford, Gent.
John Winter, Gent.
John Burnham, Gent.
Ralph Rice, Gent.
Jonathan Tomlins, Gent.
William Barret, Gent.
John Butterfield, Gent.
William Pedder, Gent.
John Fosket, Gent.
John Sare, Gent.
John Merydale, Gent.
Robert Worrel, Gent.
George Wells, Gent.
In all Nineteen.

Theſe were the Gentlemen of the Grand Inqueſt for the Body of the County of *Buckingham*, and unto them the foreſaid *Larimore* exhibited his Bill of Felony againſt me; the Sum, and Subſtance of it, was as followeth:

The Grand Inqueſt for our Sovereign Lord the King upon their Sacred Oaths preſent, that Robert Hawkins, *late of* Chilton, *in the County aforeſaid, Clerk, did upon the* 18*th of* September, *in the* 20*th Year of the Reign of our Sovereign Lord* Charles *the Second, by the Grace of God, of* England, Scotland, France, *and* Ireland, *King, Defender of the Faith,* &c. *with Force, and Arms,* &c. *at* Chilton *aforeſaid, in the County aforeſaid, two Gold Rings, each of them at the Value of Ten Shillings; one white Holland Apron, of the Value of One Shilling Six Pence; two pieces of Gold, each of them at the Value of Ten Shillings, and Nineteen Shillings in Silver, of the Goods and Chattels of* Henry Larimore, *in the Pariſh and County aforeſaid, then and there being found, then and there Felonioufly he did ſteal, take, and carry away, contrary to the Peace,* &c.

This Bill was Signed by the Grand Jury, *Billa Vera*, and returned to my Lord Chief Baron *Hale*, who then ſat on the Crown's ſide, (or upon Life and Death) about Six of the Clock at Night.

Upon *Thurſday* the 11th of *March* 1668, my Lord Chief Baron came to the Hall about Eight of the Clock in the Morning, and the Court being ſet, I rendred my ſelf willing to by tryed according to the Laws of this Kingdom. And when the Clerk of the Aſſizes ſaw me bow to the Court, he then inform'd my Lord (and ſaid) this is Mr. *Hawkins*, who ſtands indicted for Felony; and then the Clerk of the Arraigns read the Bill, which was ſign'd and return'd, as beforeſaid; and then I was ſet to the Bar, without any other Priſoners.

Clerk of the Arraigns ſaid, *Robert Hawkins*, hold up thy Hand, which I then did, and then the Clerk read the Indictment againſt me as followeth.

YOU ſtand indicted in Ailesbury, *in the County of* Bucks, *by the Name of* Robert Hawkins, *late of* Chilton *in the County aforeſaid, Clerk, for that you the ſaid* Robert Hawkins *(not having the Fear of God before your Eyes) upon the* 18*th of* September, *in the* 20*th Year of the Reign of our Sovereign Lord* Charles *the Second, by the Grace of God, of* England, Scotland, France *and* Ireland, *King, Defender of the Faith,* &c. *With Force and Arms,* &c. *at* Chilton *aforeſaid, in the County aforeſaid, into the Dwelling-houſe of one* Henry Larimore, *Feloniouſly did enter, and two Gold Rings at the Value of Ten Shillings each of them; one white Holland Apron, of the Value of One Shilling and Six Pence; two pieces of Gold, each of them at the Value of Ten Shillings, and Nineteen Shillings in Silver, of the Goods and Chattels of him, the ſaid* Henry Larimore, *then and there being found, then and there Feloniouſly you did ſteal, take, and carry away, contrary to the Peace of our ſaid Sovereign Lord the King, his Royal Crown and Dignity,* &c.

How ſay'ſt thou, *Robert Hawkins*, art thou Guilty of the Felony whereof thou ſtandeſt indicted, or Not Guilty?

Robert Hawkins. Not Guilty, my Lord.
Clerk. How wilt thou be tried?
Rob. Hawk. By God and the Country.
Clerk. God ſend you a good Deliverance.
Court. Call the Jury, which the Clerk did.

Cryer, Call theſe, *viz.*

Richard Lambourne.
James Reynolds, Jun.
Robert Hoare, I challeng'd him.
L. C. B. Set him by.
Edward Butler.
Tho. Coles, I challeng'd him.
L. C. B. Set him by.
Richard Hearneſe.
Thomas Sanders of *Chilton* was challeng'd by *Larimore*, contrary to Cuſtom.
Edward Carter.
John Goodwyn.

William Porter.
John Ringham.
William Cannon, Jun.
William Welch.
Edward Cope.
Francis Ruſhell.

All theſe being in Number Fifteen, but three of them were challeng'd, two of them by me (I being inform'd they were no Friends to the Church of *England*) and for the third, *viz.* Mr. *Tho. Sanders*, he was challeng'd by *Larimore* contrary to Cuſtom, without ſhewing any Reaſon, he being a Neighbour that knew us both, and the Buſineſs better than any of the reſt of the Jurors. The other Twelve were ſworn as followeth,

Clerk. Rob. Hawkins, Hold up thy Hand, which I did.

Marſhal. Richard Lambourne, Lay thy Hand upon the Book; look upon the Priſoner.

YOU *ſhall well and truly Try, and true Deliverance make between our Sovereign Lord the King, and the Priſoner at the Bar, whom you ſhall have in Charge according to your Evidence*, So help you God: Kiſs the Book. And ſo were all the reſt ſworn.

Clerk. Cryer, count theſe. *Richard Lambourne*, *James Reynolds*, two, *&c.* Twelve good Men, and true, ſtand together, and hear your Evidence.

Clerk. Cryer, make a Proclamation.

O Yes, *&c.*

IF *any Man can inform my Lords, the King's Juſtices, the King's Serjeant, or the King's Attorney, of any Murders, Felonys, or Treaſons, done, or committed by the Priſoner at the Bar, before this Inqueſt be taken, between our Sovereign Lord the King and the Priſoner at the Bar, let them come forth and they ſhall be heard, for now the Priſoner at the Bar ſtands upon his Deliverance. And all others bound by Recognizance to give in Evidence againſt the Priſoner at the Bar, come forth and give your Evidence, or elſe you will forfeit your Recognizances.*

Clerk. Cryer, call the Witneſſes.

Henry Larimore, Sen. the Proſecutor.
Richard Mayne, Jun. Conſtable.
Tho. Beamſly, Tythingman (Brother in Law to the ſaid *Larimore.*)
Dodſworth Croke, Eſq; (Sir *John Croke*'s eldeſt Son.)
John Cox.
Henry Larimore, Jun. (Son to the ſaid *Larimore*, near Twenty Years old and not Baptized.)
Mary Keen.
Joan Beamſly (Siſter to the ſaid *Larimore.*)
Margaret Larimore (Wife to the ſaid *Larimore.*)
John Chilton.
William Croke, Gent. (Son to Sir *John Croke.*)
John Boyſe.
Thomas Welch.
Samuel Salter.
John Stop (Sir *John Croke*'s Man.)
Francis Luce.
William Mantill, alias *Miles* (Nephew to the ſaid *Larimore.*)
Richard Mantill, alias *Miles* (Brother-in-Law to the ſaid *Larimore.*)
Tho. Croxtone, of *Weſton* on the Green, in the County of *Oxon*, Yeoman.
Nicholas Sanders.
Chriſtopher Bethum.
Edward Good, of *Long Crendon*, Clerk, (a Perſon that committed a Riot and forcible Entry upon my Church at *Chilton.*)

All theſe (being in Number 22.) were Witneſſes procur'd (by Sir *John Croke* and *Larimore*) and ſworn againſt me.

Clerk. Rob. Hawkins, Hold up thy Hand. Which I did.

Here the Indictment was again Read.

The Clerk ſpeaks to the Jury thus, Look upon the Priſoner you that be ſworn. You ſhall underſtand that the Priſoner at the Bar hath been Arraign'd upon this Indictment, and thereunto hath pleaded Not Guilty, and for his Trial hath put himſelf upon God and the Country, which Country you are. Your Charge is, to enquire whether the ſaid *Robert Hawkins* be guilty of this Felony (in Manner and Form as he ſtands indicted) or not Guilty; if you find him Guilty, you ſhall enquire what Goods and Chattels, Lands and Tenements he had at the Time of committing this Felony, or at any time ſince; if you do find him Not Guilty, you ſhall enquire if he fled for the ſame; if you do find that he fled for the ſame, you ſhall enquire what Goods and Chattels as if you had found him Guilty: If you find him Not Guilty, and that he did not flee for the ſame, you ſhall ſay ſo, and no more, and hear the Evidence.

Henry Larimore, the Proſecutor, was ſworn as followeth. Mr. *Larimore*, lay your Hand upon the Book, look upon the Priſoner.

THE *Evidence that you ſhall give unto the Court, and to the Jury, between our Sovereign Lord the King and the Priſoner at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth.* So help you God. Kiſs the Book.

Here I took Pen, Ink and Paper, to take Notes at the Bar.

Larimore ſaid, May it pleaſe your Honour, my Lord, upon *Friday* the 18th of *Sept.* in the Year of our Lord 1668, between Twelve and One a Clock at Noon, I lock'd my Doors faſt, and left no body in my Houſe, putting the Keys in my Pocket. I went to a Hemp-plot, about two Furlongs from my Houſe, to pluck Hemp; where I, and the reſt of my Family, continued till an Hour and half of Sun-ſet, and then coming home, found my Doors wide open: So I went in, and run up the Stairs into my Chamber (or upper Loft, over my inward Chamber where I lie) I then hearing a Noiſe in the Chamber where I lie, juſt under me, I peeped down through ſome of the Chinks of the Loft-boards, there I ſaw this Mr. *Hawkins* (pointing with his Left-hand towards me, but having his Face all that time towards the Judge) ranſacking and rifling of a Box, in which Box was then, amongſt other Goods, one white Holland Apron, a Purſe, and in that Purſe was, at that time,

time, two Gold Rings, each of them of the Value of 10 *s.* two Ten-Shilling-Pieces of Gold, and Nineteen Shillings in Silver, all the which ſaid Gold Rings, Gold and Silver (except one ſmall Piece of Silver or two) I then ſaw this Mr. *Hawkins* that is now the Priſoner at the Bar, take, and turn out of this very Purſe, which I do now ſhew unto your Honour; and he did then ſteal and carry away all the foreſaid Rings and Money, with the ſaid Holland Apron. All theſe Things, my Lord, I ſaw him take out of my Box and Purſe, for I was all that time looking through the Chinks of the Board. And when Mr. *Hawkins* heard ſome Noiſe above, I further ſaw the Priſoner now at the Bar go out of my ſaid Lower Room where my Box was, and glanc'd by the Stair-foot Door, and ſo run out of my Houſe, with a great Bunch of Keys in his Hand, down my Yard, and hid himſelf in a Cloſe where there were ſome Beans and Weeds. All this, my Lord, I ſaw with my own Eyes. Moreover, my Lord, I having a Warrant from Sir *Richard Pigott* to ſearch for the ſaid Rings and Money, *&c.* I did upon the next Day (it being *Saturday*, and the 19th of *September*) after Mr. *Hawkins* had robbed me, call *Richard Mayne*, Jun. the Conſtable, and Mr. *Tho. Beamſly*, Tythingman, with ſome others of our Town, to ſearch Mr. *Hawkins*'s Houſe for my ſaid Money and Goods, which the Day before I ſaw him ſteal from me: But he refuſing to open his Doors, or to let us ſearch; when we ſaw that, the Conſtable broke open his Doors, and then we went in, and ſearching his Houſe I did then find in an inward Room below Stairs, in a Basket hanging on a Pin (put amongſt Papers and Rags, and other Trumpery) this Gold Ring, and this Five-Shilling-Piece of Silver. And I do ſwear, that this Ring and Piece of Silver is one of the ſame Rings, and Pieces of Silver which the Day before I ſaw the Priſoner now at the Bar take out of this very Purſe, it being *Friday* the 18th of *September*, and an Hour and half before Sun-ſet. This was the Sum and Subſtance of *Larimore*'s Evidence, whereupon my Lord Chief Baron asked *Larimore* theſe Queſtions.

Lord Chief Baron Hale. Are you ſure, *Larimore*, that you left your Doors lock'd, when you went out to pluck Hemp.

Larimore. Yes, my Lord, I am ſure I did.

L. C. B. When?

Lar. Between Twelve and One of the Clock at Noon, my Lord.

L. C. B. Upon what Day was it?

Lar. It was upon the 18th of *September* laſt paſt, my Lord.

L. C. B. Upon what Day of the Week was it?

Lar. It was upon *Friday*, my Lord.

L. C. B. In what Year was it?

Lar. It was in the Year of our Lord 1668, my Lord.

L. C. B. Are you ſure that your Chamber-Door where your Box ſtood was lock'd at that time?

Lar. I cannot certainly tell, my Lord.

L. C. B. Was the Box lock'd at that time?

Larimore to this Queſtion paus'd a while, and gave no Anſwer.

Marſhal. My Lord deſires to know whether your Box was lock'd at that time when you loſt your Money, and Goods out of it.

Lar. It was lock'd, my Lord.

Clerk. Was it at that time lock'd, by the Oath you have taken.

Lar. It was lock'd, if it ſhall pleaſe your Honour.

L. C. B. Were the Locks of the Doors and Box broken?

Lar. My Lord, I cannot certainly tell, but I do believe that they were pickt open with ſome pick-lock or falſe Key.

L. C. B. Did you ſee him, that is now the Priſoner at the Bar, in your Houſe at that time, and in that Poſture, by the Oath you have taken.

Lar. I did then ſee him that is now the Priſoner at the Bar in my Houſe, my Lord, as I ſaid before.

L. C. B. At what time of the Day was it that you ſaw him in your Houſe?

Lar. It was an Hour and half before Sun-ſet.

L. C. B. Said to me, Sir, will you ask *Larimore* any Queſtions before we call more Witneſſes?

Hawkins. Yes, my Lord, if I may have leave.

L. C. B. Sir, you may proceed to your Queſtions.

Hawkins. I humbly thank your Honour.

Hawkins. I pray, my Lord, ask *Larimore* if he be ſure that I am the Perſon that robbed him.

L. C. B. Larimore, anſwer to the Queſtion.

Lar. Yes, my Lord, I am ſure he is the Perſon that robbed me, for I know him very well.

Hawk. Why did you ſay before Sir *John Croke*, when I was before him, that you could not ſay that I had ſtollen them.

Lar. I ſaid no ſuch thing, this all that were there can juſtifie.

Hawk. My Lord, I deſire to know of *Larimore* if he be ſure that it was upon a *Friday*, and the 18th of *September* 1668, and an Hour and half before Sun-ſet, when he ſaw me in his Houſe robbing him.

Lar. Replied, that it was upon that Day and Time, as near as he could gueſs.

Hawk. Why (when *Larimore* found his Doors open, which he expected to have found lock'd) did not he call ſome of his Neighbours to aſſiſt him in ſearching his Houſe, and to ſecure me, or any other Perſon which he might find robbing him, rather than to run up Stairs by himſelf to alarm any Perſon that was in his Houſe, and thereby giving them opportunity to eſcape?

Larimore ſaid, he did not then ſo well conſider of it as now; but being willing, ſeeing his Doors open, ran up the Stairs to know what the Matter was, and looking through the Chinks of the Loft, ſaw me in his Houſe, as aforeſaid.

Hawk. Larimore, did you ſpeak to me when you ſaw me, or endeavour to ſtay me?

Lar. Replied, that he was for that time ſo amazed, that he could not ſpeak to me.

Hawk. My Lord, I think he is ſtill in great Amazement.

Hawk. Was my Houſe the firſt, or the only Houſe you ſearched?

Lar. Replied, No.

Hawk. If you ſaw me commit the Robbery in your Houſe, why then did you ſearch other Houſes for the Goods which you ſaw me ſteal?

Lar. Replied to this, that he had been robbed at ſeveral other times.

Hawk. Why did not you then rather ſend out Hue and Cries to apprehend my Perſon, than to ſearch my Houſe; and why did not you charge me with flat Felony before Sir *Richard*

Pigott, of whom you had your Warrant? if you ſaw me rob you.

Lar. To theſe Queſtions made no direct Anſwer.

L. C. B. Mr. *Hawkins*, will you ask *Larimore* any more Queſtions?

Hawk. No, my Lord, not at preſent; but when I come to my Defence, I hope I ſhall be heard.

L. C. B. You ſhall be heard at large, and ſo ſhall they.

Hawk. I humbly thank your Honour.

Clerk. Aſſ. *Larimore*, who ſhall be next called?

Lar. Call *Henry Larimore* the younger.

Clerk. Cryer, call *Henry Larimore* the younger: who anſwered, here, Sir.

Marſhal. Lay your Hand upon the Book, look upon the Priſoner.

Hawk. My Lord, may I be heard a Word.

L. C. B. Yes Sir, you may go on.

Hawk. I humbly thank your Honour.

Hawk. My Lord, is it uſual to admit Perſons that are not Baptized to give Evidence upon a Trial of Life and Death? for that Perſon which is now about to be ſworn (I ſuppoſe) is not Baptized.

L. C. B. Sir, a Perſon that is not Baptized, may be ſworn, and give Evidences in Caſes of Felony.

Hawk. My Lord, I ſubmit, but am not fully ſatisfied in it, and if occaſion be I ſhall crave Counſel in that Point, it being Matter of Law, and not of Fact.

L. C. B. The Jury may conſider of it.

Hawk. My Lord, I doubt not but they will weigh of what Validity the Oath, and Evidence of ſuch a Perſon is.

Mar. Larimore the younger, Lay your Hand upon the Book, look upon the Priſoner.

The Evidence that you ſhall give to the Court, between our Sovereign Lord the King and the Priſoner at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth. So help you God. Kiſs the Book.

Larimore Jun. My Lord, upon the 18th of *September*, I came home a little after my Father, and coming in the Yard, I ſaw this Mr. *Hawkins* (that is now at the Bar) run out of my Father's Houſe, with a great Bunch of Keys in his Hand, and run down my Father's Yard, and hid himſelf in a Cloſe with Beans and Weeds, and when I came into my Father's Houſe, I asked him what Mr. *Hawkins* did there: He anſwer'd me, that he had done too much there, for he had robbed him.

L. C. B. What Day of the Week was it.

Lar. Jun. It was upon a *Friday*.

L. C. B. In what Year was it?

Lar. It was this laſt *September*, my Lord.

L. C. B. Will you ask him any Queſtions?

Hawk. Yes, my Lord, if I may be permitted.

L. C. B. You may proceed to your Queſtions.

Hawk. I humbly thank your Honour.

Hawk. Larimore, are you ſure that I am the Perſon which you ſaw run out of your Father's Houſe?

Lar. Yes, I am ſure that you are the ſame Perſon that I then ſaw run down my Father's Yard.

Hawk. What time of the Day was it when you ſaw me?

Lar. It was an Hour and an half before the Sun was down.

Hawk. Was your Father within when you came there?

Lar. He was within when I came there, and I asked him as aforeſaid.

Hawk. Did your Father ſay no more to you, than what you have related? and did not he enquire which way I ran, or went?

Lar. He ſaid no more, but that you had robbed him.

Hawk. My Lord, and you of the Jury, Is it likely, that when the Father had ſeen me commit a Robbery in his Houſe, and the Son coming in immediately upon it, that the Father would not ask of him which way I went?

Hawk. My Lord, I have done with him at preſent.

Lar. Sen. My Lord, pray let *Joan Beamſly* be called next.

Clerk. Cryer, call *Joan Beamſly*.

Cryer. Joan Beamſly. She anſwer'd, here Sir.

Joan Beamſly, Lay your Hand upon the Book, look upon the Priſoner. *The Evidence that you ſhall give ſhall be the Truth*, &c.

Joan Beamſly. May it pleaſe your Honour, my Lord, upon *Friday* the 18th of *September* laſt paſt, about an Hour and half before Sun-ſet, as I was going to Milking in the Street (near *Larimore*'s Houſe) I met *Henry Larimore* the younger, and being at that time much troubled with the Tooth-ach, I told him of it, deſiring him to help me to ſome hot Water, for I believed that might give me Eaſe; *Larimore* reply'd, that if I would go with him to his Father's Houſe, he would help me to ſome: So going both together, we ſaw this Mr. *Hawkins* (that is now the Priſoner at the Bar) run out of *Larimore*'s Houſe, with a great Bunch of Keys in his Hand, and run down *Larimore*'s Yard into a Cloſe of Beans and Weeds, and there hid himſelf; and when we came into *Larimore*'s Houſe, I there heard young *Larimore* ask his Father what Mr. *Hawkins* did there; *Larimore* told his Son that he had done too much there, for he had robbed him. When my Lord Chief Baron *Hale* heard how theſe three Witneſſes agreed in their Evidence, he ſaid, here is enough ſworn (if believed) to hang twenty Men.

Hawk. I doubt not but to clear my ſelf, notwithſtanding their Evidence, if I may be heard.

L. C. B. You ſhall be heard.

Hawk. I humbly thank your Honour.

L. C. B. Larimore, have you any more Witneſſes?

Lar. Yes, if it may pleaſe your Honour, a great many more.

L. C. B. Who are they? call them.

Lar. Call *Richard Mayne*, Conſtable.

Clerk. Cryer, call *Richard Mayne*, Conſtable; who anſwered, here, Sir. And being ſworn, ſaid as followeth.

Mayne. My Lord, upon *Saturday* the 19th of *September* laſt paſt, came *Henry Larimore* Sen. to me, and giving me a Warrant from Sir *Richard Pigott* to ſearch, commanding me (amongſt others) to ſearch Mr. *Hawkins* for ſome Money and Goods, which he had loſt; and when I ſaw his Warrant, I went to *Tho. Beamſly*, Tythingman, and charged him, with three or four others,

thers, to assist me, and coming to Mr. *Hawkins*'s House, he denying to open his Doors, I broke them open, and I went into his House, and *Henry Larimore* Sen. did find in a Basket this Gold Ring, and Five-shilling-piece of Silver (Mr. *Hawkins* himself being by whilst he found them) so we had him before Sir *John Croke*, who committed him to Prison, and so on *Sunday* Morning we brought him to *Ailesbury*. This also was sworn by *Dodsworth Croke*, Esq; *Tho. Beamsly*, and young *Larimore*.

L. C. B. Said to me, will you ask these Witnesses any Questions?

Hawk. Yes, my Lord, if I may be permitted.

L. C. B. You may go on to your Questions.

Hawk. I humbly thank your Honour.

Hawk. Mayne Constable, did *Larimore* desire you to search my House alone, and did he then tell you, that he saw me rob him the Day before?

Constable. Larimore did desire me to search several Houses, but did not say to me that he saw you rob him.

Hawk. Where is the Warrant upon which you broke open my House? I desire to see it.

Const. Here it is.

Hawk. Was it *Larimore* himself that found the Ring and Five-shilling-piece?

Const. It was *Henry Larimore* the elder that found it.

Hawk. Was I in the same Room when he found them?

Const. You were in the same Room when he found them.

Hawk. This was proved false, by Mr. *Charles Wilcox* and *Nicholas Faulkner*, which Persons kept me in the Hall, whilst they pretended to find them in the Buttery.

Hawk. Constable, why did you compel me to go before Sir *John Croke*, which you knew was my Adversary?

Const. We did not force you before him.

Hawk. This I proved to be so, by *Michael Reed*, Gent. Mr. *Tho. Saunders*, Mr. *Wilcox*, Mr. *Goulder*, *Robert Casemore*, and many others that saw it.

Hawk. Constable, why did you advise the Jaylor, Mr. *Burch*, to load me well with Irons?

Const. I did not advise him to do so.

Hawk. Pray, my Lord, ask the Jaylor, Mr. *Burch*, what the Constable said to him when he brought me thither.

Clerk. Mr. *Burch*, inform the Court what the Constable said to you, when he brought Mr. *Hawkins* to you as a Prisoner.

Jaylor. My Lord, when the Constable delivered Mr. *Hawkins* to me, on *Sunday* Morning, he said, that Mr. *Hawkins* was a notorious Pick-lock, and that he was confident he could pick every Lock about the Prison, and therefore he advised me to watch him narrowly, and load him well with Irons.

Thomas Beamsly being sworn, his Evidence being the same in Effect with the Constable's, for Brevity sake I omit; but I craved leave to ask him a Question or two, which being granted were as followeth.

Hawk. Beamsly, Pray what Discourse had you with Mr. *Wilcox* upon the 19th of *September*, presently after my House was broken up, concerning the time when (as your Brother pretended to you) he lost the Ring and Five-shilling-piece of Silver?

Beamsly. He did not remember that he had any Discourse with Mr. *Wilcox* about that.

Hawk. Did you not say to Mr. *Wilcox*, that your Brother *Larimore* told you that he had lost the Stone Ring, and Five-shilling-piece of Silver, which (as he pretended was found in my House) before the difference began betwixt me and your Brother; and moreover that your Brother said he had an intent to search for the same a Month before?

Beamsly replied, that he did not remember any such Discourse.

Hawk. My Lord, may I be heard a Word or two.

L. C. B. You may go on.

Hawk. I humbly thank your Honour.

Hawk. My Lord, I suppose that I can prove these Particulars.

1. That *Larimore* told *Beamsly* that he had lost this Gold Ring and Five-shilling-piece of Silver now in Question, before there was any difference between *Larimore* and my self, which began in *Michaelmas* Term 1667. This was proved by Mr. *Wilcox*.

2. And that *Larimore* confess'd upon his Oath before Sir *John Croke* (upon the 19th of *Sept.*) when I was committed, that he lost the said Ring and piece of Silver about a Month before, which must be about *Aug.* 19. This was proved by Mr. *Browne*, *Faulkner*, and others.

3. I can prove that *Larimore* told Sir *Richard Pigott*, when he went for his Warrant to search, that he did suspect several Persons for robbing him of this Gold Ring and Five-shilling-piece, and that I was only one of the suspected Persons. This Sir *Richard Pigott* did acknowledge to be true.

But now he swears that he saw me steal the Gold Ring and Five-shilling-piece out of his House on *Friday* the 18th of *September*, an Hour and half before Sun-set, 1668.

Hawk. I pray, my Lord, and you that are of this Jury, take notice of this, and compare the times out of his own Mouth; but more of this when I come to make my Defence.

L. C. B. Larimore, have you any more Witnesses?

Lar. Yes, my Lord.

L. C. B. Call them, who are they?

Lar. Call *Margaret Larimore.*

Clerk. Cryer, call *Margaret Larimore*, the Wife of *Henry Larimore.*

Cryer. Margaret the Wife of *Henry Larimore.* She being sworn, said, that when she was a Servant to *Larimore*, which now is her Husband; she had seen Mr. *Hawkins*, at several unseasonable Hours in the Night (when her Master was in bed) lying lurking in and about her Master's House, Yard, Windows, and Doors, and said that she believed he lay there for no good Intent.

Hawk. My Lord, may I ask this Woman a Question or two?

L. C. B. You may do so, if you please.

Hawk. I humbly thank your Honour. I'll promise you to be brief.

Hawk. At what time was it, *Margaret Larimore*, that you saw me lurking in your Master's Yard, as you have said?

Marg. Lar. It was in the Night-time.

Hawk. But how long may it be since?

Marg.

Marg. Lar. I can't tell, it might be about the time that my Maſter was robbed..

Here Larimore *prompts his Wife, which I told my Lord, for which he checked him.*

Hawk. Did you ſpeak, or call to me when you ſaw me there?

Marg. Lar. No, for I was affrighted at it. This ſame was alſo ſworn by *Richard Mantill*, alias *Miles*, Son-in-Law to the ſaid *Larimore*, and alſo by *William* his Son, which for brevity ſake I omit farther to relate.

L. C. B. Larimore, Have you any more?

Lar. Yes, my Lord, to prove that this Ring and Five-ſhilling-piece is mine.

L. C. B. Call them, who are they?

Lar. Eſq; *Dodſworth*, Sir *John Croke*'s eldeſt Son, and Mr. *Good*, Miniſter of *Long Crendon*, my Lord.

Clerk. Cryer, call *Dodſworth Croke*, Eſq; and *Edward Good* of *Long Crendon*, Clerk, both anſwer'd, here Sir. They both being ſworn, Mr. *Dodſworth Croke* ſaid as followeth, (taking the Ring in his Hand, turned it up and down, and looked very narrowly upon it within and without, and put it upon his Finger, and pulling it off ſeveral times in the Face of the Court and Country, he then inform'd my Lord) That he was confident, that this was *Larimore*'s Ring; and for his Proof and Credit, tells the Court that he had pawned it to *Larimore*.

Mr. *Good* took the Five-ſhilling-piece into his Hand, and ſwore, that he being at *Buckingham* Seſſions laſt, about ſome Trouble which I had put him to, he then wanting ſome Money, did pawn a Five-ſhilling-piece to this *Larimore* for other Money; and he deſiring of him to take care that he had the ſame Piece again, *Larimore* told him that he put a Mark upon it: So ſeeing a Mark upon this Five-ſhilling-piece, he ſwore that he did verily believe that this was the ſame Five-ſhilling-piece which he had pawned to *Larimore* at the Seſſions before.

L. C. B. Said to me, Sir, if you will ask the Witneſſes any Queſtions, you may.

Hawk. I humbly thank your Honour for that Freedom; but I do humbly conceive that the proving of the laſt point, *viz.* that the Ring and Five-ſhilling-piece was either *Larimore*'s own Goods, or pawn'd to him, is not much material to my Caſe; for I am free to confeſs (as much as I can have ground to believe) which is, that *Larimore* might have the Ring and Five-ſhilling-piece of Silver in his Poſſeſſion, but the Charge againſt me is, that I ſtole them from him, which I do flatly deny, and do not doubt of clearing my ſelf when I come to my Defence, if I may be heard.

L. C. B. Sir, you need not queſtion but you ſhall be heard.

Hawk. I humbly thank your Honour, and crave leave to be heard a Word or two (if it be not unſeaſonable.)

L. C. B. You may go on.

Hawk. May it pleaſe your Honour, and the Jury, to take notice that Mr. *Good* ſwears he believes this to be the Five-ſhilling-piece that he pawned to *Larimore* laſt Seſſions at *Buckingham*, but I deſire to know if *Larimore* ſwears that this is that Piece which Mr. *Good* pawned then to him, for he beſt knows.

L. C. B. Larimore, what ſay you to that?

Lar. My Lord, I do ſwear that this is the ſame Five-ſhilling-piece which Mr. *Good* pawned to me, the laſt Seſſions at *Buckingham*.

Hawk. Then, my Lord, and the Jury, be pleaſed to obſerve, That Seſſions was held upon the 9th and 10th of *July*, 1668. but the Difference between me and *Larimore* (for Tythes) was begun in *Michaelmas-Term*, 1667. which is near nine Months before that Seſſions; and notwithſtanding *Larimore* did ſay to his Brother *Beamſly*, upon the 19th of *September*, that he had loſt this very Ring and Five-ſhilling-piece of Silver before the Difference began, which is impoſſible, my Lord, as appears by the Oaths of *Larimore* and Mr. *Good*; for how could he be robbed of that Five-ſhilling-piece nine Months before he had it? And that he did ſay the very Words to his Brother *Beamſly* we have already proved, by the Teſtimony of Mr. *Wilcox*.

L. C. B. ſaid, Mr. *Hawkins*, was this Suit for Tythes begun by you againſt this *Larimore* before the time that *Larimore* ſwears this Felony was committed?

Hawk. Yes, my Lord, for I began that Suit for Tythes in *Michaelmas-Term*, 1667. and *Larimore* ſwears that I robb'd him upon the 18th of *September*, 1668. which is, my Lord, about a Year after. My Lord, it is an eaſie way thus for the Fanaticks to pay Tythes; if they can but hang up the Clergy, they may ceaſe all their future Pleading for Liberty of Conſcience.

Now *Larimore* began to ſtumble, and ſhew his Malice in proſecuting me unjuſtly, by his multiplying of feigned Felonies, wherewith he did then endeavour to load me, of which I appeared innocent.

L. C. B. Larimore, have you any more?

Lar. Yes, my Lord, Pray call *John Chilton*.

Clerk. Cryer, call *John Chilton*.

Cryer. John Chilton, who anſwer'd, here, Sir; and being ſworn, my *L. C. B.* ſaid to him, come *Chilton*, what can you ſay to this Buſineſs?

John Chilton ſaid, My Lord, I can ſay nothing, but that I am paid for my Boots.

L. C. B. What Boots?

Chilt. My Lord, I am paid for my Boots.

L. C. B. Our Buſineſs is not now about Boots, but however, come, and tell me what thou meaneſt by them?

Chilt. My Lord, Mr. *Hawkins* brought me a pair of Tops, to put new Legs to them, which I did; and he coming by my Shop, told me he wanted his Boots; I reply'd, they were done: but I being then about to go out, did promiſe Mr. *Hawkins* to lay them in my Window, ſo that he might take them as he went home, which accordingly he did; and when I came home, I went to Mr. *Hawkins*, who at that time was at Sir *John Croke*'s Houſe, where he contented me for my Work before we parted: And this is all that I can ſay, my Lord.

L. C. B. What is this to the purpoſe, can you ſay any more *Chilton*? if you can, go on.

Chil. My Lord, Mr. *Hawkins* paid me honeſtly for the Boots: But as ſoon as he began to demand the Tythes of *Chilton*, and did ſue for them, then they lay at me Night and Day to have me charge Mr. *Hawkins* with flat Felony, for ſtealing the ſaid Boots out of my Shop; but I told them, that I laid them in my Shop-Window for him, and did bid him take them as he came back, and he paid me for my Work, and therefore I cannot ſay he ſtole them.

L. C. B. Who were they that deſired you to charge Mr. *Hawkins* with the ſtealing of your Boots?

Chil.

Chil. This *Larimore*, Mr. *Dodſworth Croke*, *Richard Mayne* the Conſtable, *Miles* and *John Sanders* (who is ſince dead, my Lord.) ---- *Larimore* here interrupted *Chilton*, and ſaid, My Lord, I have five or ſix Witneſſes that can prove that all this is falſe which *Chilton* hath ſworn.

L. C. B. Call them, for I'll hear all, if I ſit till Night.

Then *Larimore* call'd *Dodſworth Croke*, *William Croke*, *John Stop*, *Thomas Welch*, *Samuel Salter*, and *William Sanders*; all theſe being ſworn, the Sum and Subſtance of their Evidence was to this Effect.

That they had heard *John Chilton* ſay that I had ſtollen a pair of Boots from him, to which *Chilton* (being then upon his Oath) ſaid, that Mr. *Hawkins* did no otherwiſe than what before I have ſworn; and he further added, that he never ſaid that I had ſtollen any thing from him, for he had no reaſon for it.

L. C. B. Did this *Larimore* deſire you to charge this Mr. *Hawkins* with Felony? and when did he deſire you to do ſo?

Chilton. My Lord, *Larimore*, and the reſt that I have named, deſired me to charge Mr. *Hawkins* with flat Felony, for ſtealing the ſaid Boots, as ſoon as he demanded the Tythes of *Chilton*; and they would have forced me to fetch a Warrant from a Juſtice of Peace to ſearch for them, and did further threaten me, in caſe I would not do it, that Sir *John Croke* would indict me at the Aſſizes, as one acceſſary to the ſtealing of my own Goods.

L. C. B. Was *Larimore* one of them?

Chil. Yes, my Lord, and he ſaid, that he would make me ſwear that Mr. *Hawkins* had ſtole my Boots, and for that End did ſerve me with a *Subpœna* to be here. —— Here *Larimore* the ſecond time interrupted *Chilton*, and ſaid, My Lord, this Fellow (pointing at *John Chilton*) is hired by Mr. *Hawkins* to ſwear this.

Chil. Reply'd, No, my Lord, I am not hired by Mr. *Hawkins* to ſwear, but I might have been hired, or born out, if I would but ſwear that Mr. *Hawkins* ſtole my Boots, by one *Croxſtone*.

L. C. B. How! what is that! hired, or born out to ſwear? by whom, and how, tell me the Story?

Chil. My Lord, I am not hired to ſwear by Mr. *Hawkins*, but if I would ſwear that he ſtole my Boots out of my Shop, I might have been born out in ſo doing. For *Tho. Croxſtone*, of *Weſton* on the Green, in the County of *Oxon*, told me upon *Monday* laſt, it being the 8th of *March* 1668, that if I would but ſwear what he would have me againſt Mr. *Hawkins* (*viz.* that he ſtole my Boots) he would bear me harmleſs; but I replied, that it went againſt my Conſcience to do it. I added farther, that if I ſhould be ſo wicked as to ſwear it, Mr. *Hawkins* can prove the contrary by Mr. *William Croke* and others; to which *Larimore* replied, that I need not fear what Mr. *Croke* knew in that caſe, for he is one of us, and will not juſtifie any thing that may tend to our prejudice. I farther told him that I durſt not do it; for if I ſhould, Mr. *Hawkins* might make me fly the Country, as *Smart* did *Wheeler*: To which *Croxſtone* replied, that if I would ſwear it, he would bear me out againſt the ſaid Mr. *Hawkins* as far as an Hundred Pound would go, and if that would not do, as far as Five Hundred Pound would go.

L. C. B. How! bear you out to ſwear! what *Croxſtone* is this that would do ſo? this is not likely to be true.

Tho. Croxſtone ſaid, My Lord, I ſaid no ſuch thing.

L. C. B. I do not believe it to be true.

Chilton run in, and ſaid, As I live and breath, my Lord, *Croxſtone* did ſay, if I would ſwear that Mr. *Hawkins* had ſtole my Boots, he would bear me out, as I ſaid before, and if I made any doubt of it, he would give me Bond to make good his Promiſe.

L. C. B. ſaid, This is ſtange.

Croxſtone, My Lord, I ſaid I would bear him out in ſpeaking the Truth, and no otherwiſe.

Hawk. My Lord, may I be heard?

L. C. B. Yes, you may go on.

Hawk. I thank your Honour. My Lord, pray let me ask Mr. *Croxſtone* two or three Queſtions.

L. C. B. So you may, go on.

Hawk. Mr. *Croxſtone*, do you confeſs that you did promiſe to bear out *Chilton* (as you ſaid before) in ſwearing the Truth?

Croxſtone. Yes, Sir, I did, and no otherwiſe.

Hawk. Was it not about the Boots?

Croxſtone, Yes, Sir, it was ſo.

Hawk. Did not you deſire *Chilton* to ſwear that I had ſtollen his Boots, after that he had told you I had paid him for them, and thereupon promiſe to bear him out againſt me, in 100 or 500 *l*?

Croxſtone. I think you cannot prove it againſt me.

Hawk. I pray, my Lord, and you of this Jury, conſider that this *Chilton* is one of *Larimore*'s Witneſſes, and ſwears for the King, yet he ſwears that he had given me Orders to take thoſe Boots, and that I then paid him for Legging of them, and that he had repeated this to *Larimore* and *Croxſtone* ſeveral times; and after all this, *Larimore* and *Croxſtone*, with others, us'd their utmoſt Endeavours to perſuade *Chilton* to charge me with Felony for ſtealing them, and *Croxſtone* promiſed him to bear him out in ſo doing, as far as 100 *l.* would go, and if that would not do, as far as 500 *l.* and give him Bond for his Security, *&c.* My Lord, if this amounts not to a Subornation, I am miſtaken. But, my Lord, I have two Witneſſes more to prove the ſame againſt Mr. *Croxſtone*, and I pray that they may be heard.

L. C. B. Who are they?

Hawk. Ann Scoly, and *John*, the Son of Mr. *Tho. Sanders*. Both theſe being called, juſtified in Court what *Chilton* had ſworn againſt Mr. *Croxſtone*: Upon which my Lord Chief Baron ſaid to *Croxſtone*, Come, you did ill to ſollicite Perſons to ſwear theſe things which you knew were falſe; and 'tis farther added, that this made not for the King, but rather for the Priſoner at the Bar. After all this, a rude Fellow (*Thomas Welch*) came in, and ſaid, My Lord, I did hear *Chilton* ſay, that Mr. *Hawkins* had ſtole a pair of Boots from him.

L. C. B. What, more Boots ſtill? Come, *Larimore*, have you any more.

Larimore ſaid, Yes, my Lord, one Mr. *Boyce*, who being ſworn, ſaid, That at a certain time, he coming into a Houſe at *Chilton*, found this Mr. *Hawkins*, now the Priſoner at the Bar, and one *James Noble* (which *Noble* was then drunk, and aſleep upon a Bed) and I ſaw Mr. *Hawkins* have his Hand in *Noble*'s Pocket, and the ſaid *Noble* told me, that at that time he loſt a Gold Ring and a piece of Gold out of his Pocket.

L. C. B.

L. C. B. ſaid to me, Sir, what ſay you to that?

Hawk. My Lord, I deſire to know if there be any Bill or Indictment againſt me for it.

Clerk. There is none, my Lord, that I do know of.

Hawk. I deſire, my Lord, that *Noble* may be ſworn, if he be here.

Lar. He is not here, my Lord.

L. C. B. Why was not that *Noble* here himſelf to proſecute?

Lar. I could not find him, my Lord.

Hawk. I deſire to know whether *Boyce* came hither of his own accord, or if he be *Subpœna'd* to be here; (if ſo) by whom, and who bears his Charges.

Boyce. I was *Subpœna'd* by *Larimore*, and he bears my Charges, my Lord.

Hawk. How long was it ſince, Mr. *Boyce*, that you ſaw my Hand in *Noble*'s Pocket, as you ſaid before?

Boyce. It may be near two Years ago, my Lord.

Hawk. Did you ſee me pick (or take) out of the ſaid *Noble*'s Pocket, the ſaid Ring, or piece of Gold, or any thing elſe.

Boyce. I ſaw your Hand in *Noble*'s Pocket, but did not ſee you take any thing out of it.

Hawk. Did *Noble* ever tell you, that I had pick'd his Pocket of the ſaid Ring, or piece of Gold, or any thing elſe.

Boyce. No; but ſaid, he loſt them at that time.

Hawk. But you ſay that *Noble* was drunk at that time, and if ſo, it's poſſible he might be miſtaken.

Boyce. So he was drunk, and aſleep likewiſe.

L. C. B. I think you were all drunk.

Hawk. Boyce, you might have done well, to have told Mr. *Noble* of this, when he told you that he had loſt his Ring and piece of Gold; but can you ſay any thing touching *Larimore*'s being robb'd, or do you know that I am the Perſon that robb'd him?

Boyce. No not I, my Lord, I cannot charge him.

Hawk. But you ſay that *Larimore Subpœna'd* you to be here, and that he bears your Charges.

Boyce. Yes, my Lord, and ſo he does.

Hawk. Mr. *Boyce*, if this be all you can ſay for *Larimore*, you will hardly requite his Charges.

Hawk. My Lord, may I be heard, as to the Evidence of *Boyce*.

L. C. B. You may go on.

Hawk. I humbly thank your Honour.

Hawk. This *Boyce* ſwears, My Lord, that about two Years laſt paſt he ſaw my Hand in *Noble*'s Pocket, and that *Noble* told him, he then loſt a Gold Ring and piece of Gold. My Lord, I think (with Submiſſion to your Honour and the Court) I am not bound to anſwer to this Charge, becauſe there is no Indictment exhibited againſt me for it, nor is *Noble* himſelf here to proſecute, or can *Boyce* ſwear that I pick'd *Noble*'s Pocket, or that *Noble* ever told *Boyce* I did (as he himſelf ſwears.) But, my Lord, I obſerve in this the Malice of *Larimore*'s Heart, as well as in that of the Boots; for *Boyce* ſwears that he can ſay nothing to *Larimore*'s Bill of Robbery, and yet he forces him to come from *London* hither, to ſtart a ſenſleſs Story about *Noble*'s Ring and Gold, which is of near two Years ſtanding. My Lord, if there had been any Truth in it, why was not *Noble* himſelf here to proſecute? and why did he let it reſt ſo long? I ſay again, my Lord, if it had been true that I had pick'd *Noble*'s Pocket, and if *Larimore* had known it, I pray, my Lord, and you of the Jury, what had that concern'd *Larimore*; but, my Lord, I am as clear of picking *Noble*'s Pocket as I am of ſtealing *Chilton*'s Boots, and as clear of both theſe, as I am of robbing this Fellow *Larimore*, that now calls my Life in queſtion: Nay, if he can fairly prove me guilty of one, I am willing to ſuffer as guilty of all.

My Lord, I am bold to appeal to your Honour, whether it be a fair Proſecution in *Larimore*, to ſtir up *Chilton* falſly to charge me with Felony in ſtealing his Boots, when I had not only a Right in them, but alſo Leave from him to take them, and paid him for his Work, which *Larimore* himſelf knows. Nay, my Lord, if I had never paid *Chilton* for his Legs, the Tops being mine, by Law it had not been Felony, but a Treſpaſs, becauſe I had leave from him to take them, and a Right in them, the Tops being mine. And again, my Lord, I appeal to your Honour, whether it be fair in *Larimore* for him to ride up and down City and Country, to bring a Multitude of Witneſſes together that can ſay nothing to his Bill (as *Boyce* ſwears he cannot:) If this doth not diſcover Malice in a Proſecutor's Heart, I know not what doth; and if that appears to your Honour and the Jury, to be in him, how far that ought (as well by Law as Equity) to fruſtrate his Evidence, I am willing to leave to your Honour and the Jury, and ſo I have done as to *Boyce*'s Evidence.

L. C. B. Larimore, have you any more?

Larimore. Yes, my Lord, *John Cox*, and *Francis Lucy*. They being both ſworn.

John Cox ſaid, My Lord, I being in Mr. *Hawkins*'s Company not long ſince, one asked him, how he thought to come off at the Aſſizes: Mr. *Hawkins* reply'd, he cared not much for this Plot (tho' he ſhould be Convicted,) for they could but burn him in the Hand for it, and that he could bite out.

Lucy being ſworn, ſaid, that he heard Mr. *Hawkins* confeſs, that he owed *Larimore* 15 *s.* but becauſe he had dealt ſo unjuſtly with him, he would make it coſt *Larimore* fifteen times 15 *s.* before he would pay him.

L. C. B. ſaid, This makes little to the purpoſe.

Come *Larimore*, Have you any more?

Lar. I think not, my Lord.

L. C. B. If you have any more Witneſſes, call them, and they ſhall be heard, and do not ſay, when I am gone, that your Witneſſes could not be heard.

Lar. My Lord, I confeſs they have been fully heard, and I have no more to ſay.

L. C. B. ſaid to me, Sir, you have heard the Indictment againſt you, and the Evidence to prove it; you have heard the Charge, now ſay what you can for your own Defence, and you ſhall be heard.

Hawk. I humbly thank your Honour; and I hope, my Lord, becauſe the Evidence is large, I ſhall have the more time allowed me to make my Defence; and if ſo, I doubt not but fully to open this Conſpiracy.

L. C. B. Do not fear that; for as they have been heard at large, ſo ſhall you likewiſe (God forbid elſe.)

Hawk.

Hawk. I humbly thank your Honour, and do promiſe to be as brief as conveniently I can: And as I intend to offer nothing but the naked Truth, ſo I will ſay no more (if I am not miſinform'd) than I can prove to be true. And, my Lord, becauſe it may ſeem neceſſary for me to offer many Things by way of Defence, in anſwer to ſo great a Charge; to ſave time, I pray that it may not be expected by your Honour, or the Jury, that I ſhould call Witneſſes to prove every Particular: But when I offer ſuch Things as are moſt material, if either your Honour, or the Jury, be not fully ſatisfied touching the Truth of ſuch material Points, I do humbly pray, that I may be called upon to prove them; for when I am not called upon for Proof, I ſhall, under Favour, my Lord, take it for granted that I am believed. And for Method herein, if I may have leave, I do intend this.

1. In General, to ſhew how improbable it is, that I ſhould be guilty of this Robbery, and alſo deliver ſome Hints to move the Court and Jury to queſtion whether this Proſecutor (*Larimore*) was robbed at all, or no.

And 2*dly*, More particularly to examine the Evidence, as to Matter of Fact.

L. C. B. Go on, Sir, to your Defence.

Hawk. May it pleaſe your Honour, and you of this Jury, I begin with the firſt part of my Defence, which is, to hint how unlikely it is, that I ſhould be guilty of robbing this *Larimore*.

1. *Larimore* is generally known to be a notorious Anabaptiſt, and an Enemy to the Church of *England*, and a Hater of the Miniſtry in general; but more particularly, he is moſt envious and malicious againſt my ſelf, becauſe I ſued him for Tythes, and cauſed him to be indicted for not coming to Church, or Baptizing his Children: For which Reaſon his Malice againſt me hath appeared notorious ſeveral Ways, as, amongſt others,

1. By diſſuading all that owed me any Money, not to pay me.
2. By his inducing thoſe to whom I owed Money, to Arreſt and trouble me.
3. By diſſuading thoſe that I ſued for Tythes, not to agree with me; he promiſing them, that Sir *John Croke* and himſelf would force me to run the Country e're long.
4. By his continual tormenting, and vexing me with his falſe Arreſts, and illegal Indictments.
5. By his conſtant Endeavour to diſſuade my Friends from any ways relieving me, or mine, in my greateſt Wants and Neceſſities, adviſing them to ſtarve us.

My Lord, and this Jury, if you are not fully ſatisfied in any of theſe Particulars that I have alledged, I am ready to prove them; but if this be granted, they are no doubt ſufficient Arguments to prove the Malice of his Heart. Again, I ſay, that it is no ways poſſible that *Larimore* was robbed at all; and of this Opinion are moſt of his Neighbours round about him, as may appear by this Certificate, which followeth.

WE *do humbly Certifie, That* Henry Larimore *of* Chilton, *in the County of* Bucks, *Labourer, is a notorious Anabaptiſt, an Enemy to the Church of* England, *and a perfect Hater of all Miniſters of the ſame, but in particular, moſt Inveterate and Malicious againſt* Robert Hawkins, *Clerk, late Miniſter of the Church of* Chilton *aforeſaid; for that he doth not only ſeek, and deſign utterly to ruin the ſaid Mr.* Hawkins *himſelf, but makes it his Buſineſs, and daily Practice, to inſtigate others to do the like, and for no other Cauſe, as he hath often confeſſed himſelf, but for that the ſaid Mr.* Hawkins *hath cauſed him to be Indicted for not coming to Church, and Sued him for Tythes; And we do verily believe, and are fully ſatisfied in our Conſciences, that the ſaid Mr.* Hawkins *is not at all guilty of the pretended Felony, in ſtealing the Ring, and piece of Silver, which the ſaid* Larimore *hath charged him with, but that it is a meer Contrivance inchoated, and ſet on foot by the ſaid* Larimore, *Sir* John Croke, *and others, on purpoſe to revenge themſelves. And we do alſo believe, that the ſaid Mr.* Hawkins *is a very honeſt Man, and that he is a very able Miniſter, and a true and faithful Labourer in God's Word, and never heard that he was ever ſuſpected in the leaſt of Felony, till this Malicious Proſecution, which is by the ſaid* Larimore, *and others, whom the ſaid Mr.* Hawkins *ſueth for Tythes,*

Witneſs our Hands, *March* 8. 1668.

Michael Read, Gent.	*Richard Budd*
William Read, Gent.	*John Budd*
Mrs. *Bulſtrode*, Widow.	*Thomas Higgs*
Mr. *John Bulſtrode*	*Roger Gye*
John Turner	*Robert Coxhead*
Joſeph Parſons	*William Hitchcock*
Nicholas Faulkner	*John Powell*
Mr. *William Bulſtrode*	*Luke Turner*
John Chilton	*Richard Badger*
The Widow *Paverell*	*John Golder*
Robert Sanders	*John Newton*
Chriſtopher Hinton	*William Collet*
John Mortimore, Sen.	*John Beckley*
Mr. *John Daniel*	*Richard Kenp*
Mr. *John Clarke*	The Widow *Acreman.*
The Widow *Clare*	*Robert Flint*
William Landſdell.	*William Beckly*
William Bouden.	*Robert Hicks*
John Newman	*John Barney*
Thomas Coles	*Robert Steele*
The Widow *Newman*	*Stephen Toms*
Robert Barlow	*Robert Willet*
Theophilus Sanders	*William Neighbour*
John Sanders	*Will. Chittle*
John Mortimore, Jun.	*Henry Parker*
Mr. *Henry Golder*	*William Aſh*
Mr. *Thomas Sanders*	*John Golder*, Jun.
Mr. *Henry Lovell*	*William Golder*
Mrs. *Lovell*, Widow.	*William Tipping*
Owen Gibſon	*Richard Goodwyn*
Mr. *Tho. Sanders*, Sen.	*John Boſly*
Robert Caſemore	*Moſes Collings*
Edward Jarvice	*Roger Carr*
Thomas Green	*John Cato*
Edward Barker	*William Hayward*
John Grace	*Edward Hollyman*
John Freeman	*Abraham Quelch*
Richard Carr	*John Pymm*
John Carr	*John Carter*
John Acreman	*William Toms*
Thomas Whyte	*Robert Bud*
Thomas Ludet.	*William King*
The Widow *Meades*	*Cadwalider Crawton*
Richard Toms	*William Aſh*
Joſeph Nero	*Thomas Whyte*, Sen.
Richard Low	*Thomas Whyte*, Jun.
John Culledge	*David Turner*
Richard Waude	*Jonathan Hand*
Theophilus Hinton	*John Young*
Edward Clarke	*John Bedford*
Jeffery Hart	*John Norcutt.*

By this Certificate, which you ſee ſubſcribed with above an Hundred Names, wherein, many others (for brevity ſake) are omitted, altho' I made no uſe of it upon my Trial; yet the World may ſee what an Opinion *Larimore*'s Neighbours had concerning him, and his (pretended) Robbery; which Certificate I have for that Purpoſe here inſerted.

2. It is not likely that *Larimore* was robb'd, becauſe he did not declare it to his Neighbours immediately, which doubtleſs he would have done, had any ſuch thing befallen him.

3. Nor is he certain (as to the time,) when he was Robbed.

For 1. He told his Brother *Beamſly*, that he had loſt the Ring and Five-ſhilling-piece (in Queſtion) before there was any difference between him and I: As may appear by this Certificate, under Mr. *Willcox*'s own hand, which is as followeth.

THeſe are to Certifie all whom it may concern, that Thomas Beamſly *of* Chilton, *Tything-man, told me,* Charles Willcox *of* Long Crendon (*upon* September 19. *in the 20th Year of his Majeſty's Reign,* An. Dom. 1668.) *That the Five-ſhilling-piece of Silver, and the Stone-ring, which* Larimore *pretended he found in Mr.* Hawkins's *Houſe, were both loſt before there was any difference between the ſaid* Larimore, *and the ſaid Mr.* Hawkins; *and he further added, that his Brother* Larimore *told him, that he had an intent to ſearch for the ſame Ring, and Five-ſhilling-piece above a Month before he did. This I can, and will depoſe, whenſoever I ſhall be thereunto required.*

Witneſs my Hand
Octob. 1. 1668. *Charles Willcox.*

By this Certificate, it appears (by *Larimore*'s own Confeſſion to his Brother *Beamſly*) that he had loſt this Ring, and Five-ſhilling-piece, before there was any difference between him, and I, and ſeeing I began my Suit for Tythes in *Michaelmas* Term, 1667. againſt him, and others, as it is well known to the Inhabitants of *Chilton*, (and alſo may appear by the Records of the Exchequer.)

This is the firſt time, that *Larimore* ſaid he had loſt the Ring, and Five-ſhilling-piece.

And that this is falſe, muſt needs appear, by what Mr. *Good*, and *Larimore* have already ſworn in open Court, *viz.* that Mr. *Good* pawned the Five-ſhilling-piece to *Larimore* at *Buckingham* Seſſions laſt, (which Seſſions were held upon the 9th and 10th of *July*, 1668.) which is near nine Months after the difference began.

And moreover, *Larimore* confeſſed upon his Examination before Sir *John Croke*, when I was Committed, (which was upon the 19th of *September*, 1668) that he had loſt the Ring, and Five-ſhilling-piece a Month before, which muſt (conſequently) be about the 19th of *Auguſt*, 1668. And if ſo, how is it poſſible that he could have loſt them before the difference began betwixt us, which was above ten Months before?

3. He now ſwears in open Court, that he ſaw me ſteal the ſaid Gold Ring, and Five-ſhilling-piece of Silver, out of his Houſe upon *Friday* the 18th of *Sept.* 1668. (preciſely) an Hour and half before Sun-ſet; all which times being compared together, can no ways be poſſible; for which, I dare appeal to all that hear it. Nor is it likely, in caſe he could prove that he was robb'd, (which I am confident, he never can) that I am the Perſon that robbed him; as may appear upon theſe conſiderations, amongſt others.

1. Is it likely that I ſhould commit a Robbery in my own Pariſh, (in the day time) where all that ſaw me, muſt needs know me, and at the Houſe of ſuch a Perſon as this *Larimore* is, that had ſolemnly ſwore (but a little before) that he would take away my Life, as may appear, by what his Son ſaid to *Anne Scholy*?

2. Is it probable, that if I were Guilty, I would not have made my eſcape, having twenty four Hours time, and four or five Hours notice after they firſt attempted to ſearch my Houſe; or that in all that time, I could find no better place to conceal a Ring, and Five-ſhilling-piece, than in a little Basket with two or three Eggs, (which all that time was hanging upon a Pin.)

Again, if *Larimore* ſaw me rob him upon the 18th Day of *Sept.* 1668. (as he ſwears he did) why did not he then ſecure me? He ſwears I ran away, why did not he ſend out Hue and Crys, to diſcover, and apprehend me? But the ſaid *Larimore* was ſo far from doing it, that he never declared it to any of his Neighbours, nor to the Conſtable, when he commanded him to ſearch, as may appear as well by the ſearch it ſelf, (in that they ſearched other Houſes before they ſearched mine) as by the Conſtable's Oath, who ſwears, that *Larimore* ſaid not any thing to him, that he had ſeen me rob him, nor did the ſaid *Larimore* declare it to Sir *John Croke*; for if he had, Sir *John* (no doubt) would have inſerted it in the *Mittimus*, which he hath not done; Nor did he declare it to Sir *Richard Pigott*, from whom he fetch'd his Warrant to ſearch, as may appear by the Contents of it. Whereupon, my Lord Chief Baron *Hale* calling to the Conſtable for the Warrant, (which being deliver'd) the Judge (himſelf) immediately eſpied, that the ſaid Warrant, bore date a Day before the Robbery was committed, which, when my Lord obſerved, he asked *Larimore* if he fetched this Warrant to ſearch for this Ring, and Five Shilling-piece; to which *Larimore* replied, he did, and then my Lord asked *Larimore* upon what Day he was Robbed, he replied, upon *Friday*, the 18th of *September*, 1668.

L. C. B. How comes it then to paſs, *Larimore*, that the Warrant bears date the 17th Day, and you ſwear, that the Priſoner at the Bar did not Rob you till the 18th Day? This is likely to be true.

Larimore to this replied, that he was robbed at ſeveral other times.

Hawk. (My Lord) may I be heard a word?

L. C. B. You may go on.

Hawk. I humbly thank your Honour. And I hope the Jury will take notice how *Larimore* hath enſnared himſelf, by the date of the Warrant, which my Lord firſt diſcovered. And whereas *Larimore* replies, that he was Robbed at ſeveral other times, he may have credit, (but by thoſe only that can believe all that he hath ſaid and ſworn;) For he ſaith that he was robbed before he and I differed, which muſt be before *October*, 1667. and he told Sir *John Croke* likewiſe (when I was committed,) that he was robbed of the foreſaid Goods but a Month before, which

which muſt needs be about the 19th. of *Auguſt*, 1668. but now he ſwears in Court, that he ſaw me ſteal theſe Goods on *Friday*, the 18th of *September*, 1668. which muſt needs be impoſſible, that I ſhould rob him at three ſeveral times of the ſame Ring and Five-ſhilling-piece; and beſides this, it is improbable, that he ſhould be robbed before, *October*, 1667. and again in *Aug.* 1668. becauſe he never declared any of theſe Robberies to any Perſon, before the 16th. of *Sept.* 1668. (upon which Day, he, and Sir *John Croke* concluded upon this Conſpiracy, as hereafter we ſhall make appear; And moreover *Larimore* (himſelf) confeſſed even now, that he fetch'd this Warrant to ſearch for this very Ring and Five-ſhilling-piece (which now he denies.) By this, all may ſee, how notoriouſly he contradicts himſelf.

L. C. B. ſaid to *Larimore*, Thou art very cunning, to be provided with a Warrant, a day before you was robbed. It ſeems you knew upon the 17th day, that you ſhould be robbed on the 18th day, and alſo, that this Perſon (now at the Bar) ſhould Rob you. Surely, you can Divine. Here the People began to cry out ſhame on *Larimore*.

L. C. B. ſaid to me, Sir, but if you were innocent of this Robbery, why did you refuſe to open your Doors, or to have your Houſe Search'd?

Hawk. My Lord, I had ſeveral reaſons, that moved me ſo to do.

1. In General, moſt of thoſe Perſons that were preſent, were my inveterate Enemies, and ſeveral of them had threatned to ruine me, and my Family; and therefore, I had reaſon to ſuſpect, that they came to injure me, either in my Poſſeſſion, or Goods; For the firſt, Sir *John Croke*, and *Larimore*, had often threatned to pull down my Houſe, and for that end, had hired ſeveral Perſons, to make a Forcible Entry upon it, and particularly, they had lately hired *Faires* the Son of *Leonard Styres* of *Thame*, (in the County of *Oxon*) by a Ladder to climb up, and run down my Chimney, and open my Doors, when we were all Abroad: And about the ſame time they alſo contracted with one *Chriſtopher Tyler* of *Chilton* for the ſame purpoſe. And 2. I feared the ſeizing of my Goods by the ſaid Perſons, becauſe they had then a Writ of *Levary* (or Execution) to ſeize them, which *Larimore*'s Son had a few days before in part executed, and he was then preſent; And if theſe reaſons are not ſufficient, I have more to juſtifie my act, in refuſing to have them ſearch my Houſe, which was all (my Lord) I ever denied, for I then declared my ſelf willing that Mr. *Sanders* the other Conſtable, (he being then at the next Door) might charge whom he pleaſed, and ſearch as narrowly as he could.

L. C. B. ſaid, Mr. *Hawkins*, can you prove what you have ſaid?

Hawk. Yes, my Lord, which particular ſhall I prove?

L. C. B. Prove that about the Ladder, if you can.

Hawk. I pray my Lord, call *John Acreman*: He being called, did fully juſtifie what I ſaid concerning their intended Forcible Entry, and added farther, that he did help to ſet up the Ladder for that purpoſe, being called by Sir *John Croke*'s own Sons, they and *Larimore* ſtanding by all that time to watch. And touching the ſecond Particular, concerning the ſeizing of my Goods, Mr. Sheriff himſelf can juſtifie, that they had then in their Hands ſuch a Writ: (my Lord) he is in Court, if your Honour pleaſe to call him.

And for the 3d particular, that I ſhewed my ſelf willing that Mr. *Sanders* ſhould Search, I can prove (my Lord) by theſe Witneſſes following, *viz. Michael Reed*, Gent. Mr. *Thomas Sanders*, Mr. *Henry Golder*, *Robert Caſemore*, Mr. *Charles Willcox*, and ſeveral others that were preſent. My Lord Chief Baron hearing theſe Reaſons fully proved, commended my Diſcretion, in not opening my Doors, and he added further, that he ſhould have done as much himſelf, ſaying it was a foul buſineſs, and the Judge (then looking towards Sir *John Croke* with an angry Countenance,) ſaid to me, Sir, is this Sir *John Croke* concerned in this buſineſs?

Hawk. If it may pleaſe your Honour (my Lord) with permiſſion, I ſuppoſe that Sir *John Croke* is deeply concerned in this Conſpiracy, and I doubt not but to make it appear to the World, (if I may be heard.)

L. C. B. You need not fear that, for you ſhall have time; go on.

Hawk. I humbly thank your Honour; and I crave leave to call two Witneſſes, *viz.* Mr. *Charles Willcox*, and Mr. *Samuel Browne*; both theſe being called, Mr. *Willcox* ſaid, If it may pleaſe your Honour, my Lord, upon *Friday* the 18th of *September*, 1668. I was at *Larimore*'s (Houſe in *Chilton*, from Noon till it was near Night) with *Larimore*, a driving of ſome bargain about Tyles, and other things; and, my Lord, Mr. *Hawkins* was not at *Larimore*'s Houſe all that Afternoon, nor did I hear any thing at all then, that *Larimore* was robb'd, which (my Lord) I muſt needs have done, if he had been robbed that Afternoon, for I was there.

L. C. B. At what time came you to *Larimore*'s Houſe, Mr. *Willcox*? take heed what you ſay.

Willcox. Before Noon, my Lord.

L. C. B. Mr. *Willcox*, how long did you ſtay there?

Mr. *Willcox.* Until it was near Night, my Lord.

L. C. B. Was *Larimore* with you all that time?

Mr. *Willcox.* Yes, my Lord, for we were about to bargain for ſome Tyles, and other things.

L. C. B. Are you ſure that it was upon the 18th of *September* that you was at *Larimore*'s Houſe?

Mr. *Willcox.* I am ſure, my Lord, that it was upon the 18th of *September* that I was there, and the Day before Mr. *Hawkins*'s Houſe was broke open.

L. C. B. What Day of the Week was it upon?

Mr. *Willcox.* It was upon a *Friday*, my Lord, and Mr. *Hawkins*'s Houſe was broken open on the next Day, it being *Saturday*.

Lar. It was upon *Thurſday*, my Lord, that Mr. *Willcox* was at my Houſe, it was not upon that Day that my Houſe was robb'd, but the Day before.

Sir *Ralph Verney* replied, No, no, *Larimore*, it could not be on the *Thurſday*, that Mr. *Willcox* and you were together at your Houſe, for that was the 17th Day of *September*, and that was the Day you was buſied in fetching your Warrant from Sir *Richard Pigott*.

L. C. B. It is well obſerved Sir, and ſo he was, and therefore it could not be on the *Thurſday* that Mr. *Willcox* was with him at his Houſe.

Sir *Richard Pigott* replied, I am ſure (my Lord) that *Larimore*, and that Fellow the Conſtable were both at my Houſe upon the 17th of *September*, as my Warrant teſtifieth.

L. C. B. At what time was it, Mr. *Willcox*, when you came that Day from *Larimore*'s Houſe?

Mr. *Willcox*, It was about Sunſet, my Lord, for it was dark by that time I got to my Houſe at *Crendon*.

L. C. B. How far is it from your Houſe at *Crendon*, to *Larimore*'s Houſe?

Mr. *Willcox*, It is about a Mile and half, my Lord.

L. C. B. Were not the ways bad at that time?

Mr. *Willcox*. No, my Lord, the ways were very good.

L. C. B. Did not you ſtop, or ſtay, or meet with ſome body by the way that might hinder you?

Mr. *Willcox*. No, my Lord, I went a good pace, it being near Night, my Lord, I was afraid of being benighted, and yet it was dark by that time I got home.

L. C. B. You that are of the Jury, do you know this Mr. *Willcox*, of what credit is he?

Jury. We have known him a long time, and we know no harm by him.

L. C. B. He looks with an honeſt Face, and you *Larimore*, do you know what that honeſt Man, Mr. *Willcox* ſays? do you know him; and did you ever ſee him at your Houſe?

Lar. Yes, my Lord, I know him well.

L. C. B. Larimore, do not you remember that he was at your Houſe on *Friday* the 18th of *September*, 1668.

Larimore replied, No, my Lord, ſure it was not upon that Day that I was robbed.

My L. C. B. *Hale* Replied, *Larimore*, No, in my Conſcience thou ſay'ſt well, for it ſeems you were not robbed upon the ſame Day, that you have ſworn you ſaw the Priſoner at the Bar commit this Robbery.

Hawk. My Lord, or upon any other Day, (as I do verily believe.) And here many of the People cryed out, that they believed as much.

L. C. B. If that Man Mr. *Willcox* ſpeaks true, then all is falſe that *Larimore*, his Son, and Siſter, hath ſworn, *&c.*

Come Mr. *Hawkins*, ſaid my Lord Chief Baron, have you any more to ſay?

Hawk. I have one Witneſs more, that I deſire may be called, *viz.* Mr. *Samuel Browne*.

L. C. B. Yes, yes, call him, come Mr. *Brown*, what can you ſay?

Mr. *Brown* ſaid, My Lord, I can ſay ſomething, but I dare not ſpeak.

L. C. B. Why dare you not? Come, ſpeak the Truth; and ſpare not, and ſay no more.

Mr. *Brown* ſaid, I dare not ſpeak, for Sir *John Croke*, and this *Larimore* have threatned me, that if I came down to this Aſſizes, to teſtifie what I heard about this Plot, Sir *John Croke* ſaid, he would fling me in the Goal, and load me with Action upon Action of 1000 *l.* and ruine me and my Family.

When the Judge, and the Juſtices heard Mr. *Brown* relate this, every Eye began to be fixt upon Sir *John Croke*, and the People asked which was that Sir *John Croke*? Then my Lord Chief Baron *Hale* commanded the Clerk of the Aſſizes to give Mr. *Brown* a Writ of Privilege, to protect him home again; which being immediately done in Court, my L. C. B. ſaid, Come Mr. *Brown*, let us now hear what you can ſay to this buſineſs?

Mr. *Brown* ſaid; If it may pleaſe your Honour, (my Lord) upon *Wedneſday*, the 16th of *Septemb.* laſt paſt, (early in the Morning) as I lay in my Bed at Sir *John Croke*'s Houſe in *Chilton*, hearing a great Noiſe, (I being then entruſted by Sir *John Lentall* as Keeper to Sir *John Croke*, which is a Priſoner at the King's Bench,) I fearing that they were contriving ſome way for him to eſcape, I ſtarted ſuddenly out of Bed, (having nothing on but my Shirt,) and ſtood at the Dining Room Door behind the Hangings, and then, my Lord, I heard this *Larimore* tell Sir *John Croke* that he had undone him, by cauſing him to contend with the Parſon. Sir *John Croke* asked him why? *Larimore* replied, becauſe this *Hawkins* will undoe me, for he hath entered me into moſt Courts of *England*, and ſummoned me into the Crown-Office and Chancery, and I cannot maintain ſo many Suits: Sir *John Croke* replied, is that all? Come Brother *Larimore*, be contented, we will have one Trick more for *Hawkins* yet, which ſhall do his work. *Larimore* replied, Sir *John*, you have put me upon too many Tricks already, more than I can manage, and the Parſon is too hard for us ſtill. Sir *John* replied, [If thou wilt but Act, I will hatch enough to hang *Hawkins*.] *Larimore* replyed, but how ſhall we bring this to paſs? Sir *John Croke* made Anſwer, [Canſt not thou convey ſome Gold, or Silver into Mr. *Hawkins* his Houſe, and have a Warrant ready to ſearch his Houſe, and then our Work is done.] *Larimore* replyed, Sir, if we could but bring this to paſs, it might do well, but I know not how. Sir *John Croke* ſaid to *Larimore*, Do you but go to Sir *Richard Pigott*, and inform him, that you have loſt ſome Money, and Goods, and deſire his Warrant to ſearch for them, (which Sir *Richard* neither can, nor will deny you) and then take *Dick Mayne* the Conſtable, (who is one of us, and will do whatever we deſire him,) and go and ſearch Mr. *Hawkins*'s Houſe, and there you will find theſe things; and then Charge him with flat Felony, and force him before me, and no other Juſtice, and I'll ſend him to Goal without Bail, [And we will hang him at the next Aſſizes.] Come, ſaid Sir *John Croke*, Brother *Larimore*, let us go and drink our Mornings draught, and we will conſult more about this buſineſs. And ſo, my Lord, I heard no more for that time. But——

L. C. B. That was enough, and too much too, but however, Mr. *Brown*, go on.

Mr. *Brown*. So upon *Saturday* next, (being the 19th of *Sept.* 1668.) I having been abroad (and towards Night) coming up the Town, I was informed that Mr. *Hawkins* (as *Larimore* pretended,) had robbed him: I then began to think more ſeriouſly upon what I had heard paſs the *Wedneſday* before, between Sir *John Croke* and this *Larimore*, and coming to Sir *John*'s Houſe, I ſaw a Paper lying upon the Hall-Table full of Writing, and *Larimore* with the Conſtable, and ſeveral others, had brought Mr. *Hawkins* before Sir *John Croke*, who Committing Mr. *Hawkins* for Robbing *Larimore*, as he pretended, took up the

the ſaid Paper and read it to the Conſtable, and ſaid, that it was Mr. *Hawkins*'s *Mittimus*, which ſaid *Mittimus* was written before Mr. *Hawkins* came to Sir *John Croke*, as all that were there can juſtifie. And on *Sunday* Morning I went to an Alehouſe, where they had kept Mr. *Hawkins* all Night, and there I ſaw Mr. *Hawkins* go to the Goal, and then my Heart began to tremble, and yet I durſt not diſcover any thing of what I had heard; but coming home, I ſaid to Sir *John Croke*, Sir, What, they have carried the poor Parſon to the Goal. Sir *John Croke* replied, [Yes, let him go, and the Devil go with him, and more ſhall follow after;] have I not often told you, that if my Brother *Larimore* and I, did but lay our Heads together, none are able to ſtand againſt us? I replied, Yes, Sir *John*, I have often heard you ſay ſo, but I never believed it until now.

L. C. B. Mr. *Brown*, is all this true which you have related?

Mr. *Brown*. Yes, my Lord, all that I have ſaid is true, and there ſits Sir *John Croke* (pointing to him with his Finger) who knows, that every Word that I have ſaid is true.

L. C. B. If but ever a Word that Mr. *Brown* ſays be true, it is as foul a Conſpiracy as ever was heard of.

About this time Sir *John Croke* ſtole away from the Bench, without taking his Leave of my Lord Chief Baron, or any of the Juſtices.

My *L. C. B.* ſaid, Is this Sir *John Croke* a Gentleman, and contrives ſuch Plots as this? I never in all my Days heard of the like: but I think once in this Place, I met with one ſomething like it, but this far exceeds that, if this be true that Mr. *Brown* hath ſaid.

But you of this Jury, there is an honeſt Man, ſaid my Lord, pointing to Mr. *Wilcox*, he overthrows all; if that be true which he ſaid, then all that is falſe which *Larimore*, his Son, and Siſter hath ſworn.

Larimore ſaid, My Lord, what I have ſworn as to Mr. *Hawkins* is true.

My *L. C. B.* reply'd, Come, *Larimore*, thou art a very Villain.

Larimore ſaid, I wiſh that the Ground may open, and ſwallow me, if any thing that I have ſworn againſt Mr. *Hawkins* is falſe.

L. C. B. replied, Come, come, *Larimore*, thou art a very Villain; nay, I think thou art a Devil.

Hawk. I hope your Honour, and this Jury, are by this time fully convinc'd, that Sir *John Croke* is concerned in this Plot; for, my Lord, he hath appeared all along to be the Grand Contriver of it, as appears by Mr. *Brown*'s Teſtimony, and by what he ſaid to *Larimore* before me and others. See their Charge in thoſe Words.

L. C. B. Hales replied, I am fully ſatisfied, and ſo (I think) are all that heard it; And he ſaid to the Juſtices, Gentlemen, where is this Sir *John Croke*? They reply'd, he is gone.

L. C. B. Is Sir *John Croke* gone? he ſaid, Gentlemen, I muſt not forget to acquaint you (for I thought that Sir *John Croke* had been here ſtill) that this Sir *John Croke* ſent me this Morning two Sugar-Loaves for a Preſent, praying me to excuſe his Abſence yeſterday. I did not then know, ſo well as now, what he meant by them, but to ſave his Credit, I ſent his Sugar-Loaves back again. Mr. *Harvey*, did you not ſend Sir *John* his Sugar-Loaves back again?

Clerk of the Aſſize. Yes, my Lord, they were ſent back again.

L. C. B. I cannot think that Sir *John Croke* believes that the King's Juſtices come into the Country to take Bribes, I rather think, that ſome other Perſon (having a deſign to put a Trick upon him) ſent them in his Name. And ſo taking the Letter out of his Boſom, ſhewing it to the Juſtices, ſaid, Gentlemen, do you know this Hand? To which ſome of them replied, they believed it might be Sir *John Croke*'s own Hand, which Letter being compared with his *Mittimus* (for he had no Clerk) and ſome other of his Writings there, it plainly appeared to be his own Hand. So my L. C. B. ſeeing that, (putting up the Letter again into his Boſom) ſaid, he intended to carry that to *London*; and he added farther, that he would relate the Foulneſs of the Buſineſs as he found Occaſions fit for it.

L. C. B. ſaid, Mr. *Hawkins*, have you any more?

Hawk. My Lord, I hope that the Jury, and your Lordſhip is fully ſatisfied as to my Innocency, if ſo, my Lord; but if not, I humbly deſire to know wherein I have not given full Satisfaction, and if any thing elſe ſhall be alledged againſt me, I humbly crave time and leave to anſwer it; for, my Lord, I am confident, I can give a fuller Satisfaction, if what I have ſaid already be too ſhort.

L. C. B. You of the Jury, what do you think? The Priſoner at the Bar deſires to know whether you are ſatisfied as to the Indictment; if not, you may do well to declare wherein you are not ſatisfied.

Jury. It is a very plain Caſe, my Lord.

L. C. B. And I think ſoo too, but it is a very foul one.

L. C. B. ſaid to me, Sir have you any more?

Hawk. My Lord, I humbly thank your Honour and the Court, for that great Patience, and Liberty I have had, and intend to ſay no more, but with *Quintilian* I conclude, *Innocentia melior eſt quàm Eloquentia*, Innocence is better than Eloquence.

My Lord Chief Baron Hale's *Directions to the Jury were to this Effect.*

L. C. B. ſaid, You that are of the Jury, the Priſoner at the Bar ſtands indicted for Robbing this *Larimore*, and you have heard at large both the Proſecutor's Evidence to prove him Guilty (which if you do believe) I never heard a fuller. And *2dly*. You have alſo heard the Priſoner's Defence, wherein (as I think) he hath as fully anſwered the ſame Charge. I ſhall Firſt, repeat the Evidence againſt him, which conſiſts of two Branches; the firſt is the Proſecutor's Proof of this Indictment; and ſecondly, his charging him with other Crimes of the like Nature, as the ſtealing of *Chilton*'s Boots, and the picking of *Noble*'s Pocket.

1. For to prove him guilty of Robbing him, he obſerves this Method:

Firſt, He himſelf ſwears that he ſaw the Priſoner at the Bar commit the Robbery.

Secondly, His Son and Siſter ſwears that they ſaw him run out of the Houſe at the ſame time.

Thirdly,

Thirdly, He brings in four or five Perſons that ſwear the Gold Ring, and the Five-ſhilling-piece, was found in the Houſe of him that is now the Priſoner at the Bar.

Fourthly and Laſtly, He proves by two Witneſſes, that the Gold Ring and Five-ſhilling-piece was pawned to him.

And for the Firſt of theſe, *Larimore* ſwears that upon *Friday* the 18th of *September* laſt paſt, he lockt his Doors, between Twelve and One of the Clock at Noon, and went out, (leaving no body at home,) to pluck Hemp, about two Furlongs from his Houſe, where he ſtay'd with the reſt of his Family till within an hour and a half of Sunſet; at which time, he coming home, found his Doors open, and ran up into his Chamber, and there through the Chinks of the Loft-boards, he ſwears that he ſaw the Priſoner, now at the Bar, ranſacking, and rifling of a Box, in the which was at that time a Holland Apron, and a Purſe, in which Purſe was two Gold Rings, two pieces of Gold, and nineteen Shillings in Silver, all which ſaid Rings, Gold, and Silver, with the ſaid Apron, he ſwears that he did ſee the Priſoner now at the Bar, turn out of the ſaid Purſe, take, and Felonioufly carry away, except one piece or two of the Silver, and ſhews the very Purſe out of which he ſaw him take them. If you compare the Evidence with the Indictment, you may ſee the Policy of the Proſecutor, For, he would gladly ſeem a moderate Proſecutor, by Indicting him for Felony only, as the ſtealing of Rings and Money, *&c.* But by his Evidence, he would as gladly charge him with Burglary alſo, for he ſwears, he broke open, or pick'd the Locks of his Doors, and Box, which by Law is the ſame.

And Secondly, To corroborate this his Evidence, he brings in two Witneſſes more, *viz.* his Son, and Siſter *Beamſly*, and they ſwear that they did, at the ſame time, ſee the Priſoner that is now at the Bar, run out of *Larimore*'s Houſe, with a great bunch of Keys in his Hand, and he hid himſelf amongſt Beans and Weeds: And note the Keys, to intimate that by the help of thoſe, he pick'd *Larimore*'s Locks.

Thirdly, He brings in his Son, *Dodſworth Croke*, the Conſtable, and Tything man, which all ſwear that they found this Gold Ring, and Five-ſhilling-piece of Silver in a Basket hanging upon a Pin, in the Houſe of the Priſoner at the Bar, with a few Eggs, which the Priſoner at the Bar the Day before had ſtollen from him.

And Fourthly and Laſtly, He brings in one of Sir *John Croke*'s Sons, and Mr. *Good*, who ſwear, that the one pawn'd the Ring, the other the Five ſhilling-piece to *Larimore*.

Thus *Larimore* ſwears he ſaw the Priſoner rob him, his Son and Siſter ſwear that they ſaw him run out of the Houſe, the ſame time four more ſwear, that they found the Ring, and Five-ſhilling-piece in his Houſe upon ſearch; And Laſtly, two ſwear that the Ring and Five-ſhilling-piece was pawned to him. If all this be true, he muſt needs be guilty, and if ſo, altho' I have a great reſpect for his Calling yet that ſhall no ways excuſe him, but rather aggravate his Crime.

And thus much touching the Indictment.

And Secondly, He ſeems to charge him with other Acts of the like nature; as

1. He brings in one *Chilton* to ſwear that the Priſoner at the Bar did ſteal a pair of Boots from him, and four or five Perſons ſwear, that they did hear *Chilton* ſay he did.

2. He brings one *Boyce* from *London*, a Perſon I think, of no great Credit, he ſwears that he ſaw the Priſoner at the Bar, about two Years ago, have his Hand in the Pocket of one *James Noble*, and that *Noble* ſaid, that he loſt a Gold Ring, and piece of Gold at the ſame time. This, (if true) would render the Priſoner now at the Bar obnoxious to any Jury. Thus far the Evidence againſt the Priſoner at the Bar.

Now we come to the Priſoner's Defence, which becauſe it is ſo full, I ſhall be the briefer in it. The parts of his Defence were two, as himſelf obſerved.

1. He ſhews how too improbable it is.

And 2. How impoſſible that he ſhould be guilty of this Charge.

Firſt, That it is not likely that *Larimore* was robbed at all, becauſe he did not declare it to any of his Neighbours, as ſoon as he ſaw the Robbery Committed; again, he varies as to the time when it was done, for that he told his Brother *Beamſly*, that he had loſt the Ring and Five-ſhilling-piece, before there was any difference between him, and the Priſoner at the Bar, as appears by Mr. *Willcox*, and that difference began in *Michaelmas* Term, 1667. And before Sir *John Croke* he confeſſed that he had loſt this a Month before the Priſoner (*viz.* Mr. *Hawkins*) was committed, which muſt be about the 19th of *Auguſt*, 1668. And in Court he ſwears that he ſaw the Priſoner at the Bar Rob him of the ſame Gold Ring, and Five-ſhilling-piece of Silver, upon *Friday* the 18th of *September* 1668. an Hour and half before Sunſet, all this cannot be true; and for the Warrant, that bears date a Day before the Robbery was committed: Whereupon the Judge ſaid to *Larimore*, Come, thou art a cunning Fellow, for thou went'ſt to Sir *Richard Pigott* for a Warrant upon the 17th Day, and waſt not robb'd until the 18th Day, *Larimore* thou kneweſt it ſeems, upon the 17th Day that thou ſhould'ſt be robbed on the 18th Day, that the Priſoner now at the Bar ſhould rob thee: Surely thou canſt Divine, if all this be true. Again, is it likely, that when the Priſoner at the Bar was charged with flat Felony at his own Doors, the Conſtable likewiſe threatning to break open his Houſe to ſearch, if he had been guilty, his Wife and himſelf, having the opportunity of going abroad after they had ſo Charged him, while they were gone to conſult with Sir *John Croke*, as the Priſoner at the Bar ſufficiently proved they did, by the Teſtimony of ſeveral Witneſſes, (as Mr. *Reed*, Mr. *Sanders*, and others) that in all that time he would not have made his eſcape, or at leaſt found a more convenient place to convey a Ring, and Five-ſhilling-piece, than to let it remain all that time in a little Basket with a few Eggs, hanging on a Pin? Again, who came firſt into the Room where this Egg-Basket hung? Why *Larimore*; and who took down the Basket? *Larimore*; who turn'd out the Eggs? *Larimore*. And who had the dreſſing of the Eggs? *Larimore*. He is a ſpecial Cook; you Gentlemen of the Jury, it is an eaſie thing for *Larimore* to juggle a Ring and Five-ſhilling-piece into a Basket, he being the firſt that came into the Room, as he put up his Hand to take down the Basket, he might with eaſe enough, convey ſuch things as thoſe were into it. All this, and many more,

are

are probable Circumſtances to move you, and me to believe, that it is not poſſible that the Priſoner at the Bar is guilty of this Robbery; But that I muſt leave to you to conſider of.

Again, The Priſoner at the Bar proves the whole Buſineſs to be but a meer Contrivance of Sir *John Croke*'s, and this *Larimore*'s, on purpoſe to ruin him, as is fully made manifeſt by the Teſtimony of Mr. *Brown*, who juſtifies, that upon *Wedneſday* the 16th of *September* laſt paſt, and but two Days before this pretended Robbery, he heard Sir *John Croke* adviſe this *Larimore* to fetch a Warrant to ſearch the Houſe of the Priſoner at the Bar, and then to convey Gold and Silver into it; which having done, charge him with flat Felony, and bring him before the ſaid Sir *John Croke*, and no other Juſtice, he then promiſing to the ſaid *Larimore* to Commit him to the Goal without Bail, and hang him at the next Aſſizes, which is now: And, as I take it, they do aim at it. You of this Jury, if you do believe what Mr. *Brown* ſaith, it is as foul a Conſpiracy, as ever was heard of: And I am apt to think it may be probable, becauſe that Sir *John Croke* and *Larimore* did threaten to caſt this Mr. *Brown* into Priſon, and ſo ruin him, if he came down and teſtified his Knowledge about this Buſineſs, which thing is of a very ill Conſequence. Again, it ſeems likely that Mr. *Brown* may be credited, if you compare their Actions with the Times; for upon *Tueſday* Sir *John* Arreſted the Priſoner upon a feign'd Action of an 100 *l.* Upon *Wedneſday* the Plot was concluded upon by Sir *John Croke* and *Larimore*, as may appear by Mr. *Brown*'s Teſtimony. On *Thurſday* they procured of Sir *Richard Pigott* the Warrant to ſearch. On *Friday*, *Larimore* pretends that he was robbed (tho' in Truth there appears no ſuch thing.) Upon *Saturday*, the Priſoner's Houſe was broke open, and he apprehended; and upon *Sunday* he was carried to the Goal: It was a good Week's Work. But there is an honeſt Man, ſaid my Lord Chief Baron (pointing at Mr. *Willcox*) he knocks down all; for he juſtifies, that he came to *Larimore*'s Houſe upon *Friday* the 18th of *September* laſt paſt (it being the ſame Day that he ſwears he ſaw the Priſoner at the Bar robbing him, and an Hour and half before Sun-ſet) and there continued till it was near Night; and he further ſaith, that *Larimore* was with him all that Afternoon. And he ſaid, that *Larimore* was not robbed that Afternoon, nor was Mr. *Hawkins* there at that time. If this that Mr. *Willcox* ſaith be true, then all that *Larimore*, his Son, and Siſter hath ſworn, muſt needs be falſe.

And as touching the Boots, *Chilton* ſwears that he had legg'd a pair of Boots for the Priſoner at the Bar, and laid them in his Shop-window, for him to take along with him as he went by, which he did, and paid him for his Work, and yet this *Larimore*, Sir *John Croke*, *Croxſtone*, and others, did uſe their utmoſt Endeavours, to ſtir up this *Chilton* to indict the Priſoner at the Bar for ſtealing of them (*Croxſtone* promiſing him to bear him out in it.) This can argue nothing elſe but Malice in thoſe Perſons: And for that which *Boyce* ſwears, is a Story that can argue nothing elſe; for neither is *Noble* here to proſecute, nor can *Boyce* ſwear that the Priſoner at the Bar did pick his Pocket, or that *Noble* ever ſaid he did.

Thus I have repeated the Evidence to prove him Guilty, and have not I think omitted any thing in it that is material. Which if you do believe, he muſt needs be Guilty. And alſo the Priſoner's Defence, which I think is ſufficient. It is a plain Caſe, and I ſuppoſe you need not go from the Bar, but that I leave to you.

And ſo the Jury not ſtirring from the Bar, which the Clerk obſerving, he called the Jury, who ſeverally anſwered to their Names; which being done, the Clerk of the Arraigns asked whether they were all agreed upon their Verdict.

Jury. Yes, we are all agreed.

Clerk. Who ſhall ſpeak for you?

Jury. Our Fore-man.

Clerk. Robert Hawkins, Hold up thy Hand. Which I did.

Jury. Look upon the Priſoner at the Bar, How ſay you? Is he guilty of the Felony whereof he ſtands indicted, or not guilty?

Fore-man of the Jury ſaid, Not Guilty, my Lord.

L. C. B. Hale ſaid to the Jury, You have found like Honeſt Men: I do believe, that he is Not guilty. And he ſaid to *Larimore*, thou art a very Villain.

Jaylor ſaid, Is Mr. *Hawkins*, my Lord, diſcharged of his Impriſonment.

L. C. B. reply'd, Yes, yes, he is diſcharged, paying his Fees.

Hawk. May it pleaſe your Honour, my Lord, I am poor; and this, with other Troubles, which they have unjuſtly occaſion'd, hath coſt me a great deal of Money already.

L. C. B. I cannot help that, nor can I give away other Mens Rights; if they will not remit their Fees, you muſt pay them.

Hawk. I humbly thank your Honour, and ſhall obſerve your Lordſhip's Commands.

And ſo the Court aroſe, there being no other Buſineſs but my Trial the whole Morning, which laſted from Eight until One. So as ſoon as my Trial was over, Sir *John Croke*, *Larimore*, and the reſt of that Crew, fled privately out of *Ailesbury*, and durſt not ſtay.

The

The TRIAL *of* William Penn *and* William Mead, *at the Seſſions held at the* Old Baily *in* London, *the* 1*ſt*, 3*d*, 4*th*, *and* 5*th of* September, 1670. *Done by themſelves.*

PRESENT

Sam. Starling, *Mayor.*	Richard Ford, *Alderman.*	
Tho. Howel, *Recorder.*	Joſeph Shelden, *Alderman.*	
Tho. Bludworth, *Alderm.*	John Smith,	*Sheriffs.*
William Peak, *Alderm.*	James Edwards,	
John Robinſon, *Alderm.*	Richard Browne.	

Cryer. O Yes, *Thomas Veer*, —— *Buſhel*, *John Hammond*, *Charles Milſon*, *Gregory Walklet*, *John Brightman*, *William Plumſted*, *Henry Henley*, *Thomas Damask*, *Henry Michel*, *William Lever*, *John Baily.*

The Form of the OATH.

" You ſhall well and truly Try, and true Deliverance make betwixt our Sovereign " Lord the King, and the Priſoners at the Bar, according to your Evidence. *So help* " *you God.*

THAT *William Penn*, Gent. and *William Mead*, late of *London*, Linnen-Draper, with divers other Perſons to the Jurors unknown, to the Number of 300, the 14th Day of *Auguſt*, in the 22d Year of the King, about Eleven of the Clock in the Forenoon, the ſame Day, with Force and Arms, *&c.* in the Pariſh of St. *Benret Gracechurch* in *Bridge-Ward*, *London*, in the Street called *Gracechurch-Street*, unlawfully and tumultuouſly did Aſſemble and Congregate themſelves together, to the Diſturbance of the Peace of the ſaid Lord the King: And the aforeſaid *William Penn* and *William Mead*, together with other Perſons to the Jurors aforeſaid unknown, then and there ſo Aſſembled and Congregated together; the aforeſaid *William Penn*, by Agreement between him and *William Mead* before made, and by Abetment of the aforeſaid *William Mead*, then and there, in the open Street, did take upon himſelf to Preach and Speak, and then and there did Preach and Speak unto the aforeſaid *William Mead*, and other Perſons there, in the Street aforeſaid, being Aſſembled and Congregated together, by Reaſon whereof a great Concourſe and Tumult of People in the Street aforeſaid, then and there, a long time did remain and continue, in contempt of the ſaid Lord the King, and of his Law, to the great Diſturbance of his Peace; to the great Terror and Diſturbance of many of his Leige People and Subjects, to the ill Example of all others in the like Caſe Offenders, and againſt the Peace of the ſaid Lord the King, his Crown and Dignity.

What ſay you, *William Penn* and *William Mead*, are you Guilty, as you ſtand indicted, in Manner and Form, as aforeſaid, or Not Guilty?

Penn. It is impoſſible, that we ſhould be able to remember the Indictment *verbatim*, and therefore we deſire a Copy of it, as is cuſtomary in the like Occaſions.

Recorder. You muſt firſt plead to the Indictment, before you can have a Copy of it.

Pen. I am unacquainted with the Formality of the Law, and therefore, before I ſhall anſwer directly, I requeſt two Things of the Court. Firſt, that no Advantage may be taken againſt me, nor I deprived of any Benefit, which I might otherwiſe have received. Secondly, that you will promiſe me a fair hearing, and liberty of making my Defence.

Court. No Advantage ſhall be taken againſt you; you ſhall have Liberty; you ſhall be heard.

Pen. Then I plead Not guilty in Manner and Form.

Clerk. What ſayeſt thou, *William Mead*, art thou Guilty in Manner and Form, as thou ſtandeſt indicted, or Not guilty?

Mead. I ſhall deſire the ſame Liberty as is promiſed *William Penn.*

Court. You ſhall have it.

Mead. Then I plead Not guilty in Manner and Form.

The Court adjourn'd until the Afternoon.

Cryer. O Yes, *&c.*

Cler. Bring *William Penn* and *William Mead* to the Bar.

Obſerv. The ſaid Priſoners were brought, but were ſet aſide, and other Buſineſs proſecuted. Where we cannot chooſe but obſerve, that it was the conſtant and unkind Practices of the Court to the Priſoners, to make them wait upon the Trials of Felons and Murderers, thereby deſigning, in all probability, both to affront and tire them.

After

After five Hours Attendance, the Court broke up and adjourned to the third Inſtant.

The third of *September* 1670, the Court ſate.

Cryer. O Yes, *&c.*

Cler. Bring *William Penn* and *William Mead* to the Bar.

Mayor. Sirrah, who bid you put off their Hats? Put on their Hats again.

Obſer. Whereupon one of the Officers putting the Priſoners Hats upon their Heads (purſuant to the Order of the Court) brought them to the Bar.

Record. Do you know where you are?

Pen. Yes.

Record. Do not you know it is the King's Court?

Pen. I know it to be a Court, and I ſuppoſe it to be the King's Court.

Record. Do you not know there is Reſpect due to the Court?

Pen. Yes.

Record. Why do you not pay it then?

Pen. I do ſo.

Record. Why do you not pull off your Hat then?

Pen. Becauſe I do not believe that to be any Reſpect.

Record. Well, the Court ſets forty Marks a piece upon your Heads, as a Fine for your Contempt of the Court.

Pen. I deſire it might be obſerved, that we came into the Court with our Hats off (that is, taken off) and if they have been put on ſince, it was by Order from the Bench; and therefore not we, but the Bench ſhould be fined.

Mead. I have a Queſtion to ask the Recorder, Am I fined alſo?

Record. Yes.

Mead. I deſire the Jury, and all People to take notice of this Injuſtice of the Recorder; who ſpake to me to pull off my Hat? and yet hath he put a Fine upon my Head. O fear the Lord, and dread his Power, and yield to the Guidance of his Holy Spirit, for he is not far from every one of you.

The Jury ſworn again.

Obſer. J. Robinſon, Lieutenant of the *Tower*, diſingenuouſly objected againſt—— *Buſhel*, as if he had not kiſs'd the Book, and therefore would have him ſworn again; tho' indeed it was on purpoſe to have made uſe of his Tenderneſs of Conſcience in avoiding reiterated Oaths, to have put him by his being a Jury-man, apprehending him to be a Perſon not fit to anſwer their Arbitrary Ends.

The Clerk read the Indictment, as aforeſaid.

Clerk. Cryer, Call *James Cook* into the Court, give him his Oath.

Cler. James Cook, lay your Hand upon the Book.

The Evidence you ſhall give to the Court, betwixt our Sovereign the King, and the Priſoners at the Bar, ſhall be the Truth, and the whole Truth, and nothing but the Truth. So help you God.

Cook. I was ſent for, from the *Exchange*, to go and diſperſe a Meeting in *Gracechurch-Street*, where I ſaw Mr. *Penn* ſpeaking to the People, but I could not hear what he ſaid, becauſe of the Noiſe: I endeavoured to make way to take him, but I could not get to him for the Crowd of People; upon which Capt. *Mead* came to me, about the Kennel of the Street, and deſired me to let him go on; for when he had done, he would bring Mr. *Penn* to me.

Court. What Number do you think might be there?

Cook. About three or four Hundred People.

Court. Call *Richard Read*, give him his Oath.

Read being ſworn was ask'd, What do you know concerning the Priſoners at the Bar?

Read. My Lord, I went to *Gracechurch-Street*, where I found a great Crowd of People, and I heard Mr. *Penn* preach to them; and I ſaw Capt. *Mead* ſpeaking to Lieutenant *Cook*, but what he ſaid, I could not tell.

Mead. What did *William Penn* ſay?

Read. There was ſuch a great Noiſe, that I could not tell what he ſaid.

Mead. Jury, obſerve this Evidence, He ſaith he heard him Preach, and yet ſaith, he doth not know what he ſaid.

Jury, take notice, he ſwears now a clean contrary thing to what he ſwore before the Mayor when we were committed: For now he ſwears that he ſaw me in *Gracechurch-Street*, and yet ſwore before the Mayor, when I was committed, that he did not ſee me there. I appeal to the Mayor himſelf, if this be not true. But no Anſwer was given.

Court. What Number do you think might be there?

Read. About four or five hundred.

Penn. I deſire to know of him what Day it was?

Read. The 14th Day of *Auguſt*.

Pen. Did he ſpeak to me, or let me know he was there; for I am very ſure I never ſaw him.

Cler. Cryer, call———— into the Court.

Cour. Give him his Oath.

—— My Lord, I ſaw a great Number of People, and Mr. *Penn* I ſuppoſe was ſpeaking; I ſee him make a Motion with his Hands, and heard ſome Noiſe, but could not underſtand what he ſaid. But for Capt. *Mead*, I did not ſee him there.

Rec. What ſay you, Mr. *Mead*, were you there?

Mead. It is a Maxim in your own Law, *Nemo tenetur accuſare ſeipſum*, which if it be not true Latin, I am ſure it is true Engliſh, *That no Man is bound to accuſe himſelf:* And why doſt thou offer to enſnare me with ſuch a Queſtion? Doth not this ſhew thy Malice? Is this like unto a Judge, that ought to be Counſel for the Priſoner at the Bar?

Rec. Sir, Hold your Tongue, I did not go about to inſnare you.

Pen. I deſire we may come more cloſe to the Point, and that Silence be commanded in the Court.

Cry. O yes, All manner of Perſons keep Silence upon Pain of Impriſonment———Silence in the Court.

Pen. We confeſs our ſelves to be ſo far from recanting, or declining to vindicate the Aſſembling of our ſelves to Preach, Pray, or Worſhip the Eternal, Holy, Juſt God, that we declare to

all the World, that we do believe it to be our indiſpenſable Duty, to meet inceſſantly upon ſo good an Account; nor ſhall all the Powers upon Earth be able to divert us from reverencing and adoring our God who made us.

Brown. You are not here for worſhipping God, but for breaking the Law; you do your ſelves a great deal of Wrong in going on in that Diſcourſe.

Pen. I affirm I have broken no Law, nor am I guilty of the Indictment that is laid to my Charge; and to the End the Bench, the Jury, and my ſelf, with theſe that hear us, may have a more direct Underſtanding of this Procedure, I deſire you would let me know by what Law it is you proſecute me, and upon what Law you ground my Indictment.

Rec. Upon the Common Law.

Pen. Where is that Common Law?

Rec. You muſt not think that I am able to run up ſo many Years, and over ſo many adjudged Caſes, which we call Common Law, to anſwer your Curioſity.

Pen. This Anſwer I am ſure is very ſhort of my Queſtion, for if it be Common, it ſhould not be ſo hard to produce.

Rec. Sir, will you plead to your Indictment?

Pen. Shall I plead to an Indictment that hath no Foundation in Law? If it contain that Law you ſay I have broken, why ſhould you decline to produce that Law, ſince it will be impoſſible for the Jury to determine, or agree to bring in their Verdict, who have not the Law produced, by which they ſhould meaſure the Truth of this Indictment, and the Guilt, or contrary of my Fact?

Rec. You are a ſawcy Fellow, ſpeak to the Indictment.

Pen. I ſay, it is my place to ſpeak to Matter of Law; I am arraign'd a Priſoner; my Liberty, which is next to Life it ſelf, is now concerned: You are many Mouths and Ears againſt me, and if I muſt not be allowed to make the beſt of my Caſe, it is hard. I ſay again, unleſs you ſhew me, and the People, the Law you ground your Indictment upon, I ſhall take it for granted your Proceedings are meerly Arbitrary.

Obſer. *At this time ſeveral upon the Bench urged hard upon the Priſoner to bear him down.*

Rec. The Queſtion is, whether you are guilty of this Indictment?

Pen. The Queſtion is not whether I am guilty of this Indictment, but whether this Indictment be legal. It is too general and imperfect an Anſwer, to ſay it is the Common Law, unleſs we knew both where, and what it is: For where there is no Law, there is no Tranſgreſſion; and that Law which is not in being, is ſo far from being Common, that it is no Law at all.

Rec. You are an impertinent Fellow, will you teach the Court what Law is? It's *Lex non ſcripta*, that which many have ſtudied thirty or forty Years to know, and would you have me to tell you in a Moment?

Pen. Certainly, if the Common Law be ſo hard to be underſtood, it's far from being very Common; but if the Lord *Cook*, in his *Inſtitutes*, be of any Conſideration, he tells us, That Common Law is Common Right, and that Common Right is the Great Charter-Privileges: Confirmed 9 *Hen.* 3. 29. 25 *Edw.* 1. 1. 2 *Edw.* 3. 8. *Cook Inſtit.* 2. p. 56.

Rec. Sir, you are a troubleſome Fellow, and it is not for the Honour of the Court to ſuffer you to go on.

Pen. I have asked but one Queſtion, and you have not anſwer'd me; tho' the Rights and Privileges of every *Engliſhman* be concerned in it.

Rec. If I ſhould ſuffer you to ask Queſtions till to Morrow Morning, you would be never the wiſer.

Pen. That is according as the Anſwers are.

Rec. Sir, we muſt not ſtand to hear you talk all Night.

Pen. I deſign no Affront to the Court, but to be heard in my juſt Plea: And I muſt plainly tell you, that if you will deny me *Oyer* of that Law, which you ſuggeſt I have broken, you do at once deny me an acknowledged Right, and evidence to the whole World your Reſolution to ſacrifice the Privileges of *Engliſhmen* to your ſiniſter and Arbitrary Deſigns.

Rec. Take him away. My Lord, if you take not ſome Courſe with this peſtilent Fellow, to ſtop his Mouth, we ſhall not be able to do any thing to Night.

Mayor. Take him away, take him away, turn him into the Bale-dock.

Pen. Theſe are but ſo many vain Exclamations; Is this Juſtice or true Judgment? Muſt I therefore be taken away becauſe I plead for the Fundamental Laws of *England*? However, this I leave upon your Conſciences, who are of the Jury (and my ſole Judges) that if theſe Ancient Fundamental Laws, which relate to Liberty and Property, and (are not limited to particular Perſuaſions in Matters of Religion) muſt not be indiſpenſibly maintained and obſerved. Who can ſay he hath Right to the Coat upon his Back? Certainly our Liberties are openly to be invaded, our Wives to be raviſhed, our Children ſlaved, our Families ruined, and our Eſtates led away in Triumph, by every ſturdy Beggar and malicious Informer, as their Trophies, but our (pretended) Forfeits for Conſcience ſake. The Lord of Heaven and Earth will be Judge between us in this Matter.

Rec. Be ſilent there.

Pen. I am not to be ſilent in a Caſe wherein I am ſo much concerned, and not only my ſelf, but many ten thouſand Families beſides.

Obſer. They having rudely haled him into the Bale-dock, *William Mead* they left in Court, who ſpake as followeth.

Mead. You Men of the Jury, here I do now ſtand, to anſwer to an Indictment againſt me, which is a Bundle of Stuff, full of Lyes and Falſhoods; for therein I am accuſed, that I met *Vi & armis, illicite & tumultuoſe*: Time was, when I had Freedom to uſe a carnal Weapon, and then I thought I feared no Man; but now I fear the Living God, and dare not make uſe thereof, nor hurt any Man; nor do I know I demeaned my ſelf as a tumultuous Perſon: I ſay, I am a peaceable Man, therefore it is a very proper Queſtion what *William Penn* demanded in this Caſe, An *Oyer* of the Law, on which our Indictment is grounded.

Rec. I have made Anſwer to that already.

Mead. Turning his Face to the Jury, ſaith, You Men of the Jury, who are my Judges, if the Recorder will not tell you what makes a Riot, a Rout, or an unlawful Aſſembly, *Cook*, he that once they called the Lord *Cook*, tells us what makes a Riot, a Rout, and an unlawful Aſſembly

bly——A Riot is when three, or more, are met together to beat a Man, or to enter forcibly into another Man's Land, to cut down his Graſs, his Wood, or break down his Pales.

Obſer. Here the Recorder interrupted him, and ſaid, I thank you Sir, that you will tell me what the Law is, ſcornfully pulling off his Hat.

Mead. Thou mayſt put on thy Hat, I have never a Free for thee now.

Brown. He talks at random, one while an Independent, another while ſome other Religion, and now a Quaker, and next a Papiſt.

Mead. *Turpe eſt doctori cum culpa redarguit ad ipſum.*

May. You deſerve to have your Tongue cut out.

Rec. If you diſcourſe on this Manner, I ſhall take Occaſion againſt you.

Mead. Thou didſt promiſe me, I ſhould have fair Liberty to be heard; Why may I not have the Privilege of an *Engliſhman*? I am an *Engliſhman*, and you might be aſhamed of this dealing.

Rec. I look upon you to be an Enemy to the Laws of *England*, which ought to be obſerved and kept, nor are you worthy of ſuch Privileges, as others have.

Mead. The Lord is Judge between me and thee in this Matter.

Obſer. Upon which they took him away into the Bale-dock, and the Recorder proceeded to give the Jury their Charge, as followeth.

Rec. You have heard what the Indictment is, It is for preaching to the People, and drawing a tumultuous Company after them, and Mr. *Penn* was ſpeaking; if they ſhould not be diſturbed, you ſee they will go on; there are three or four Witneſſes that have proved this, that he did preach there; that Mr. *Mead* did allow of it: after this, you have heard by ſubſtantial Witneſſes what is ſaid againſt them: Now we are upon the Matter of Fact, which you are to keep to, and obſerve, as what hath been fully ſworn, at your Peril.

Obſer. The Priſoners were put out of the Court into the Bale-dock, and the Charge given to the Jury in their Abſence, at which *W. P.* with a very raiſed Voice, it being a conſiderable diſtance from the Bench, ſpake.

Pen. I appeal to the Jury, who are my Judges, and this great Aſſembly, whether the Proceedings of the Court are not moſt Arbitrary, and void of all Law, in offering to give the Jury their Charge in the Abſence of the Priſoners; I ſay, it is directly oppoſite to, and deſtructive of, the undoubted Right of every *Engliſh* Priſoner, as *Cook* in the 2 *Inſtit.* 29. on the Chap. of *Magna Charta*, ſpeaks.

Obſer. The Recorder being thus unexpectedly laſh'd for his extra-judicial Procedure, ſaid, with an inraged Smile.

Rec. Why, ye are preſent, you do hear, do you not?

Pen. No thanks to the Court, that commanded me into the Bale-dock; and you of the Jury take notice, that I have not been heard, neither can you legally depart the Court, before I have been fully heard, having at leaſt ten or twelve material Points to offer, in order to invalid their Indictment.

Rec. Pull that Fellow down, pull him down.

Mead. Are theſe according to the Rights and Privileges of *Engliſhmen*, that we ſhould not be heard, but turned into the Bale-dock, for making our Defence, and the Jury to have their Charge given them in our Abſence; I ſay theſe are barbarous and unjuſt Proceedings.

Rec. Take them away into the Hole: To hear them talk all Night, as they would, that I think doth not become the Honour of the Court, and I think you (*i. e.* the Jury) your ſelves would be tired out, and not have Patience to hear them.

Obſer. The Jury were commanded up to agree upon their Verdict, the Priſoners remaining in the ſtinking Hole. After an Hour and half's time eight came down agreed, but four remained above; the Court ſent an Officer for them, and they accordingly came down. The Bench uſed many unworthy Threats to the four that diſſented; and the Recorder, addreſſing himſelf to *Buſhell*, ſaid, *Sir, You are the Cauſe of this Diſturbance, and manifeſtly ſhew your ſelf an Abettor of Faction; I ſhall ſet a Mark upon you, Sir.*

J. Robinſon. Mr. *Buſhel*, I have known you near this fourteen Years; you have thruſt your ſelf upon this Jury, becauſe you think there is ſome Service for you: I tell you, you deſerve to be indicted more than any Man that hath been brought to the Bar this Day.

Buſhel. No, Sir *John*, there were threeſcore before me, and I would willingly have got off, but could not.

Bloodw. I ſaid, when I ſaw Mr. *Buſhel*, what I ſee is come to paſs, for I knew he would never yield. Mr. *Buſhel*, we know what you are.

May. Sirrah, you are an impudent Fellow, I will put a Mark upon you.

Obſer. They uſed much menacing Language, and behaved themſelves very imperiouſly to the Jury, as Perſons not more void of Juſtice than ſober Education: After this barbarous Uſage, they ſent them to conſider of bringing in their Verdict, and after ſome conſiderable time they returned to the Court. Silence was call'd for, and the Jury call'd by their Names.

Cler. Are you agreed upon your Verdict?

Jury. Yes.

Cler. Who ſhall ſpeak for you?

Jury. Our Fore-man.

Cler. Look upon the Priſoners at the Bar; How ſay you? Is *William Penn* Guilty of the Matter whereof he ſtands indicted in Manner and Form, or Not guilty?

Fore-m. Guilty of Speaking in *Gracechurch-Street.*

Court. Is that all?

Fore-m. That is all I have in Commiſſion.

Rec. You had as good ſay nothing.

May. Was it not an unlawful Aſſembly? you mean he was ſpeaking to a Tumult of People there?

Fore m. My Lord, This is all I had in Commiſſion.

Obſer. Here ſome of the Jury ſeemed to buckle to the Queſtions of the Court; upon which, *Buſhel, Hammond*, and ſome others, oppoſed themſelves, and ſaid, they allowed of no ſuch Word, as an unlawful Aſſembly in their Verdict; at which the Recorder, Mayor, *Robinſon* and *Bloodworth* took great occaſion to villifie them with moſt opprobrious Language; and this Verdict not ſerving their Turns, the Recorder expreſs'd himſelf thus.

Rec. The Law of *England* will not allow you to part till you have given in your Verdict.

Jury. We have given in our Verdict, and we can give in no other.

Rec. Gentlemen, you have not given in your Verdict, and you had as good ſay nothing; therefore go and conſider it once more, that we may make an end of this troubleſome Buſineſs.

Jury. We deſire we may have Pen, Ink and Paper.

Obſer. The Court adjourn'd for half an Hour; which being expired, the Court returns, and the Jury not long after.

The Priſoners were brought to the Bar, and the Jury's Names called over.

Cler. Are you agreed of your Verdict?

Jur. Yes.

Cler. Who ſhall ſpeak for you?

Jur. Our Fore-man.

Cler. What ſay you, look upon the Priſoners: Is *William Penn* Guilty in Manner and Form, as he ſtands indicted, or Not guilty?

Fore-m. Here is our Verdict, holding forth a piece of Paper to the Clerk of the Peace, which follows;

WE *the Jurors, hereafter named, do find* William Penn *to be Guilty of Speaking or Preaching to an Aſſembly, met together in* Gracechurch-Street, *the* 14*th of* Auguſt *laſt*, 1670. *And that* William Mead *is Not guilty of the ſaid Indictment.*

Fore-m.	*Thomas Veer,*	*Charles Milſon,*
	Edward Buſhel,	*Gregory Walklet,*
	John Hammond,	*John Baily,*
	Henry Henley,	*William Lever,*
	Henry Michel,	*James Damask,*
	John Brightman,	*Wil. Plumſted.*

Obſer. This both Mayor and Recorder reſented at ſo high a rate, that they exceeded the Bounds of all Reaſon and Civility.

May. What will you be led by ſuch a ſilly Fellow as *Buſhel?* an impudent canting Fellow? I warrant you, you ſhall come no more upon Juries in haſte: You are a Fore-man indeed, addreſſing himſelf to the Fore-man, I thought you had underſtood your Place better.

Rec. Gentlemen, you ſhall not be diſmiſt till we have a Verdict, that the Court will accept; and you ſhall be lock'd up, without Meat, Drink, Fire, and Tobacco; you ſhall not think thus to abuſe the Court; we will have a Verdict, by the help of God, or you ſhall ſtarve for it.

Pen. My Jury, who are my Judges, ought not to be thus menaced; their Verdict ſhould be free, and not compelled; the Bench ought to wait upon them, but not foreſtall them. I do deſire that Juſtice may be done me, and that the Arbitrary Reſolves of the Bench may not be made the Meaſure of my Jury's Verdict.

Rec. Stop that prating Fellow's Mouth, or put him out of the Court.

May. You have heard that he preach'd, that he gathered a Company of tumultuous People, and that they do not only diſobey the Martial Power, but Civil alſo.

Pen. It is a great Miſtake; we did not make the Tumult, but they that interrupted us: The Jury cannot be ſo ignorant, as to think, that we met there, with a Deſign to diſturb the Civil Peace, ſince (1ſt.) we were by Force of Arms kept out of our lawful Houſe, and met as near it in the Street, as their Soldiers would give us leave; and (2dly.) becauſe it was no new thing (nor with the Circumſtances expreſs'd in the Indictment) but what was uſual and cuſtomary with us; 'tis very well known that we are a peaceable People, and cannot offer Violence to any Man.

Obſer. The Court being ready to break up, and willing to huddle the Priſoners to their Goal, and the Jury to their Chamber, *Penn* ſpoke as follows.

Pen. The Agreement of Twelve Men is a Verdict in Law, and ſuch a one being given by the Jury, I require the Clerk of the Peace to record it, as he will anſwer it at his Peril. And if the Jury bring in another Verdict contradictory to this, I affirm they are perjur'd Men in Law: And looking upon the Jury, ſaid, You are *Engliſhmen*, mind your Privilege, give not away your Right.

Buſh. &c. Nor will we ever do it.

Obſer. One of the Jury-men pleaded Indiſpoſition of Body, and therefore deſired to be diſmiſt.

May. You are as ſtrong as any of them; ſtarve them; and hold your Principles.

Rec. Gentlemen, You muſt be contented with your hard Fate, let your Patience overcome it; for the Court is reſolved to have a Verdict, and that before you can be diſmiſt.

Jury. We are agreed, we are agreed, we are agreed.

Obſer. The Court ſwore ſeveral Perſons, to keep the Jury all Night without Meat, Drink, Fire, or any other Accommodation; they had not ſo much as a Chamber-pot, tho' deſired.

Cry. O Yes, *&c.*

Obſer. The Court adjourns till Seven of the Clock next Morning (being the 4th Inſtant, vulgarly call'd *Sunday*) at which time the Priſoners were brought to the Bar: The Court ſat, and the Jury called to bring in their Verdict.

Cry. O Yes, *&c.*----Silence in the Court, upon pain of Impriſonment.

The Jury's Names called over.

Cler. Are you agreed upon your Verdict?

Jur. Yes.

Cler. Who ſhall ſpeak for you?

Jur. Our Fore-man.

Cler. What ſay you? Look upon the Priſoners at the Bar; Is *William Penn* Guilty of the Matter whereof he ſtands indicted, in Manner and Form as aforeſaid, or Not guilty?

Fore-m. William Penn is guilty of Speaking in *Gracechurch-Street.*

May. To an unlawful Aſſembly?

Buſh. No, my Lord, we give no other Verdict than what we gave laſt Night; we have no other Verdict to give.

May. You are a factious Fellow, I'll take a Courſe with you.

Blood. I knew Mr. *Buſhel* would not yield.

Buſh. Sir *Thomas* I have done according to my Conſcience.

May. That Conſcience of yours would cut my Throat.

Buſh. No, my Lord, it never ſhall.

May. But I will cut yours ſo ſoon as I can.

Rec. He has inſpired the Jury; he has the Spirit of Divination, methinks I feel him; I will have a poſitive Verdict, or you ſhall ſtarve for it.

Pen. I deſire to ask the Recorder one Queſtion, Do you allow of the Verdict given of *William Mead?*

Rec.

Rec. It cannot be a Verdict, becauſe you were indicted for a Conſpiracy, and one being found Not guilty, and not the other, it could not be a Verdict.

Pen. If Not guilty be not a Verdict, then you make of the Jury and *Magna Charta* but a meer Noſe of Wax.

Mead. How! is Not guilty no Verdict?

Rec. No, 'tis no Verdict.

Pen. I affirm, that the Conſent of a Jury is a Verdict in Law; and if *William Mead* be Not guilty, it conſequently follows, that I am clear, ſince you have indicted us of a Conſpiracy, and I could not poſſibly conſpire alone.

Obſer. There were many Paſſages, that could not be taken, which paſt between the Jury and the Court. The Jury went up again, having received a freſh Charge from the Bench, if poſſible to extort an unjuſt Verdict.

Cry. O Yes, *&c.* Silence in the Court.

Cour. Call over the Jury. Which was done.

Cler. What ſay you? Is *William Penn* Guilty of the Matter whereof he ſtands indicted, in Manner and Form aforeſaid, or Not guilty?

Fore-man. Guilty of ſpeaking in *Gracechurch-Street.*

Rec. What is this to the Purpoſe? I ſay, I will have a Verdict. And ſpeaking to *Edw. Buſhel*, ſaid, You are a factious Fellow; I will ſet a Mark upon you; and whilſt I have any thing to do in the City, I will have an Eye upon you.

May. Have you no more Wit than to be led by ſuch a pitiful Fellow? I will cut his Noſe.

Pen. It is intolerable that my Jury ſhould be thus menaced: Is this according to the Fundamental Laws? Are not they my proper Judges by the great Charter of *England*? What hope is there of ever having Juſtice done, when Juries are threatned, and their Verdicts rejected? I am concerned to ſpeak and grieved to ſee ſuch Arbitrary Proceedings. Did not the Lieutenant of the *Tower* render one of them worſe than a Felon? And do you not plainly ſeem to condemn ſuch for factious Fellows, who anſwer not your Ends? Unhappy are thoſe Juries, who are threatned to be fined, and ſtarved, and ruined, if they give not in Verdicts contrary to their Conſciences.

Rec. My Lord, you muſt take a Courſe with that ſame Fellow.

May. Stop his Mouth; Jaylor, bring Fetters, and ſtake him to the Ground.

Pen. Do your Pleaſure, I matter not your Fetters.

Rec. Till now I never underſtood the Reaſon of the Policy and Prudence of the *Spaniards*, in ſuffering the Inquiſition among them: And certainly it will never be well with us, till ſomething like unto the *Spaniſh* Inquiſition be in *England.*

Obſer. The Jury being required to go together to find another Verdict, and ſtedfaſtly refuſing it (ſaying they could give no other Verdict than what was already given) the Recorder in great Paſſion was running off the Bench, with theſe Words in his Mouth, *I proteſt I will ſit here no longer to hear theſe Things*; at which the Mayor calling, *Stay, ſtay*, he returned, and directed himſelf unto the Jury, and ſpoke as followeth:

Rec. Gentlemen, we ſhall not be at this trade always with you; you will find the next Seſſions of Parliament there will be a Law made, that thoſe that will not conform ſhall not have the Protection of the Law. Mr. *Lee*, draw up another Verdict, that they may bring it in ſpecial.

Lee. I cannot tell how to do it.

Jur. We ought not to be return'd, having all agreed, and ſet our Hands to the Verdict.

Rec. Your Verdict is nothing, you play upon the Court; I ſay you ſhall go together, and bring in another Verdict, or you ſhall ſtarve; and I will have you charted about the City, as in *Edward* the Third's time.

Fore-m. We have given in our Verdict, and all agreed to it; and if we give in another, it will be a Force upon us to ſave our Lives.

May. Take them up.

Offic. My Lord, they will not go up.

Obſer. The Mayor ſpoke to the Sheriff, and he came off of his Seat, and ſaid.

Sher. Come, Gentlemen, you muſt go up; you ſee I am commanded to make you go.

Obſer. Upon which the Jury went up; and ſeveral ſworn to keep them without any Accommodation, as aforeſaid, till they brought in their Verdict.

Cry. O yes, *&c.* The Court adjourns till to Morrow Morning, at ſeven of the Clock.

Obſer. The Priſoners were remanded to *Newgate*, where they remained till next Morning, and then were brought unto the Court, which being ſat, they proceeded as followeth.

Cry. O yes, *&c.* Silence in the Court, upon pain of Impriſonment.

Cler. Set *William Penn* and *William Mead* to the Bar. Gentlemen of the Jury, anſwer to your Names; *Tho. Veer, Edw. Buſhel, John Hammond, Henry Henly, Henry Michell, John Brightman, Charles Milſon, Gregory Walklet, John Baily, William Leaver, James Damask, William Plumſtead.* Are you all agreed of your Verdict?

Jur. Yes.

Cler. Who ſhall ſpeak for you?

Jur. Our Fore-man.

Cler. Look upon the Priſoners. What ſay you? is *William Penn* Guilty of the Matter whereof he ſtands indicted, in Manner and Form, *&c.* or Not guilty?

Fore-man. Here is our Verdict in Writing, and our Hands ſubſcribed.

Obſer. The Clerk took the Paper, but was ſtopt by the Recorder from reading of it; and he commanded to ask for a poſitive Verdict.

Fore-man. That is our Verdict; we have ſubſcribed to it.

Cler. How ſay you? is *William Penn* Guilty, *&c.* or Not guilty?

Fore-man. Not guilty.

Cler. How ſay you? is *William Mead* Guilty, *&c.* or Not guilty?

Fore-man. Not guilty.

Cler. Then hearken to your Verdict; you ſay that *William Penn* is Not guilty in Manner and Form as he ſtands indicted; you ſay that *William Mead* is Not guilty in Manner and Form as he ſtands indicted, and ſo you ſay all?

Jur. Yes, we do ſo.

Obſer. The Bench being unſatisfied with the Verdict, commanded that every Perſon ſhould diſtinctly anſwer to their Names, and give in their Verdict, which they unanimouſly did, in ſaying, Not Guilty, to the great Satisfaction of the Aſſembly.

Rec. I am ſorry, Gentlemen, you have followed your own Judgments and Opinions, rather than the good and wholſome Advice, which

was

was given you; God keep my Life out of your Hands; but for this the Court Fines you forty Mark a Man; and Impriſonment till paid. At which *Penn* ſtept up towards the Bench, and ſaid.

Pen. I demand my Liberty, being freed by the *Jury*.

May. No, you are in for your Fines.

Pen. Fines, for what?

May. For contempt of the Court.

Pen. I ask, if it be according to the Fundamental Laws of *England*, that any Engliſh-Man ſhould be Fined or Amerced, but by the Judgment of his Peers or Jury; ſince it expreſly contradicts the fourteenth and twenty-ninth Chap. of the great Charter of *England*, which ſay, No Free-Man ought to be amerced, but by the Oath of good and Lawful Men of the Vicinage.

Rec. Take him away, Take him away, take him out of the Court.

Pen. I can never urge the Fundamental Laws of *England*, but you cry, Take him away, take him away. But it is no wonder, *Since the Spaniſh Inquiſition hath ſo great a place in the Recorder's Heart.* God Almighty, who is juſt, will judge you all for theſe things.

Obſer. They haled the Priſoners into the Bale-dock, and from thence ſent them to *Newgate*, for Non-payment of their Fines; and ſo were their *Jury*.

The CASE of ANTHONY *Earl of* SHAFTSBURY; *as it was Argued before His Majeſties Juſtices of the* King's-Bench, *the 27th and 29th of* June, *in Trin. Term.* 29 Car. 2. 1677.

THIS Day the Earl of *Shaftsbury* was brought to the Bar upon the Return of an *Alias Hab. Corp.* directed to the Conſtable of the Tower of *London*; the Effect of the Return was, that *Anthony* Earl of *Shaftsbury*, in the Writ mentioned, was Committed to the Tower of *London*. 16. *Feb. Anno Dom.* 1676, By Virtue of an Order from the Lords Spiritual and Temporal then in Parliament aſſembled: the Tenor of which Order followeth *in hæc verba.*

Ordered, by the Lords Spiritual and Temporal in Parliament Aſſembled, That the Conſtable of His Majeſty's Tower of London, *his Deputy or Deputies, ſhall receive the Bodies of* James *Earl of* Salisbury, Anthony *Earl of* Shaftsbury, *and* Philip *Lord* Wharton, *Members of this Houſe, and keep them in ſafe Cuſtody, within the ſaid Tower, during His Majeſty's Pleaſure, and the Pleaſure of this Houſe; for High Contempts committed againſt this Houſe: And this ſhall be a ſufficient Warrant on that Behalf.*

To the Conſtable of the Tower, &c.

J. Browne Cler. Par.

The Earl of *Shaftsbury*'s Council prayed that the Return might be Filed, and it was ſo, and *Friday* following appointed for debating the Sufficiency of the Return, and in the mean time directions were given to his Council to attend the Judges and Attorney General, with their Exceptions to the Return, and my Lord was remanded till that Day; and it was ſaid, that tho' the Return was filed, the Court could remand or Commit him to the *Marſhalſea* at their Election.

On *Friday* the Earl was brought into Court again, and his Council argued the Inſufficiency of the Return.

Williams ſaid, That the Cauſe was of great Conſequence, in regard that the King was touched in his Prerogative; the Subject was touched in his Liberty, and this Court in its Juriſdiction.

1ſt. The Cauſe of Commitment which is returned, is not ſufficient, for the general Allegations of high Contempts is too uncertain, for the Court cannot judge of the Contempt, if it doth not appear in what act it conſiſts.

2dly. It is not known where the Contempts were committed, and in favour of Liberty, it ſhall be intended they were committed out of the Houſe of Peers.

3dly. The time is uncertain, ſo that, peradventure, it was before the laſt Act of General Pardon.

4thly. It does not appear whether the Commitment were on a Conviction or Accuſation only.

It cannot be denyed, but that the Return of ſuch a Commitment, by any other Court, would be too general and uncertain, *More.* 893, *Aſtwiſh* was Bailed on a Return, *quod commiſſus fuit per mandatum.* N. *Milit. Dni. Cuſtod. Magn. Sigil. Angliæ virtute cujuſdem contemptus in curia facti,* and in that Book, that divers other Perſons were bailed on ſuch general Returns, and the Caſes have been lately affirmed in *Buſhel*'s Caſe, reported by the late Lord Chief Juſtice *Vaughan*, where it is expreſly ſaid that ſuch Commitment and Return being too general and uncertain, the Court can't believe in an implicite manner, that in truth the Commitment, was for Cauſes particular and ſufficient.

Vaughan's Reports, 140. *Accord.* 2 *Inſt.* 52, 53, & 55. and the 1 *Rolls.* 218. and though the Commitment of the Jurors was for acquitting *Penn* and *Mead, contra plenam & manifeſtam evidentiam:* It was reſolved to be too general, for the Evidence ought to appear as certainly to the Judge of the Return, as it appears before the Judge authorized to Commit. *Ruſh. Caſe.* 137.

Now

Now this Commitment being by the Houſe of Peers will make no difference; for in all Caſes where a Matter comes in Judgment before this Court, let the queſtion be of what nature it will, the Court is obliged to declare the Law, and that without diſtinction, whether the queſtion began in Parliament or no. In the Caſe of *Geo. Binion* in *C. B.* there was a long Debate, *Whether an Original Writ might be Filed againſt a Member of Parliament, during the time of Privilege*; and it was urged, *that it being during the Seſſion of Parliament, the termination of the Queſtion did belong to the Parliament*: But it was reſolved that an Original might be filed; and *Bridgman* then Chief Juſtice, ſaid, that the Court was obliged to declare the Law in all Caſes that came in Judgment before them. *H. 4. Ed. 4. Rut. 4. 7. 10.* in *Scacc.* In Debt by *River* verſus *Couſin*, the Defendant pleads that he was ſent of a Member of Parliament, *& Ideo Capi ſeu areſtant non debet*, and the Plantiff prays Judgment, and afterwards by Advice of all the Judges the Judgment was entered. *Videtur Baronibus quod tale habetur Privilegium quod Magnates*, &c. *Et eorum familiares capi ſeu areſtare non debent ſed nullum habetur privilegium quod non debent Implantare ideo reſpondet Noſter.* So in *Triviniard*'s Caſe, a queſtion of Privileges was determined in this Court. *Dyer.* 60. in 14. *Ed.* 3. in the Caſe of Sir *John* and Sir *Jeoffry Stanton*, which was cited in the Caſe of the Earl of *Clarendon*, and is entred in the Lords Journal.

An Accord of Waſt, depended between them in the Common-Pleas, and the Court was divided and the Record was Certified into the Houſe of Lords, and they gave direction that the Judgment ſhould be Entred for the Plaintiff; afterwards on a Writ of Error brought in this Court that Judgment was Reverſed, notwithſtanding the Objection, that it was given by Order of the Houſe of Lords; for the Court was obliged to proceed according to the Law in a matter that was before them in point of Judgment. Not long ſince the Earl of *Briſtol* Exhibited an Accuſation againſt the Earl of *Clarendon* to the Houſe of Lords, and it contained divers matters, whereof ſome did ariſe out of Parliament, and it was referred to the Judges to conſider whether that Procedure was Parliamentary; and the 4th of *July* 1663. it was reſolved by the Judges, that the Lords ought not to proceed only upon an Impeachment by the Commons, when the matters ariſe out of the Houſe.

The Conſtruction of all Acts of Parliament are given to the Courts of *Weſtminſter*, and accordingly they have Judges of Validity of Acts of Parliament, they have ſearched the Rolls of Parliament, *Hub.* 109. Lord *Hunſdon*'s Caſe, they have determined whether the Journal be a Record, *Hub.* 110. When a point comes before them in Judgment, they are not forecloſed by any Act of the Lords, but ought to Judge according to the Law, by which the Realm is Governed, and not by the Lords: If it appears that an Act of Parliament be made by the King and Lords without the Commons, that Act is *Felo-de-ſe*, and the Courts of *Weſtminſter* ought to judge it void, 4. *H.* 7. 18. *Hub.* 111. and accordingly they ought to do, if this Return contain in it that which is fatal to it ſelf. It hath been a queſtion often reſolved in this Court when a Writ of Error in Parliament, ſhall be a *Superſedeas*, and this Court hath determined that ſhall be ſaid to be a Seſſion of Parliament, 1. *Rolls.* 29. and if the Law were otherwiſe there would be a failure of Juſtice. If the Parliament were diſſolved, there would be no queſtion but the Priſoner ſhould be diſcharged on a *Habeas Corpus*, and yet then the Court muſt examine the Cauſe of Commitment, and by Conſequence a matter Parliamentary, and the Court may now have Cognizance of the matter, as clearly as when the Parliament is diſſolved. The Party would be without remedy for his Liberty, if he could not find it here, for it is not ſufficient for him to procure the Lords to determine their Pleaſure for his Impriſonment, for before his Enlargement he muſt have the Pleaſures of the King to be determined, and that ought to be in this Court, and therefore the Priſoner ought firſt to reſort hither.

Let us ſuppoſe (for it does not appear in the Return, and the Court ought not to Enquire of any matter out of it,) that the ſuppoſed Contempt was a thing done out of the Houſe; it would be hard for this Court to remand him: Suppoſe he were removed to a Foreign Priſon, during the Pleaſure of the Lords: No doubt, but that would have been an Illegal Commitment againſt *Magna Charta* and the Petition; there the Commitment would have been expreſly Illegal, and it may be this Commitment may be no leſs; for if it had been Expreſly ſhewn, and if he be remanded, he is Committed by this Court, who are to anſwer for his Impriſonment.

But 2. The limitation of the Impriſonment during the Pleaſures of the King and the Houſe is Illegal and uncertain; for ſince it ought to determine in two Courts, it can have no certain Period, a Commitment until he ſhall be Diſcharged by King's Bench and Common Pleas is Illegal; for the Priſoner can't apply himſelf in ſuch a manner as to obtain his Diſcharge. If a Man be Committed to further order, *Cook* ſaith, he is Baylable preſently, for that Imports till he ſhall be delivered in good courſe of Law, and if this Commitment have not that Senſe, it is Illegal, for the Pleaſure of the King is that which ſhall be determined according to Law in his Courts, as where the Stat. of *Weſtminſter*, 1 *Chap.* 15. declares that he is not reprovable, who is taken by Command of the King, who ought not to extend to an Extrajudicial Command but in his Courts of Juſtice, to which all matters of Judicature are delegated and diſtributed. 2 *Inſt.* 186. and 187.

Wollop, To the ſame purpoſe, cited *Buſhel*'s Caſe, *Vaughan*, 137. that the Return for high Contempts was not ſufficient, and the Court that made the Commitment in this Caſe makes no difference in the Caſe, for otherwiſe one may be Impriſoned by the Houſe of Peers Unjuſtly, for a matter relievable here, and yet ſhall be without any manner of relief, by ſuch a return; for on Suppoſition that this Court ought not to meddle where the Perſon is Committed by the Peers, any Perſon at any time and for any Cauſe may be ſubject to a perpetual Impriſonment at the Pleaſure of the Lords.

And the Law is otherwiſe, for the Houſe of Lords is the Supream Court, yet their Juriſdiction is limited by the Common and Statute-Law, and their Exciſes are examinable in this Court, for there is a great difference between the Errors and Exciſe in and of a Court between an Erronious Proceeding without Juriſdiction, which is void and a meer Nullity, 4 *H.* 7. 18. 6. in

in the Parliament the King would have one attain it of Treaſon, and loſe his Lands, and the Lords aſſented, but nothing was ſaid of the Commons, wherefore all the Juſtices held clearly that it was no Act, and he was reſtored to his Land, and without doubt in the ſame Caſe if the Party had been Impriſoned, the Juſtices might have made the like Reſolution that he ought to have been diſcharged.

It is a Solæciſme that a Man ſhall be Impriſoned by a limited Juriſdiction, and it ſhall not be examinable, whether the Cauſe were within their Juriſdiction or not, if the Lords without the Commons ſhould grant a Tax, and one that refuſed to pay it ſhould be Impriſoned, the Tax is void; but by a general Commitment the Party ſhall be remedyleſs if ſo be the Lords ſhould award a *Capias* for Treaſon or Felony.

By theſe Inſtances it appears that their Juriſdiction was reſtrained by the Common Law, and it is alſo reſtrained by divers Acts of Parliament, 1 *Hen.* 4. *Chap.* 14. no Appeals ſhall be made, or any ways purſued, or where a Statute is made a Power is Implicitly given to this Court by the Fundamental Inſtitution, which makes the Judges Expoſitors of Acts of Parliament; and peradventure if all this caſe appeared upon the return, this might be a Caſe in which they were reſtrained by the Stat. 4. *Hen.* 8. *Chap.* 8. That all the Suits, Uſements, and Condemnations, *&c.* Many time from henceforth, at any time to be put or had upon any Members for any Bill ſpeaking or reaſoning of any matters concerning the Parliament to be Communed or Treated of, ſhall be utterly void and of no effect, now it does not appear, but this is a Correction and Puniſhment Impoſed upon the Earl, contrary to the Statute, there is no queſtion now made of the Power of the Lords, but it is only urged that it is neceſſary for them to declare by Virtue what Power they proceed, otherwiſe the Liberty of every *Engliſh* Man ſhall be ſubject to the Lords, whereof they may deprive any of them againſt an Act of Parliament, but no uſage can juſtify ſuch a proceeding. *Elſmore's* Caſe of the Poſt, *Nati.* 19. The Duke of *Suffolk* was Impeached by the Commons of High Treaſon, and Miſdemeanors, the Lords were in doubt whether they ſhould proceed upon ſuch a general Impeachment to Impriſon the Duke, and the advice of the Judges being demanded, and their Reſolution given in the Negative, the Lords were ſatisfied. This Caſe is mentioned with deſign to ſhew the reſpect given to the Judges, and that the Judges have determined the higheſt matters in Parliament. At a Conference held between the Lords and the Commons, 3d. *April*, 4. *Car.* concerning the Right and Privilege of the Subject, it was declared and agreed, that no Freeman ought to be Committed or reſtrained by Commitment of the King or Privy-Council, or any other (in which the Houſe of Peers is included) unleſs ſome Cauſe of Commitment, Reſtraint, or Detainor be ſet forth, for which by Law he ought to be Committed, *&c.*

Now if the King, who is the Head of the Parliament, nor the Privy-Council who is a Court of State, to which Secrecy is ſo neceſſary, may not Impriſon without ſhewing Cauſe, *a fortiori*, the Lords in Parliament can't, which are a Court of Law as well as a Court of State, and therefore ought not to proceed in an Illegal manner, 'tis true in 1. *Rolls.* 192. *Ruſhworth's* Caſe, *Cook* is of Opinion that the Privy Council may Commit without ſhewing Cauſe, but in his more Mature Age, he was of another Opinion, and accordingly the Law is declared in the Petition of Right.

Smith argued to the ſame purpoſe, and ſaid a Judge cannot make a Judgment unleſs the Fact appears to him, and on an *Habeas Corpus*, the Judge can only take notice of the Fact returned; it is lawful for any Subjects that finds himſelf agrieved by any Sentence or Judgment to Petition the King in an humble manner for redreſs, and where the Subject is reſtrained of his Liberty, the proper place for him to apply himſelf unto is this Court, which hath the Supream Power as to this purpoſe, over all Courts, and on an *Habeas Corpus* iſhuing hence, the King ought to have an Account of his Subject, *Rolls. Hab. Corp.* 64 *Witherlies* Caſe, and though the Commitment be by the Lords, yet if it be Illegal, this Court is obliged to diſcharge the Priſoner, as well as if he had been Illegally Impriſoned by any other Court; the Houſe of Peers is a high Court, but the *King's Bench* hath ever been Intruſted with the Liberty of the Subject, and if it were otherwiſe in caſe of Impriſonment by the Peers, the Power of the King was leſs abſolute than the Power of the Lords.

It does not appear but that this Commitment was for Breach of the Privilege, but nevertheleſs if it were, this Court might give relief, as appears in Sir *George Bigmore's* Caſe before cited, and *Mich.* 12. *Ed.* 4. *Rut.* 20. for the Court which has Power to judge what is Privilege, has alſo Power to judge what is Contempt of Privilege; if the Judges may judge of an Act of Parliament, *a fortiori*, they may judge of an Order of the Lords, 20. *Ed. Butcher's* Caſe, where he in Reverſion brought an Action of Waſt, and dyed before Judgment, and his Heirs brought an Action for the ſame Waſt, and the King and the Lords determined that it did lie, and commanded the Judges to give Judgment accordingly for the time to come; but by *Ryley.* 39. it appears that it is only an Order of the King and the Lords, and that was the cauſe the Judges conceived that they were not bound by it, but 39 3. 13. and ever ſince have Judged the contrary if it be admitted. For that for Breach of Privilege may Commit, yet it ought to appear on the Commitment that that was the Cauſe, for otherwiſe that may be called a Breach, which is only a refuſal to anſwer to a matter whereof the Houſe of Lords is reſtrained to hold Plea by the Stat. of the 1ſt. of *Hen.* 4. and for a Contempt committed out of the Houſe they cannot Commit, for the Word Appeal in the Statute extends to all Miſdemeanors, as it was reſolved by the Judges in the Earl of *Clarendon's* Caſe, *July*, 1663. If the Impriſonment be not lawful, the Court cannot remand him to his wrongful Impriſonment, for that would be an Act of Injuſtice, to Impriſon him, *De novo*, *Vaughan.* 156. It does not appear whether the Contempt was a Voluntary Act, or an Opinion, or an Inadvertency, and he has now ſuffered five Months Impriſonment already; falſe Impriſonment is not only where the Commitment is unjuſt, but where the Petition is too long. 2 *Inſt.* 53. In this Caſe if this Court cannot give Remedy, peradventure the Impriſonment ſhall be perpetual; for the King, as the Law

is

is now taken, may Adjourn the Parliament for 10 or 20 Years.

But all this is ſaid on Suppoſition that this Seſſion has continuance, I conceive that the King's giving his Royal Aſſent to ſeveral Laws which has been Enacted, the Seſſion is determined, and then their order for the Impriſonment is alſo determined, *Brook* Parliament. 86. Every Seſſion in which the King Signs Bills is a Day of it ſelf, a Seſſion of it ſelf, 1 *Car.* 1. 7. A Special Act is made, the giving the Royal Aſſent to ſeveral Bills, ſhall not determine the Seſſion. ('Tis true, 'tis there ſaid to be made for the avoiding all Doubts.) In the Stat. 16 *Car.* 1. There is a Promiſe to the ſame purpoſe, and alſo 12 *Car.* 2. 1. and 22. and 23. *Car.* 2. 2. 1. 11. *Ro.* 2. *No.* 12.

By the Opinion of *Cook.* 4 *Inſt.* 27. the Royal Aſſent does not determine, but the Authorities on which he relies, don't Warrant his Opinion, for firſt in the Parliament, *Roll.* 1. *H.* 7. It appears that the Royal Aſſent was given to the Act, for the reverſal of the Attainder of the Members of Parliament; the ſame Day it was given to the other Bills, and the ſame Year the ſame Parliament Aſſembled again, and then 'tis Probable, that the Members which had been attainted were preſent and not before, 8 *R.* 2. *No.* 13. is only a Judgment in Caſe of Treaſon, by Virtue of a Power reſerved to them on the Statute, 25 *Ed.* 3. *Rot.* Parliament. 7 *H.* 4. *No.* 29. is not an Act of Parliament, 14 *Ed.* 3. *N.* 789. The Act is firſt entred on the Roll, but on Condition the King will grant their other Petitions, the Inference my Lord *Cook* makes, that the Act for the Attainder of Queen *Katherine*, 33 *H.* 8. was paſſed before the determination of the Seſſion, yet it was on a Judgment given againſt by the Commiſſions of *Oyer* and *Terminer*, and the Subſequent Act is only an Act of Confirmation; but *Cook* ought to be excuſed for all his Notes and Papers were taken from him, ſo that this Book did not receive his laſt Hand, but 'tis obſervable he was one of the Members of the Parliament, 1 *Car.* 1. When the ſpecial Act before mentioned, and was made, and no Inſtance can be given where an Act was paſſed; and afterwards the Parliament did proceed in that Seſſion only where [redacted] a precedent Agreement between the King and the Houſes; ſo I conclude that the Order is determined with the Seſſion, and the Earl of *Shaftsbury* ought to be Diſcharged.

Ayres to the ſame effect argued, That the Warrant is not ſufficient; for it does not appear that it was made by the *Juriſdiction* is deſired in the Houſe of Peers; for that is *coram Rege in Parliamento*, ſo that the King and the Commons are preſent in ſuppoſition of Law, and the *Writ of Error* in Parliament is *Inſpecto Recordo nos conſilio & adviſamento Spiritualium & Temporalium, & Communitatum in Parliamento prædict' exiſtent'*, &c. it would not be difficult to prove that anciently the Commons did aſſiſt there, and now it ſhall be intended that they were preſent; for there can be no Averment againſt the Record. The Lords do ſeveral Acts as a diſtinct Houſe, as the *Debating Bills*, the *Enquiring of Breaches of Privileges*, and the Warrant in this Caſe being by the *Lords Spiritual* and *Temporal*, cannot be intended otherwiſe, but that it was done by them in their diſtinct Capacity, and then the Commitment being during the Pleaſure of the King and the Houſe of Peers, it is manifeſt that the King is Principal, and His Pleaſure ought to be determined in this Court.

If the Lords ſhould commit a great Miniſter of State, whoſe Advice is neceſſary for the King and the Realm, it cannot be imagined that the King ſhall be without remedy for his Subject, but that he may have him Diſcharged by his Writ out of this Court.

This preſent Receſs is not ordinary Adjournment; for it is entred in the Journal that the Parliament ſhall not be Aſſembled at the Day of Adjournment, but Adjourned or Prorogued to another Day, if the King do not ſignifie his Pleaſure by Proclamation.

Some other Exceptions were made to the Return.

1. That no Commitment is returned, but only a Warrant to the Conſtable to receive him.

2. The Return does not anſwer the Mandate of the Writ; for that it is to have the Body of *A. E.* of *S.* and the return of Warrant for the Impriſonment of *A. Aſhley* E. of *S.*

Serjeant *Maynard* argued to maintain the Return; *The Houſe of Lords is the Supream Court of the Realm; 'tis true this Court is ſuperior to all Courts of ordinary Juriſdiction, If this Commitment had been by any Inferior Court, it could not have been maintained; But the Commitment is by a Court that is not under the Controul of this Court; and that Court is in Law ſitting at this time, and therefore the expreſſing the Contempt particularly, is a Matter that continues in the Deliberation of that Court: 'Tis true, this Court ought to determine what the Law is in every Caſe that comes before them, and in this* Caſe *the Queſtion is only whether* this Court *can judge of a* Contempt *committed in Parliament during the ſame Seſſion of Parliament, and diſcharge one committed for ſuch* Contempt. *When a Queſtion of* Privilege *ariſeth in an Accord depending in this* Court, *the* Court *may determine it; but now the Queſtion is, Whether the Lords have capacity to determine their own Privileges, and whether this* Court *can controul their Determination, and Diſcharge during their Seſſion a Peer committed for* Contempt. *The Judges have often demanded what the Law is, and how a Statute ſhould be expounded of the Lords in Parliament, as on the Statute of* Amendments, 40 *Ed.* 3. 34. 6. 8. *Co.* 157. and 158. a fortiori. *The* Court *ought to demand their Opinion, when a Doubt ariſeth on an Order made by the Houſe of Lords now ſitting.*

As to the Determination of the *Impriſonment*, doubtleſs the Pleaſure of the King is to be determined in the ſame Court where the Judgment was given.

As to the Determination of the Seſſion, the Opinion of *Cooke* is good Law, and the Addition of Promiſes of many Acts is only *in Majorem cautelam.*

Sir *Will. Jones, Att. Gen.* To the ſame Effect, as to the uncertainty of the Commitment, it is to be conſidered that this Caſe differs from all other Caſes in two circumſtances: 1. The Perſon which is committed is a Member of the Houſe by which he is committed (I do not take upon me to ſay that the Caſe would be different if the Perſon committed were not a Peer.) 2. The Court that does commit is Superior to this Court, and therefore if the Contempt had been particularly ſhewn, of what Judgment ſoever this Court ſhould have been as to the Contempt, yet they would not have diſcharged the Earl, and thereby take upon them a Juriſdiction over the Houſe of Peers.

The *Judges* in no Age have taken upon them the Judgment of what is *Lex & conſuetudo Parliamenti*; but here the Attempt is to engage the *Judges* to give their Opinion in a matter whereof they might have refuſed to have given it. If it had been demanded in Parliament, 'tis true, if a Writ be brought where Privilege is pleaded, the Court ought to judge of it as an Incident to the Suit whereof the Court was poſſeſs'd; but this will be no Warrant for this Court to aſſume a Judgment of an Original Matter ariſing in Parliament, and that which is ſaid of the Judges Power to expound Statutes, cannot be denied.

But it is not applicable to this Caſe; by the ſame Reaſon that this Commitment is queſtion'd, every Commitment of the Houſe of Commons may be likewiſe queſtion'd in this Court. It is objected, that there would be a Failure of Juſtice if the Earl ſhould not be diſcharged; but the contrary is true; for, if he be diſcharged, there would be a Failure of Juſtice for Offences in Parliament, and therefore the Earl would be diſcharged from all Manner of Puniſhment for his Offence, if he be diſcharged (for he muſt be diſcharged or remanded; for the Court cannot Bail but where they have a Juriſdiction of the Matter) and ſo deliver'd out of the Hands of the Lords, who only have Power to puniſh him.

It is objected, that the Contempt is not ſaid to be committed in the Houſe of Peers, but it may well be intended to be committed there; for it appears he is a Member of that Houſe, and that the Contempt was againſt the Houſe; and beſides, there are Contempts whereof they have Cognizance, tho' they are committed out of the Houſe. It is objected, that 'tis poſſible this Contempt was committed before the General Pardon; but ſurely ſuch Injuſtice ſhall not be ſuppoſed in the Supream Court, and it may well be ſuppoſed to be committed, during the Seſſion in which the Commitment to Priſon was.

It would be great difficulty for the Lords to make their Commitments ſo exact and particular, when they are employ'd in the Arduous Affairs of the Realm; and it has been adjudged on a Return out of *Chancery*, of a Commitment for a Contempt againſt a Decree that it was good, and yet the Decree was not ſhown.

The Limitation of the Impriſonment is well, for if the King or the Houſe determine their Pleaſure, he ſhall be diſcharged, for then 'tis not the Pleaſure of both that he ſhould be detained, and the Addition of thoſe Words *during the Pleaſure*, is no more than was before implied by the Law; for if thoſe Words had been omitted, yet the King might have pardon'd the Contempt, if he had but expreſs'd his Pleaſure under the Broad Seal. If a Judgment be given in this Court, that one ſhall be Impriſon'd during the King's Pleaſure; his Pleaſure ought to be determined by Pardon, and not by any Act of this Court, ſo that the King would have no Prejudice by the Impriſonment of a great Miniſter, becauſe he could diſcharge him by a Pardon. The double Limitation is for the Benefit of the Priſoner, who ought not to complain of the Duration of his Impriſonment, ſince he has neglected to make Application for his Diſcharge in an orderly way.

I confeſs by the Determination of the Seſſion, the Orders made the ſame Seſſion are diſcharged, but I ſhall not affirm whether this preſent Order will be diſcharged or no, becauſe it is a Judgment. But this is not the preſent Caſe, for the Seſſion continues notwithſtanding the Royal Aſſent given to ſeveral Bills, according to the Opinion of *Cook* and all the Judges. *Hutton.* 61, 62. Every Proviſo in an Act of Parliament is not a Determination of what was the Law before; for they are often added for the Satisfaction of thoſe that are ignorant of the Law.

Turner *Solicitor Gen.* To the ſame Effect, in the great Caſe of Mr. *Selden*, 5 *Car.* 1. the Warrant was for notable Contempts committed againſt us and our Government, and ſtirring up Sedition; and altho' that be almoſt as general as that in our Caſe, yet no Objection was made to it for that Cauſe in any of the Arguments, *Ruſhworth's Collections*, 18, and 19. in the Appendix. But I agree that this Return could not have been maintained if it were out of an Inferior Court, but during the Seſſion this Court can take no Cognizance of the Matter, and the Inconvenience would be great if the Law were taken otherwiſe; for this Court might Judge one way, and the Houſe of Peers another: which doubtleſs would not be for the Advantage and Benefit of the Subject. For the avoiding of this Miſchief, it was agreed by the whole Court in the Caſe of *Barnardiſton* and *Somes*, that the Accord for the double Return could not be brought in this Court until the Parliament had determined the Right of Election, leſt there ſhould be a difference between the Judgments of the Courts.

When a Judgment of the Lords comes to this Court, tho' it be of a Reverſal of a Judgment of this Court, the Court is obliged to execute it; but their Judgment was never examined or corrected here. In the Caſe of the Lord *Hollis*, it was reſolved that this Court had no Juriſdiction of a Miſdemeanor committed in Parliament; when the Parliament is determined, the Judges are the Expoſitors of the Acts, and are intruſted with the Lives, Liberties and Fortunes of the Subject, and if the Seſſion were determined, the Earl might apply himſelf to this Court, for the Subject ſhall not be without a Place, where he may reſort for the Recovery of his Liberty, but this Seſſion is not determined: For the moſt part the Royal Aſſent is given the laſt Day, as ſaith *Plowden*, *Partridge's* Caſe; yet the giving the Royal Aſſent, does not make it the laſt Day of Parliament without a ſubſequent Reſolution or Prerogative, and the Court judicially takes notice of Prorogation and Adjournments of Parliament. *Cro. Jac.* 111. *Ford verſus Hunten*, and by Conſequence no Order is diſcontinued, but remains as if the Parliament were actually Aſſembled. *Cro. Jac.* 342. Sir *Chr. Hauden's* Caſe, ſo that the Earl ought to apply himſelf to the Lords, who are his proper Judges.

It ought to be obſerved, That this Attempt is *Primæ Impreſſionis*, and though Impriſonment upon Contempt hath been frequent by the one and the other Houſe, till now no Perſon ever ſought Inlargement here: The Court was obliged in Juſtice to grant the *Habeas Corpus*, but upon the whole Matter being diſcloſed, it appears upon the Return, that the Cauſe belongs *ad aliud examen*; they ought to remand the Party.

As

As to the Limitation of the Impriſonment, the King may determine his Pleaſure by a Pardon under the Great Seal of *England*, as in the Caſe of *Reinger* and *Flagoſſa*, *Plowden* 20.

As to the Exception that no Commitment is returned, the Conſtable can only ſhew what concerns himſelf, which is the Warrant to him directed; and the Writ does not require him to return any thing elſe.

As to your Exception, that he is otherwiſe named in the Commitment than in the Writ: The Writ requires to have the Body of *A.* Earl of *S. Quocunque nomine Cenſeatur* in the Commitment.

After this, my Lord *Shaftsbury* made a Speech; the Subſtance thereof followeth.

My Lords,

'I DID not intend to have ſpoke one Word 'in this Buſineſs, but ſomething hath been 'objected and laid to my Charge by the King's 'Council, Mr. *Attorney* and Mr. *Solicitor*, that 'enforceth me to ſay ſomething for your better 'Satisfaction. They have told you that my 'Counſel in their Arguments ſaid, That this 'Court was greater than the Houſe of Peers, 'which I dare to appeal to your Lordſhips and 'the whole Court, that it was never ſpoken by 'them, I am ſure was not by any Directions of 'mine. What is done by my Counſel, and by 'me, is, That this is the moſt proper Court to 'reſort unto, where the Liberty of the Subject 'is concerned. The Lords Houſe is the Supream Houſe of Judicature in the Kingdom; 'but yet there is a Juriſdiction that the Lords 'Houſe does not meddle with. The King's 'Counſel hath mention'd, as a Wonder, That 'a Member of the Lords Houſe ſhould come 'hither to diminiſh the Juriſdiction of the 'Lords. I acknowledge them to be Superior to 'this, or any other Court, to whom all Appeals and Writs of Error are brought; and yet 'there are Juriſdictions that they do not challenge, and which are not natural to them, or 'proper for them. They claim not to meddle 'in Original Cauſes, and ſo I might mention 'in other things; and I do not think it a Kindneſs to any Power or Body of Men, to give 'them ſome Power that are not natural or proper to their Conſtitution. I do not think it a 'Kindneſs to the Lords to make them abſolute 'and above the Law, for ſo I humbly conceive 'this muſt do, if it be adjudged that they by a 'general Warrant, or without any particular 'Cauſe aſſigned, do commit me, or any other 'Man, to a perpetual and indefinite Impriſonment: And, my Lords, I am not ſo inconſiderable a Perſon, but what you do in my 'Caſe, muſt be Law for every Man in *England*.

'Mr. *Attorney* is pleaſed to ſay, I am a Member of the Lords Houſe, and to lay weight on 'the Word *Member*. It is very true, I am one 'of them, and no Man hath a greater Reverence or Eſteem for the Lords than my ſelf: 'but, my Lords, I hope my being a Peer, or a 'Member of either Houſe, ſhall not loſe my 'being an *Engliſhman*, or make me to have leſs 'Title to *Magna Charta* and the other Laws of '*Engliſh* Liberty.

'My Opinion is not with one of my Counſel, who argued very learnedly, That the paſſing an Act by the King's Royal Aſſent can make a Seſſions, becauſe the uſual Promiſe was not in it. It was without any Inſtruction of mine to mention that Point.

'The King's Counſel tells your Lordſhips of the Laws and Cuſtoms of Parliament; and if this was ſo, I ſhould ſubmit: But this Caſe of mine is *Primæ Impreſſionis*, and is a new way, ſuch as neither Mr. *Attorney* nor Mr. *Solicitor* can ſhew any Precedent of, and I have no other Remedy nor Place to apply to than the Way I take.

'Mr. *Attorney* confeſſeth that the King's Pleaſure may pleaſe me without the Lords. If ſo, this Court is *Coram Rege*. This Court is the proper Place to determine the King's Pleaſure. This Court will and ought to judge of an Act of Parliament void, if it be againſt *Magna Charta*, much more may judge an Order of the Houſe, that is put in Execution to deprive any Subject of his Liberty. And if this Order of Commitment be a Judgment, as the King's Counſel affirms, then it is out of the Lords Hands, and properly before your Lordſhips, as much as the Acts which were lately paſſed, which I preſume you will not refuſe to judge of, notwithſtanding that the King's Attorney General ſaith that this Parliament is ſtill in Being. I take it ſomething ill that Mr. *Attorney* tells me I might have applied elſewhere.

'My Lords, I have not omitted what became my Duty towards the King; for beſides the Oath of Allegiance I took as a Peer, or an *Engliſhman*, there is ſomething in my Breaſt that will never ſuffer me to depart from the Duty and Reſpect that I owe him; but I am here before him, he is always ſuppoſed to be here preſent, and he alloweth his Subjects the Law.

'My Lords, they ſpeak much of the Cuſtom of Parliament; but I do affirm to you, there is no Cuſtom of Parliament that ever their Members were put out of their own Power; and the Inconveniences of it will be endleſs.

'Mr. *Attorney* was pleaſed eaſily to anſwer the Objection of one of my Counſel; If a great Miniſter ſhould be ſo committed, he hath the Cure of a Pardon, a Prorogation, or a Diſſolution: but if the Caſe ſhould be put, why forty Members, or a greater Number, may not as well be taken away without Remedy in any of the King's Courts, he will not ſo eaſily anſwer; and if in this Caſe there can be no Relief, no Man can foreſee what will be hereafter.

'I deſire your Lordſhips well to conſider what Rule you make in my Caſe, for it will be a Precedent that in future Ages may concern every Man in *England*.

'My Lords, Mr. *Attorney* ſaith you can either releaſe or remand me; I differ from him in that Opinion. I do not inſiſt upon a Releaſe: I have been a Priſoner above five Months already, and come hither of Neceſſity, having no other Way to get my Liberty, and therefore am very willing to tender your Lordſhips Bail, which are in or near the Court, good as any are in *England*, either for their Quality or Eſtate, and I am ready to give any Sum or Number.

'My Lords, this Court being poſſeſt of this 'Buſineſs, I am now your Priſoner.

The Court deliver'd their Opinion *Seriatim.*

Sir *Tho. Jones*, Juſtice. Such a Return made by an Ordinary Court of Juſtice, would have been ill and uncertain; but the Cauſe is different when it comes before this High Court, to which ſo much Reſpect has been paid by our Predeceſſors, that they have deferred the Determination of Doubts conceived on an Act of Parliament, until they have received the Advice of the Lords: and now, inſtead thereof, it is demanded of us to control the Judgment of all the Peers, and given on a Member of their own Houſe, and during the Continuance of the ſame Seſſion. The Caſes where the Courts of *Weſtminſter* have taken Cognizance of Privilege, differ from this Caſe: for in thoſe it was only an Incident to the Caſe before them, which was of their Cognizance; but the direct Point of the Matter is now the Judgment of the Lords.

The Courſe of all Courts ought to be conſider'd, for that is the Law of the Court, *Lane's Caſe*, 2 *Reſt.* and it has not been affirmed, That the Uſage of the Houſe of Lords has uſed to expreſs the Matter more particularly on Commitments for Contempts, and therefore I ſhall take it to be according to the Courſe of Parliament. 4 *Inſt.* 50. It is ſaid that the Judges are Aſſiſtants to the Lords, to inform them of Common Law; but they ought not to judge of any Law, Cuſtom, or Uſage of Parliament.

The Objection as to the Continuance of the Impriſonment, has received a plain Anſwer, for it ſhall be determined by the Pleaſure of the King, or of the Lords: and if it were otherwiſe, yet the King could pardon the Contempt under the Great Seal, or diſcharge the Impriſonment under the Privy Seal.

I ſhall not ſay what would be the Conſequence (as to this Impriſonment) if the Seſſion were determined, for that is not the preſent Caſe: but as the Caſe is, the Court can neither Bail nor Diſcharge the Earl.

Wild Juſtice. The Return no doubt is illegal; but the Queſtion is of a Point of Juriſdiction, Whether it may be examined here? This Court can't meddle with the Tranſactions of the moſt High Court of Peers in Parliament, during the Seſſion, which is not determined; and therefore the Certainty or Uncertainty of the Return is not material, for it is not examinable here: but if the Seſſion had been determined, my Opinion would be, that he ought to be diſcharged.

Rainsford Chief Juſtice. This Court has no Juriſdiction of the Cauſe, and therefore the Form of the Return is not conſiderable. We ought not to extend our Juriſdiction beyond its due Limits, and the Actions of our Anceſtors will not warrant us in ſuch an Attempt.

The Conſequence would be very miſchievous if this Court ſhould deliver a Member of the Houſe of Peers and Commons who are committed, for thereby the Buſineſs of Parliament may be retarded; for it may be the Commitment was for evil Behaviour, or undecent Reflections on other Members, to the diſturbance of the Affairs of Parliament.

The Commitment in this Caſe is not for ſafe Cuſtody, but he is in Execution of the Judgment given by the Lords for the Contempt; and therefore if he ſhould be Bailed, he would be delivered out of Execution; for a Contempt *in facie Curiæ* there is no other Judgment or Execution.

This Court has no Juriſdiction, and therefore he ought to be remanded. I deliver no Opinion whether it would be otherwiſe in Caſe of a Prorogation.

Twiſden Juſtice was abſent, but he deſired Juſtice *Jones* to declare that his Opinion was, That the Party ought to be Remanded.

And ſo he was Remanded by the Court.

The TRIAL *of* JAMES MITCHEL, *for attempting the Murder of the Archbiſhop of St.* Andrews, *and Wounding the Biſhop of* Orkney, *the 7th of* January, 1678.

XXX CAR. II. 1678.

Curia Juſticiariæ S. D. N. *Regis tenta in Prætorio, Burgi de* Edenburgi *Septimo die Menſis* Januarii, 1678. *Per honorabiles viros Dominos* Archibaldum Primroſe *de* Caringtoun *Juſticiarium Generalem*, Jacobum Fouclis *de* Colintoun, Robertum Nairn *de* Strathurd, Joannem Lockhart *de* Caſtlehill, Davidem Balfour *de* Ferret, *&* Thomam Murray *de* Glendoick, *Commiſſionarios Juſticiariæ dicti* S. D. N. *Regis*.

Curia legittime affirmata.

Intran' Mr. JAMES MITCHEL, Priſoner.

INDYTED and Accuſed, foraſmuch as be the Common Law and Law of Nations, and the Law of this Kingdom, Murder and the Aſſaulting and Attempting upon any Perſon or Perſons be way of Forethought Felonie *& per inſidias & induſtriam*, of purpoſe and deſign to Kill, are moſt atrocious and deteſtable Crymes, deſtructive to and againſt the Being of Humane Society, and is ſeverly puniſhable, but eſpecially when the ſamen are committed upon the Perſons of Counſellors and other Officers who doe repreſent Authoritie, and are lyable to the Miſtakes and Malice of wicked Perſons for doing their Duty, or when the ſamen are committed upon the Perſons of Churchmen, Biſhops, or Miniſters, who are of the Sacred Function; who be the Laws of all Nations are priviledged and ſecured, as much as can be, from the Malice and ſacrilegious Attempts of wicked Perſons. And particularly, it is Statute be the fourth Act of the ſixteenth Parliament of King *James* the Sixth, That whatſoever Perſon invades or perſues any of the Lords of Seſſion, ſecret Council, or any of his Majeſties Officers, for doing of his Majeſties Service, ſhall be puniſhed with Death. And be the ſeventh Act of the firſt Parliament of his Majeſties Royal Father, in *Anno* 1633. intitulat, *Anent the invading of Miniſters*, it is Statute that the ſame ſhall be extended to all Arch-Biſhops, Biſhops, and Miniſters whatſoever. And be the fourth Act of his Majeſties ſecond Parliament, and ſecond Seſſion of the ſame, it is Statute, That whatſoever Perſons ſhall be guilty of the Aſſaulting the Lives of Miniſters, that they ſhall be puniſhed with the pain of Death and Confiſcation of their Moveables. And be the Laws and Acts of Parliament of this Kingdom, the Mutilation and Diſmembration of any of his Majeſties Subjects, be way of Forethought Felonie, is ane high and capital Crime, and puniſhable with the pain of Death. Nevertheleſs, it is of Veritie, That ye having ſhaken off all Fear of God and Conſcience, Reſpect and Regard to his Majeſties Authoritie and Laws, and conceiving a deadly Hatred and Malice againſt a Reverend Father in God, *James* Arch-Biſhop of St. *Andrews* (a Perſon who had never known or ſeen you, ſo as to take notice of you, and much leſs had given you any Offence) without any Ground or Quarrell, and upon Account only that he was advanced and promoted to be Archbiſhop, and to be of his Majeſties Privie Council, and did ſerve God and his Majeſtie faithfullie in the ſaids Stations and Offices; you did dayly contrive, reſolve and deſign the Murder and Aſſaſination of the ſaid Arch-Biſhop: And in order thereto, having provyded yourſelf with a pair of long *Scots* Iron Piſtols near Musket bore, you did upon the Nynth Day of *July* 1668. or ane of other of the Days of the ſaid Moneth, proceed and take the Opportunity to execute and goe about your horrid and cruel Deſign, when the ſaid Archbiſhop in the Afternoon of the ſaid Day did come down his own Stair, and was going to his Coach, being to go abroad upon his Occaſions with a Reverend Father in God, *Andrew* Biſhop of *Orkney*. And you having a charged Piſtol with Powder and Ball, did moſt cruellie and felloniouſly Aſſault the ſaids Biſhops, and did fire, diſcharge, and ſhot the ſaid Piſtol upon them, being within the ſaid Coach; and God of his Goodneſs having preſerved the Archbiſhop whom you intended to Murder, you did by the ſaid Shot grievouſlie Wound the Biſhop of *Orkney*, to the great hazard and danger of his Life; ſo that having for a long tyme, and with great Pain, Torture, and expence of Blood, languiſhed of the ſaid Wound, being in a moſt dangerous Place in the joyning of the Hand and Arm, where there is a Confluence of Nerves and Fibres, he never did recover his Health to that meaſure and Vigour that he had, or might have had if he had not gotten the ſaid Wound. And he was mutilat and diſmembred as to his Arm and Hand, ſo that he could make no uſe of the ſame, but languiſhed thereof until he dyed. And after you had attempted and committed the ſaid Aſſaſination and Villanie *tanquam inſidiator & per induſtriam*, and be way of Forethought Felonie, ye did goe away and eſcape throw the Multitude and Throng that had gathered upon the Noiſe of the ſaid Shot, having another charged and bended Piſtol in your Hands, of purpoſe and deſign to have killed any Perſon who ſhould have offered to take and apprehend you. The foreſaid Attempt and Villanie

nie being without any Parallel, the Circumſtances being conſidered, *viz.* That it was committed by one who profeſſed to be of the Reformed Religion, and who did pretend to be and ſerve as a Chaplain in ſeveral Families; that it was committed upon Perſons of the Sacred Function and Fathers of the Church, and that it was committed to the great Scandal and Diſadvantage of Chriſtian Religion, and eſpecially of the Proteſtant Reformed Religion, the Profeſſors and Preachers of the ſame having ſo much declared againſt, and be their Preaching and Wrytting having expreſt their Deteſtation of ſuch Attemps and Practices committed by Perſons, and ouned by Wrytters of the *Roman* Profeſſion: And that it cannot be inſtanced that any of the Proteſtant Religion was guilty of any Attempt upon the Account of Religion: And that the worſt of Men being aſhamed to commit ſuch Villanies; for covering of the ſame, and for their Security, doth take the Opportunitie of Darkneſs and Solitude, in Corners and ſolitary Places; Your Malice was ſo implacable, that you was prodigal of your own Lyfe to be Maſter of the Lyfe of the ſaid Archbiſhop; and in the High Street of *Edinburgh*, and in the Day-light, and in the face of the Sun, and before many Witneſſes, near or at a litle diſtance from the ſaid Coach, where you could not but expect to be preſently ſeaſed upon, you did devote your ſelf and did adventure to commit the ſaid moſt villanous and wicked Attempt. Yet notwithſtanding of all the ſaids Aggravations and Circumſtances of Horror and Remorſe, you did continue in your implacable Malice, and did converſe and keep Correſpondence with *Robert Cannon* of *Mondrogatt*, and with —— *Welſh* of *Cornlie*, and ——— *Mac Cleland* of *Barſcop*, declared and excepted Rebells and Traitors; had divers Meetings with them, and upon Diſcourſe concerning the ſaid Attempt, every one of the ſaids Perſons putting it upon one another, when it was put to you, you ſaid and uttered theſe or the like Speeches, *Shame fall the miſſe*, and that *ye ſhould make the Fire hotter*: And after the tyme and Attempt forſaid in the Year 1668, and ſubſequent Years, Moneths, and Days of the ſaids reſpective Years, and in ane or other of them, your guilty Conſcience diſquieting and perſuing you, you did rove and go abroad ſeveral tymes to *Holland*, *England* and *Ireland*, until Divine Juſtice did drive and bring you back to this Kingdom, that Juſtice might be ſatisfied and vindicat in ſome meaſure where you had committed ſo great Villanies. After your Return you did proceed to that height of Boldneſs and Confidence, or rather Impudence, that you did repair to and live in *Edinburgh*, and was married there with your Wyfe, who is yet living, by Mr. *John Welſh*, who is a declared and excepted Traitor, and Forefault for his Acceſſion to the Rebellion 1666. And your Boldnes was ſo great in out-daring both God and Authoritie, that for a long tyme ye have been lodged and has kept a Shop near that Place where the Archbiſhop doth and is in uſe to lodge when he is in *Edinburgh*, until at length ye was diſcovered and apprehended, having upon you when you was taken the ſame Piſtol which ye ſhot when ye committed the ſaid Attempt, which was found under your Coat charged with Powder and three Ball, of purpoſe to attempt again and execute you bloodie Deſign againſt the ſaid Archbiſhop, at leaſt againſt any Perſon who ſhould offer to take you. From all which Premiſes, it is evident that ye are guilty of the ſaids attrocious Crymes of Murder and Aſſaſinat be way of forethought Fellonie, and is a *Percuſſor & ſiccarius*, and of Mutilation, and of the other Crymes above-mention'd: And therefore the ſaids Pains ought to be inflicted upon you as ane Murderer and Aſſaſinat, and as guiltie of the Crymes forſaids, in ane exemplarie manner to the Terror of others.

Perſuer,	Proctors in Defence.
Sir *George Mac Kenzie* of *Roſebaugh*, our Soveraign Lord's Advocate.	Sir *George Lockhart*.
	Mr. *John Eleis*.

His Majeſties Advocate produced ane Warrand from his Majeſties Privy Council for perſueing the ſaid Mr. *James Mitchel*, whereof the Tenor follows. *Edinburgh*, the ſixth Day of *December* 1677. The Lords of his Majeſties Privie Council do hereby grant, order, and warrand to Sir *George Mac Kenzie* of *Roſebaugh*, his Majeſties Advocate, to raiſe and perſue a Criminal Proceſs before the Lords Commiſſioners of Juſticiary againſt Mr. *James Mitchel* for the Aſſaſination attempted by him upon the Archbiſhop of Saint *Andrews* and the Biſhop of *Orkney*. Extract be me *ſic ſubſcribitur*, Al. Gibſone.

Maſter *John Eleis* Advocate produced ane Act of his Majeſties Privy Council impowering Sir *George Lockhart* and him, to appear for the Pannals Defence, whereof the Tenor follows. *Edinburgh* the third Day of *January*, 1678. the Lords of his Majeſties Privie Council, having conſidered a Petition preſented in behalf of Mr. *James Mitchel* Priſoner, repreſenting, that he is upon *Munday* next to undergo a Tryal before the Juſtices at the inſtance of his Majeſties Advocate, as the alledged Perſon who ſhot a Piſtol at the Archbiſhop of St. *Andrews*: Yet no Advocat will undertake to appear for him, without they be ſpeciallie commanded ſo to do. And therefore ſupplicating, that Sir *George Lockhart* and Mr. *John Eleis*, Advocates, may be ordered to that Effect, the ſaids Lords doe hereby order and recommend the ſaid Sir *George Lockhart* and Mr. *John Eleis* to appear and plead for the Supplicant before the Juſtices, in the Cauſe abovementioned, upon *Munday* next, and other Dyets of that Proceſs, and appoints Intimation to be made hereof to the ſaid Sir *George Lockhart* and Mr. *John Eleis*, and to the Petitioner. Extract by me, *ſic ſubſcribitur*, Al. Gibſone.

His Majeſties Advocate declares he paſſes from my Lord Juſtice General as a Witnes in this Cauſe.

Mr. *John Eleis*, Advocate, as Proctor for the Pannal, declares, that they ſuſtain my Lord Juſtice General to be a Judge in this Cauſe notwithſtanding of his being cited as a Witnes both by Perſuer and Defender.

Mr. *James Mitchel* Pannal denyes the *Dittay*, and any pretended Confeſſion alledged emmitted be him.

Mr. *John Eleis* for the Pannal alledges, that he cannot paſs to the Knowledge of ane Aſſyſe: And the Concluſion that the Pannal has committed Murder, cannot be inferred from the

Sub-

Subſumption of the Lybell, becauſe be the Laws of this Kingdome, the Civil Law, the common Opinion of Doctors, the Law and general Cuſtom of all Nations, *Nudus conatus & affectus ſine effectu*, even in the moſt attrocious Crymes, except Treaſon, Parricide, and other excepted Crymes, is not puniſhable by Death. And it were againſt all Reaſon, ſeeing Puniſhments ought to be proportional to the Crymes, that a naked and ſimple Deſign of Murder ſhould be puniſhed as Murder that had taken Effect. *Et in criminibus gravioribus & graviſſimis, viz. Adulterium, Furtum, Sodomie, &c.* the naked Deſign is not puniſhed *pœna ordinaria*, even by the Civil Law. And tho' *Lex Cornelia de ſiccariis* by ane extraordinary ſtretch does declare *ſi quis cum telo ambulaverit*, yet it is but a Statutory Law, and deregot to by the Law of Nations, and the ſpecial Laws of our Nation, in ſua far as Murder in our Law is defined to be, and has only place in *Interfectis per felloniam*, and theſe who were killed upon forethought Fellonie. (2*do*) In ſua far as the Lybell concludes him guilty of Aſſaſination, the ſame is no ways relevant, it being both a Term and a Cryme unknown in our Law. And be the Laws and Acts of Parliament of this Nation, the Subjects of *Scotland* are to be governed by the Laws of *Scotland*. And tho' the Cryme of Aſſaſination were a Point of *Dittay* by our Law, as it is not; yet it is not, nor cannot be pretended he was hyred for that Effect, nor is it lybelled. (3*tio.*) In ſua far as the Lybell concludes the Pain of Death for Mutilation of the Biſhop of *Orkney*; it is anſwered, that the ſame is no ways relevant. And the ſaid Concluſion cannot be inferred from the Subſumption, becauſe the Act of Parliament does only declare Demembration to be puniſhed as Slaughter. (2*do.*) The ſaid Act declares Demembration to be only puniſhed as Slaughter when it proceeds upon forethought Fellonie. (3*tio.*) The ſaid Act requires another Qualification, *viz.* That it be perſued be the Partie: None of which can be ſubſumed upon in this Caſe, becauſe it is not lybelled that the Biſhop was diſmembred, or had his Hand cut off, but only had a Wound in the Hand. And the Lybell does expreſslie bear, That the Biſhop of *Orkney* got the Shot in the Hand accidentallie, when the Deſign was againſt the Biſhop of Saint *Andrews*, and ſo was not upon forethought Fellonie as to him. And laſtlie, the Biſhops neareſt of Kine does not concurr nor perſue, which is a ſpecial Requiſite in the ſaid Act of Parliament. Like as the ſaid Act is *exclet*, and in no Regiſter can it be made appear that any Perſon was capitallie puniſhed for Diſmembration: But upon the contrary, many accuſed and condemned in Arbitrarie Puniſhments. So that the Lybell is no ways relevant as to that Article, for the Reaſons foreſaids; ſpeciallie ſeeing Diſmembration is not ſo much here as lybelled or pretended. And whereas it is inſinuat, that the Biſhop did languiſh and dye of the ſaid Wound: It is anſwered, that the Lybell is no ways relevant, he conceived, becauſe it is not lybelled that the Wound was *ex ſua natura* lethal or mortal. And it is offered to be proven, that the Biſhop did live ſeveral Years thereafter, and go about his ordinary Function as a Biſhop, by Preaching, *&c.* which is a ſufficient Ground of Exſculpation and Defence.

4*to.* In ſua far as the Lybell is founded upon the Act of Parliament anent invading of Counſellors, it is anſwered, That this preſent Caſe does not fall under the Compaſs of the ſaid Act of Parliament, becauſe it is not lybelled that the Cauſe of the pretended Invaſion of the Archbiſhop was upon the account he was in the Proſecution of his Majeſties Service; but upon the contrar it may appear ſtrange to any rational Man *Quorſum & cui bono* he could have done it.

5*to.* As to the Acts anent invading of Miniſters, they import no capital Puniſhment, but only Confiſcation of Moveables. And as to which the ſaids Acts are opponed, and as to the Act 1670, it is poſterior to the Fact lybelled.

In ſua far as the Lybell ſeems to be founded on a Confeſſion; and in ſua far as the Confeſſion may be made uſe of as a ſole or conjunct Probation, the Pannal does object againſt the ſamen upon the Grounds and Reaſons following. *Primo*, If any ſuch Confeſſion was emmitted by the Pannal, which he has abſolutlie denyed in Preſence of your Lordſhip (no ways acknowledging the Lybell) no reſpect can be had thereto: And it is not probatorie, becauſe the ſamen is extrajudicial *& extra Bancam*, in regard it is not made in Preſence of the Aſſyſe, who are Judges to the Probation, which is expreſslie contrar to the 90. Act, 7. Parliament, King *James* 6. which requires the hail Probation to be led in Preſence of the Aſſyſe and Partie. And which Act of Parliament was not only made for Securitie of Pannals, as to a juſt and legal Procedure againſt them; but alſo that the Aſſyſers to whom the Truſt of the Lives of the Subjects of this Kingdom is committed, as to the Point of Probation, might not proceed upon Fame and Report, but upon a clear Probation before them. For if that were not, the Aſſyſe would be altogether deprived to know how the Confeſſion was emmitted, if ſpontaneouſly or *ex conſtantia vel trepidatione*, or *ſpe veniæ*. And the moſt that ever was ſuſtained in this Caſe, was, that the Aſſyſe did find a Partie guilty upon a Confeſſion emmitted before a *Quorum* of the Juſtices in a fenced Court. *Eſto* the ſaid pretended Confeſſion ſhould be ſuſtained probative, as for the Reaſons above-repreſented (the Pannal with all Submiſſion to your Lordſhips humbly conceaves) it cannot: Yet, if any ſuch Confeſſion was, it is null becauſe it was *elicete ſpe veniæ & immunitatis*. And for proving thereof, the Pannal does repeat his Exculpation, which he conceaves is relevant in Law; and craves the Witneſſes therein to be examined upon the Contents thereof. (2*do.*) The ſaid Confeſſion being emmitted *extra Judicium & ſpe veniæ*, as ſaid is, *eſt in ſe nulla*, and cannot be confirmed or validitat by the Teſtimonie of any Witneſſes whatſomever. And to evidence that the Pannals Lyfe was never intended to be taken upon the ſaid pretended Confeſſion: The ſame (if any was) is opponed; by which it evidently appears that he was examined upon Oath, as to the moſt material part of the Cryme, *viz.* his Complices, which makes it more than evident, that it being *in materia criminale & Capitale*, in which Oaths cannot be taken by Law, renders the Confeſſion null and invalidat, at leaſt makes it evident that the Lybell has been reſtricted *ad civiles effectus*.

My

My Lord Advocat insists in the first Place upon the fourth Act of the sixteent Parliament, *James* 6. By which *nudus conatus* attempting and invading, tho' nothing follow, is found relevant to inferr the pain of Death. But so it is that the said Mr. *James Mitchell* did attempt the killing the Archbishop of Saint *Andrews*, a Privy Councellour; which Attempt *devenit ad actum proximum*, the said Mr. *James* having done all that was in his Power. And as to the Quality adjected in the Act, insinuating the Defence, that it must be proven that it was for doing of his Majesties Service; it is replyed, That this Qualitie is inferred, and cannot, nor requires not to be otherways proven, than by a presumed Inference. For the Design of the Attempter being ane Act of the Mind and the Secret of the Heart, it cannot be otherways proven, but simplie by the attempting a Secret Counsellour, or any of his Majesties Officers, against whom the Pannal could have no Quarrel, but for doing of his Duty, and therefore the Law still concludes the same, except the Pannal will offer to condescend upon another relevant Reason, *viz.* any private Fead; for, if it were otherways, the Act would be absolutlie useless, since any Person might attempt or kill a Privie Counsellour, it being impossible to prove what was the Designe. And this Act was designed meerly to make all Attempts against Privie Counsellors punishable by Death; for otherwise it could be no Fence nor Protection for Privie Counsellours, if it were onlie granted to them under a Qualitie which were impossible to be proven. Nor can this seem hard, since the Subjects have only themselves to blame, who attempt against the Lives of Privie Counsellours. And it were very ridiculous to think, that if the Brother of a Pannal should attempt to kill the Judge or King's Advocate immediatlie after a Process, that it were necessar to prove the Designe otherways than by the natural Contingencie which obviously aryses from the Qualitie and Circumstances of the Perpetration: But in this Case as Mr. *James Mitchel* is a Person who can condescend upon no private Offence betwixt the Archbishop and him, they being absolute Strangers to one another; so besides the Presumption of Law above-specified, it is offered in Fortification of the Act, That, *Primo*, the said Mr. *James* ownes himself to be of a Profession who hates and execrates that Hyerarchie, and of which Sect the unhallowed Penman of *Nephtalie* declares it lawful to Kill those of that Character. 2*do.* It is notour and offered to be proven, that Mr. *James* himself defended that it was lawful to kill such, and indeavoured by wrested Places of Scripture to defend himself, and gain Proselytes thereby. And if need were, as there is none, it is specificklie and distinctly offered to be proven, that he acknowledged that the Reason why he shot at the Archbishop, was, because he thought him a Persecuter of the nefarious and execrable Rebels who appeared on *Pentland-Hills*: Nor can Designs nor Acts of the Mind be otherways proven than by such emmitted Declarations, Arguments and Acknowledgements. Likeas in the whole Course of our Law, the invading or attempring any of that Sacred Function is still declared equivalent to Killing: And tho' the last Act be posterior, yet it is sufficient to demonstrate and clear. And, 3*tio.* By the Common Law *conatus* and indeavour is *in criminibus attrocissimis* punishable by Death, *ubi reus devenit ad actum proximum & omne quod in se erat fecit*, which is in it self most reasonable, since the Attrocitie of the Cryme should put the same even beyond ane Attempt. And there can be nothing more just than that the Extraordinaryness of a Cryme should have ane extraordinarie Allowance. And Guilt attempted in attrocious Crymes, such as sacrilegious Assasination, is in the Eye of the Law as great and greater than the stealing ane Horse or Cowe, speciallie where Securitie from the Effect proceeded from no Innocencie in the Committer, who did all he could; But from the special Providence of God disappointing the Effect of a Cause he so much hated. And *Carpsovius* requires only three Qualifications to make Indeavour punishable by Death: Primo, *Quod eventum erat ad actum morti proximum.* (2do.) *Quod non stetit per Assasinum quin consummaretur delictum.* (3tio.) *Quod occidendus fortuito casu tantum Evaserit*; all which concurr but too well here. And that *in omnibus criminibus atrocissimis Conatus* is punishable, is clear from *Gothofred. tit. de Conatu*, from *Covarivius in Clementina, Si furiosus, num.* 6. And particularlie in the Cryme of Assasination *totidem verbis*, by *Matheus de Siccariis, num.* 3. *Assasinus tamen nihil prodesse debet soluso; conatus capite puniendus*, a great Instance whereof is given in a Decision by *Gothofred* in the Senate of *Savoy*, where Death was inflicted upon a Person who but struck with a Batton. And whereas it is pretended that Assasination is no Cryme in our Law, and that it is only inferred where the designe of Murdering proceeds from the Committers taking Money: It is answered, that this part of the Defence is most groundless: And our Nation would be more barbarous than those of *Lapland* or the *Tartars*, if the lying in wait with a constant designe to Kill clandestinely *& per insidias* any Person who had never offended us, should not be raised to a higher Degree of Detestation than ordinar Murder. For, though the Law does not always punish a meer Indeavour when designed against such as have offended us, when Nature pleads some Excuse from the greatnes of Passion and Resentment, or where the Partie killed gave some Occasion by doing the Wrong, or where the suddenness of the Design allowed no tyme to consider or repent; yet where a Person after mature Deliberation ryppens his own Villanie, and resists the Motions of Reason and the Inspirations of God Almighty, by lying in wait to kill a Person who never offended, the Law thinks the Common Wealth can never be secured as long as such a Viper is alive, who wants nothing but Opportunitie to kill Mankind one by one. And the Specialitie of taking Money is only demonstrative, and not restrictive, since the Guilt in this, and such like Cases, is greater and more dangerous than that of taking Money. For, he who takes Money will not kill but in Darknes, and where he may escape; but the Sun, and the Cross, and the Confluence of all the World, cannot secure against Murders, where the Partie imagines that the Cryme deserves Heaven, or at least where he thinks that these of his Perswasion will rise in a Tumult upon the Streets for his Defence. Likeas since the Law has inferred Death *ob conatum* in the Crymes of *Raptus robbrie, &c.* much more should it inferr Death in this unparalleled and execrable Cryme.

As

As to what is alleadged againſt the Acts of invading Miniſters; it is anſwered, That the firſt Act appoints that it ſhall be puniſhed with all Rigor. And the 7. Act, King *Charles* 1. and the laſt Act is ſufficient, tho' poſterior to the Cryme, to declare what was the meaning of that General of puniſhed with all Rigor. And ſince our Law makes the Attempting of ſuch as are doing his Majeſties Service Capital, that General ought to be extended to Death, ſince leſſer Crymes and other Crymes are for the ſame Reaſons which are applicable to this, puniſhable by Death: Nor can there be any Hazard in this, ſince there is a Law for the future. And no Man ſhall ever dye for ſo great a Cryme in our Nation.

Whereas it is alleadged, that here the Pannal did only confeſs upon hopes of Lyfe: It is replyed, that *Primo*, The Promiſe of Lyfe from a Judge, who could not grant the ſame, cannot defend, eſpeciallie where no threatning preceeded; and where it is clear that what was confeſt was founded on other Preſumptions *& indicia*. Nor is this relevant, except the Pannal could offer to prove, *Firſt*, Threatning, to the Fear whereof he yeelded; *2do*. That he expreſslie pactioned that this Confeſſion ſhould not operate againſt him, which is very clear from *Boſſius*, *tit. De confeſſis per torturam*, Num. 12. where he ſtates the Caſe, and concludes, that a ſpontaneous Confeſſion, though Lyfe were promiſed, does not defend: Nor is the Guilt leſs, nor the Truth leſs, that a Judge promiſe. And if this were ſufficient, every Judge might make himſelf King, and grant Remiſſions at his Pleaſure. And though this might weigh with the Judge who promiſed; yet the Law conſiders the Partie confeſſing ſtill guiltie, and ſo does never ſecure him. *Et quod poteſt condemnari tenent, Cinus Cod. de iis qui ad Eccleſiam effugiant, Alciad. lege de verborum ſignificatione*; and *Clarus* himſelf ſayes, That *Ego ſuſpicor opinionem Ceni eſſe majus communem*; but giving his own Opinion rather as a private Man than as a Lawyer, he ſayes, *Ego tamen non condemnarem ad mortem niſi aliis indiciis fuerit gravatus, Ergo reus indiciis gravatus eſt morte plectandus*, which is moſt juſt and reaſonable. For, though the Law be jealous where a meer ſillie Innocent confeſſes to a Judge, who may terrifie him, or have ane Intereſt in cauſing him confeſs to lay the blame off his Friends, yet where the Confeſſion proceeded from a Perſon ſuſpect by all the World, by a Perſon who publictly in all Places ſince has owned the Deed; who fled upon that Account; who was taken with unlawful Weapons, unfit for his Profeſſion, and the ſpecifick Weapons which committed the Attempt; who condeſcended upon all the Circumſtances, and declared that he gloried in being a Martyr upon that Account: In being ſeen run away immediatly upon doing of the Deed with a Piſtol in his Hand; in being found out in a thouſand Lies and Prevarications when he was examined; in having renewed his Confeſſion publictly: It were but to ſcorn the Law and Maſſacre Mankind, to think that a Confeſſion ſo adminiculat ſhould not bind the Confeſſor, who can alleadge nothing of any Threatning uſed againſt him by the Judge to whom he confeſſed. And Lawyers do in that Caſe conſider the qualitie of the Judge as ſevere, unjuſt, rigid or partial: but the Confeſſion is alleadged to be made here upon Promiſe of Lyfe given by my Lord Chancellor, whoſe benign, gentle Temper frees him from all Suſpition. And the proponing of Exculpation acknowledges the Deed to be done by Mr. *James Mitchel* the Pannal, againſt which the Proteſtation denying the Lybell cannot be ſuſtained, being *Contraria facto*, as is evident to any rational Man; and that the Pannal cannot either pretend *alibi*, nor any other pretence of Error, for excuſeing his Retractation: ſo his Majeſties Advocate oppones his Confeſſion, bearing no Qualification. And though he is very ſecure that the Exculpation cannot be proven, yet ſince it is notorly known that he is the Committer, and that this may be a Preparative to other Pannals, againſt whom no Probation is ordinarlie had, but Confeſſions *elicite* by Judges, with fair and gentle Promiſes, he *mordicus* adheres to the Relevancie. For, as *Boſſius* ſays, *Et ſi Judex dixerit nihil mali eveniet tibi vel etiam promittat ut liberabitur Majus tamen communis eſt opinio Confeſſionem valere quia Judex etiam poterat ita fingere ad veritatem inveniendam.* And as this is moſt advantagious to the Common Wealth and Mankind, ſo there can be no Hazard to a private Pannel, ſince if he can but aſtruct his own Innocencie, or the reaſon of his Error, by alleadging that he was *alibi*, or that there was ſevere Threatnings or Torture uſed, the ſame will ſtill be allowed to qualifie his Confeſſion. But the general Preſumption lies, that a Judge will not damn his own Soul, ſtain his Function, ruin his Fame, expoſe himſelf to the Terrors of God Almightie, by alluring a Confeſſion from a poor Innocent.

As to what is objected againſt the Confeſſion as extrajudicial and before ane incompetent Judge: It is replyed, That Confeſſions are of all Probations the moſt infallible, ſince Witneſſes may, but it cannot be preſumed a Man will wrong himſelf: And the Riſe of that Maxime, That extrajudicial Confeſſions are not relevant, was only to exclude Probation upon Confeſſions emmitted where there was no Judge nor no deſign of Inquirie. But the Confeſſor being louſe and inconſiderate, and under no Reaſon of Advertance, did at random own a Deed of which they were moſt innocent, either for Oſtentation or to pleaſe the Companie, or in Raillerie: But, to ſay that a Man ſhould not be judged by what he deliberatlie confeſſes, where he knows the Deſigne is to inquire into the Cryme, and that the Event muſt be a Criminal Tryal, is without all Foundation or Probability of Reaſon: Nor can Judges or Aſſyſers be ſo much convinced by what Witneſſes will ſay, who may have Malice, or be brybed, or miſtaken; as what proceeds from a Man's own Breaſt deliberatlie and in cold Blood, which in Effect is oft tymes the Inſpiration and Influence of Almightie God, who to ſhow his Love to Juſtice and Kindnes to Mankind, draws even from the greateſt of Malefactors the cleareſt Confeſſions. And ſince Men do not uſe to bring Witneſſes when they commit Crymes, nor can the Nature of the Thing allow Probation by Wrytt, to cut of Confeſſions in theſe Caſes were to make Crymes for ever paſs unpuniſhed, and to make Law, which is founded upon Principles of Reaſon, and the good of the Common Wealth, evaniſh in meer Terms of Art and hard Words, contrar to the Deſigne of Lawyers and the ſolid Principles of ſincere Truth.

That this Confeſſion is then Judicial is clear, being taken by Authoritie of the Privie Councill, the Supream Judicatorie of the Nation, and where the Deſign was to expiſcate this Truth. And the Pannal knew that he was upon a Tryal for his Lyfe: Nor can the Incompetencie of that Judicatorie be here alledged, ſince as the Seſſion is a Judicatorie meerly Civil, ſo the Councill is a Judicatorie above both, comprehending the Power of both. And being ſo far competent in the Cognition of Crymes, that they take Precognitions in criminal Cauſes; they modifie and qualifie the Sentences of the criminal Court; they determine intricate Caſes remitted to them be the Juſtices in Point of Law. And the King, and the greateſt part of the Criminal Court being there; it were abſurd to think, that a Confeſſion emitted before them ſhould not prove. And if in a Precognition a Partie ſhould confeſs, and ſo the Tryal there ceaſe, what could be more abſurd than to think that this Confeſſion ſhould not bind, eſpeciallie ſeeing Confeſſions emitted before the Lords of Seſſion in Caſes of Improbation, and Decreets following thereupon, are a ſole, a final, and plenarie Probation before the Juſtice Court? Likeas that Principle in Law, That *Confeſſio coram Judice incompetente* does not hold, is, where *Judex eſt incompetens tam ad Inquiſitionem quam ad accuſationem*, as, *in forum penitentiæ*, ſuch as Kirk Seſſions, or *forum mere civile*, Neither of which can be ſaid in this Caſe where the Judge before whom the Confeſſion was emitted is the ordinary Judge of Inquiſition, and Tryal in Criminal Cauſes & *Judex non ſolum Juriſdictionis prerogabilis*; but a Judge who originallie and generallie examines all the Pannals of *Scotland*. Likeas this Confeſſion was made in Preſence of his Majeſties Privie Councill and the King's Commiſſioner, in whom all the Judicatories of the Kingdom doe eminentlie reſide. And who might have ſent the Pannal to the Scaffold without ane Aſſyſe ſeeing *in confitentem nullæ ſunt partes Judicis*.

Whatever favour may be allowed to Retractation of Confeſſions *facta ex Incontinenti, ubi poteſt docere de errore*; yet what Reaſon can there be where a Pannal denies without ſhewing of Proofs of his Innocencie? And therefore *Boſſius, tit. de Confeſſis, Num.* 64. concludes *Eſt etiam neceſſarium allegare errorem cæterum ſi ſimpliciter revocaverit Confeſſus non eſt audiendus.* And *Num.* 70. he adds, *Quia fateor quod quis non auditur ſimpliciter dicendo poſt confeſſionem: Non eſt verum quod confeſſus fui, tamen ſi per teſtes conſtare poteſt de innocentia majus attenditur veritas quam confeſſio.* And ſince Minors in Law are oblieged *docere de errore*, when they revock, it were abſurd to think that the Law would be ſo ridiculous, that a Man confeſſing before a grave Judicatorie ſhould have Libertie to retract without ſhewing any Reaſon of his Retractation: And the Guilt rather grows *per inficiationem*, and by that impudent Lye, than is leſſened by the Retractation.

In the Caſe likeways where Debates are concerning the Validity of a Confeſſion, Lawyers conſider whether what was confeſt was or can be adminiculat by other collateral Probation, *Argumenta & indicia*, and whether the Probation be *veri ſimilis*; whereas here this Confeſſion is adminiculat by many other Circumſtances, ſuch as Perſons who ſaw him run away, by his owning of the Principle ſince, by his fleeing, *&c.* So that here neither can he inſtruct why he retracts, and the thing confeſt is *adminiculate & circumſtantiis & indiciis*. As to the Objection founded upon the Act of Parliament, that the Probation muſt be in Preſence of the Aſſyſe: It is replyed, that the whole Frame of that Act is groſslie miſtaken; for the Deſign of that Act was to correct a barbarous Cuſtom, whereby Accuſers were allowed to ſoliſt and to produce to them ſuch Wryte and Witneſſes as they pleaſed for Probation of the Cryme, to preclude the Pannal of what he could ſay againſt the ſame, ſince falſe Papers might be thrown in as Confeſſions and Proofs: But that cannot reach in this Caſe, where a Confeſſion is produced before a Pannal and his Proctors, and they heard to object againſt the ſame. Nor can it be urged from this Act that no Paper can be relevant but what is owned by the Pannal in Preſence of the Aſſyſe; for we daylie ſee that Letters produced under the Pannal's Hand, though he ſhould deny his Subſcription, will be ſuſtained: And it will be ſufficient to prove by Witneſſes, that he did ſubſcryve, or by compariſon of Letters. Likeas this Act of Parliament does not exclude that Confeſſions before the Lords of Seſſion in Matters of Falſhood, and Decrees following thereupon, may not probative before the Juſtices. Likeas Confeſſions taken before the Juſtices, tho' no Aſſyſe be preſent, do without all Controverſie and Debate prove the Cryme: Yet neither can the Juſtices condemn without ane Aſſyſe, nor does that Act of Parliament militate more againſt that Caſe than againſt this. And in the Caſe of *Finlay Mac Gibbon*, a Confeſſion taken in the *Tolbooth* without a fenced Court, and before one Judge, was found ſufficient to inferr the pain of Death both by the Council and Juſtices. And it is admired how it can be thought that Preſumptions can be ſuſtained as the Foundation of a criminal Sentence, as we dayly ſee; and that Witneſſes which in effect are but preſumptive, and a Man's own Confeſſion emitted ſeriouſlie and in cold Blood, ſhould not be ſufficient. And as there could be nothing more dangerous to the Common-wealth, than that Crymes ſhould be thus rendered unſearchable; ſo what Hazard can there be to the People on the other hand, or the Pannal, when they are made their own Judges. And to take off all poſſibilitie of Danger, it ſhall be allowed to them to prove Error, Force, Innocence, or Miſtake. And this Probation has been in all Ages and Nations ſuſtained as uncontraverted, as, *David* ordained the Perſon who ſaid he had killed *Saul* immediatlie to be execute without further Inquirie, giving as the undoubted Reaſon that he had condemned himſelf out of his own Mouth; and which is regiſtrate in Scripture, to ſecure the Image of God againſt thoſe who would deface it. And if ſuch Confeſſions ſhould be ſuſtained in any Caſe, much more in this, where the Nature of the Cryme is attrocious, and the manner of the Diſcovery extraordinarly difficult. And if either Attrocitie or Difficultie prevails with Lawyers to remitt ſomething of its ordinarie Rigor in exacting clear Probation, as we ſee *in criminibus exceptis & criminibus domeſticis*, much more where both theſe concurr, ought a Man's own Confeſſion to be admitted. And whereas ordinarly Pannals are penitent firſt when examined, the Horror of the Crymes ſoftning their Hearts; that their Confeſſions then ſhould not

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prove, is very ſtrange: And it were impoſſible and fruitleſs to expect, that after they are impriſoned amongſt a Company of other Malefactors, and after they have a kind of Men towards the Law to teach them the Art of Retractation, and that their Conſcience turns Callus, and acquainted with the Idea of their own Cryme, a ſincere Confeſſion may be then expected from them.

My Lord Advocat declares, he does not inſiſt againſt the Pannal for converſing with Rebels at this tyme, and upon the ſhooting at a Biſhop or Miniſter before the late Act of Parliament, *Anno* 1670. to inferr ane Arbitrary Puniſhment: And inſiſts upon Mutilation as Capital upon the Act of Parliament anent Demembration, which is *reddere membrum inutile*. And a Man is as much diſmembred when he has ane uſeleſs Hand, as if he had no Hand; and inſiſts upon the 28 Act Parl. 3 *James* 4. wherein Slaughter and Mutilation upon forethought Fellonie are equiparate. And the Pannal declared to be puniſhed by Death in both theſe Caſes, but referrs the Puniſhment of Mutilation to be qualified by the Juſtices, according to what ſhall be found here proven, and to what has been the Cuſtome of the Juſtice Court formerlie in ſuch Caſes.

Sir *George Lockhart* duplyes, That the Lybell is no ways relevant, as founded upon the fourth Act 16. Parl. King *Ja.* 6. And the Defence is no ways eleided by the Alleadgances, contained in the Reply. For, *Primo*, The Lords of Juſticiarie would be pleaſed to take Notice, that there is no Specialitie in the Caſe of this Act of Parliament, as to Privie Counſellours; but that it extends to all his Majeſties Officers, and conſequently the meaneſt Officer being invaded in the Terms and under the Qualification contained in the Act of Parliament, might plead the Benefite thereof. And if the Lybell ſhould be ſuſtained in general Terms without the expreſs Qualification in the Act of Parliament, the ſimple Act of Invaſion of a Lyon Herauld, though neither Death nor Wound followed on it, would inferr the pain of Death; but that no ſuch thing is the meaning, nor can ſubſiſt with the Act of Parliament, is ſo clear and evident, as it was impoſſible for the Witt of Man to expreſs the Qualification to be lybelled and poſitively proven in more plain and direct Terms than is ſett down in the ſaid Act. In ſua far as the Act of Parliament requires be way of Proviſion and Condition in the Statutory part thereof in thir Termes; it being verifyed and proven, that any of the ſaids Counſellours, Seſſioners, and Officers, was perſued and invaded for doing of his Highneſs Service, ſhall be puniſhed to the Death. And there is great Reaſon and Neceſſitie for this Qualification, becauſe the Act of Parliament intending contrary to the general Cuſtom of Nations, and of this Kingdom, in all other Crymes that *Conatus & attentatum*, which is only relevant in the Cryme of Treaſon, ſhould be reputed *Crimen conſummatum* in caſe of Invaſion of any of his Majeſties Officers. Therefore the Law requires this Qualification in Matter of Fact, That it be verified that the Perſon invaded, was doing his Majeſties Service; in which Caſe the Cryme had a reſpect in the Conſtruction of Law, as done againſt his Majeſties Authoritie, which he was then executing. And this Qualification in Matter of Fact, that it was for doing of his Majeſties Service, is not here ſo much as lybelled. And in the common Opinion of all Lawyers, as may appear by *Julius Clarus*, §. *Aſſaſinium*, *Num.* 2. *Ubi agitur de imponenda pœna alicujus Conſtitutionis ſpecialis requiritur quod concurrent omnes qualificationes de quibus in ipſa Conſtitutione.* And *Queſt.* 85. *Num.* 9. he has the ſame Words, *Ubi agitur de imponenda pœna alicujus ſpecialis Conſtitutionis opportet quod in eo caſu verificentur omnes qualitates in ipſa Conſtitutione expreſſas, alias pœna non committitur, & hæc* (ſayes he) *eſt doctrina communiter ab omnibus recepta*, and moſt eſpeciallie when it is not ane extrinſick Qualitie and Aggravation, but where it is a Qualification required by Law it ſelf as *intrigans delicti*, and as *Gomeſ.* ſayes, it is *alterativum pœne*, and therefore it muſt be *totidem verbis* lybelled and poſitivly proven.

And as to that Pretence that it is preſumed and inferred from the Circumſtances, and the Way and Manner of the committing of the Fact it ſelf, and that *Propoſitum* and Deſign cannot be otherways proven *niſi per indicias & conjecturas*. It is duplyed, That the Qualification required by the Act of Parliament is *toto cœlo* different from the Deſigne: For, if a Perſon did invade any of his Majeſties Officers in doing of his Majeſties Service, and would pretend that he had no Deſign to invade, certainly the Pretence were abſurd. And in that Caſe the Deſigne *preſumitur ex natura attentati*: But the diſcharging of his Majeſties Service is not a Deſign, but a Matter of Fact, which conſiſts in ane extrinſick Action, and muſt be proven, and may and does often occurr. As for Inſtance, If a Magiſtrat ſhould be invaded in the actual Execution of his Majeſties Authoritie, or if the Invader ſhould be ſo tranſported with Rage, as when he invades a Judge, to tell him, that it was becauſe he has unjuſtlie decerned. Theſe and the like Caſes are indeed the Terms of the Act of Parliament. And there ſimple Invaſion, though no Wounds followed, being directlie levelled againſt his Majeſties Authority, *Nudus conatus & affectus delinquendi reputatur pro effectu.* And as this is clear from the expreſs Words of the Act of Parliament, and which being *in materia correctoria & criminale*, is ſtrictly to be interpret; ſo it is unanſwerablie evidenced from the Act of Parl. K. *Ch.* 1. of bleſſed Memorie, by which it is provyded, that the Invaſion and Violence done to Miniſters is puniſhable, conform to the Act of Parliament 1587. to which it relates, which is Confiſcation of Moveables, and declares that the ſaid Act is to be extended to Archbiſhops and Biſhops, from which the Pannal's Proctors argue thus: If by the poſterior Act of Parliament in *Anno* 1633. the Invaſion and Violence done to Archbiſhops and Biſhops is not puniſhable with the Pain of Death, but only ane Arbitrary Puniſhment, how is it poſſible that the 4 Act Parl. 16 *Jam.* 6. ſhould inferr the pain of Death upon the Invaſion, as it is circumſtantiat and lybelled, wherein nothing is lybelled, but that the Archbiſhop was invaded, who was a Privie Counſellour, and not the Qualification that is required by the Act of Parliament, that it was for doing of his Majeſties Service.

As to that Alleadgance, That the Pannal cannot condeſcend upon any private Ground of Quarrel or other Reaſon why he did invade the Archbiſhop: It is anſwered, if this Alleadgance were ſuſtained, it were contrar to the Act of Parliament lybelled upon, which does not re-

quire the Pannal to prove, but ſays that it muſt be tryed and verified, that the Invaſion was for doing of his Majeſties Service; and ſo his Majeſties Advocate muſt prove the ſamen by a clear and poſitive Probation, as a Point in Matter of Fact.

As to that Pretence that the Pannal did glorie that he had committed the Fact and Invaſion lybelled, and indeavoured to juſtifie the ſame, and perſwade others that it was lawful: It is duplyed, That as the ſaids Qualifications are altogether diſowned, ſo they are no ways the Qualifications in Matter of Fact required by the Act of Parliament, *viz.* That the Invaſion and Violence was for doing of his Majeſties Service, which is indiſpenſibly required upon the Reaſons abovementioned, otherways the Act of Parliament ſhould have ſaid no more, But that all Invaſions of his Majeſties Privie Counſellours, or other Officers, ſhould be puniſhed with the pain of Death; whereas the Act of Parliament thought it fit, neceſſar and juſt for all Mens Securitie, that a ſingle Act of Invaſion of any of his Majeſties Officers, however it might be puniſhed *pœna arbitraria*, yet ſhould not import or inferr the pain of Death.

In ſua far as the Dittay is founded upon the Common Law, and that it is *Aſſaſinium*, in which *Conatus & attentatum habentur pro crimine conſummato.* It is anſwered, the Dittay is noways relevant, becauſe it is not founded upon any Law or Act of Parliament of this Kingdom. And the Common *Roman* Law cannot be the Foundation of criminal Dittays, whereby to draw in Hazard the Lives of any of his Majeſties Subjects. Likeas there is clear, expreſs and poſitive Acts of Parliament to the contrar, as the 48 Act Parl. 3 *Ja.* 1. Act 79. Parl. 9 *Ja.* 4. Declaring that the Laws of no other Realm are to be regarded, eſpeciallie whereupon to found Criminal Indytments. And albeit by the Common Law *Conatus in homicidio* eſpeciallie where it was *homicidium doloſum*, and deſigned to be committed *proditorie & per inſidias* was puniſhed as *crimen Conſummatum*; yet all Lawyers agree, as may appear by *Julius Clarus*, Queſt. 102. *Farm.* Queſt. 80. and by the Authorities by them cited, That by the general Cuſtom of all Nations, *in omni genere homicidii affectus conatus & attentatum* is not puniſhable *pœna ordinaria delicti*, and ſo cannot inferr a capital Puniſhment or pain of Death, as is concluded in this Indytment. As to that Pretence that the Cryme lybelled is the Cryme of Aſſaſination, in which *Nudus conatus* is ſufficient, eſpeciallie *ſi devenerit ad actum proximum:* It is anſwered, *Primo*, That all Lawyers agree in this, that *crimen Aſſaſinii* is only where a Perſon does hyre or conduce another to commit the ſame *interveniente prætio.* And for which *Julius Clarus*, §. *Aſſaſinium*, where he ſo deſcryves the Cryme. And *Matheus de Criminibus* does ſo deſcryve the ſame, and does expreſslie aſſert that unleſs Money or Reward interveen, the Cryme of Aſſaſination cannot be committed, where the Words are, *Crediderem tamen niſi merce certa & ſceleri propoſita & conſtituta fuerit ſive in ſpecie ſeu corpore ſive in pecunia numerata non poſſe enim videri aſſaſinium.* And there is no Lawyer extant did ever otherways deſcryve the Cryme; and there is great Reaſon why Money or Reward ſhould be conſidered in the Conſtitution of this Cryme, becauſe the Law did conſider the Cryme with Reſpect to the Hazard; and the Hazard lay where Perſons were hyred or conduced by Infidels giving Money or other Reward to kill Chriſtians. And albeit even in the proper Cryme of Aſſaſination it ſelf in ſome particular Nations, where the ſaid Cryme was too frequent, as in *Italie*, *Conatus* is puniſhable: Yet *Julius Clarus* in the ſame §. and others does mantaine, that by the general Cuſtome of moſt Nations, in the preciſe Cryme of Aſſaſination, *Conatus ſeu attentatum* is not puniſhable with the Pain of Death. But the Pannal has no Reaſon to inſiſt upon this; the Matter of Fact lybelled being no ways the Cryme of Aſſaſination, but only that which Lawyers call a Deſigne to commit Murder *proditorie & per inſidias.* In which all aggree, that by the Cuſtom of all Nations *Conatus faciendi non reputatur pro facto.*

As to that Point of the *Dittay* founded upon the Mutilation of the deceaſt Biſhop of *Orkney*, conform to the 28 Act Parl. 3 *James* 4. It is anſwered, that denying that the deceaſt Biſhop of *Orkney* was mutilate ſo, albeit it could be proven, it cannot inferr the pain of Death; *Firſt*, becauſe it is clear by the ſaid Act of Parliament, that it is not in the Caſe of Mutilation, but Demembration. And it were a ſtrange Imagination to think that if a Partie were mutilate, or loſt a Finger, that the pain of Death could be inferred. And there is a great difference betwixt Mutilation and Demembration: Mutilation being onlie ane Inabilitie or Privation of the Uſe; whereas Demembration is the intire Loſs of the Member. And it is a Principle in Law, that Acts of Parliament, eſpeciallie *in caſu criminale & capitale*, cannot be extended *de caſu in caſum etiam ex veritate vel paritate rationis*; and that *Cortici verborum adherendum eſt & Caſus ommiſſus habetur pro ommiſſa.* And here there is no Paritie of Reaſon, both the Prejudice and Deformitie being far greater in Demembration than Mutilation.

And whereas it is pretended, That though the Pannal's Confeſſion had been *elicite ſub ſpe impunitatis*, that yet it is not ſufficient whereupon to liberate from capital Puniſhment, becauſe a Judge cannot remitt a Cryme: And that *Boſſius* and others are clear. That notwithſtanding of any ſuch Confeſſion upon Promiſe of Impunitie, yet a Judge might and ought to condemn *ad pœnam ordinariam delicti*; it is anſwered, The Pretence does not eleid the Defence, becauſe, ſuppoſing it ſhould be proven that the Confeſſion was *elicite ſub ſpe veniæ*, and upon Aſſurance of Lyfe. Such a Confeſſion ſo elicite, cannot be a Ground whereupon to violate the Faith and Impunity given; and far leſs can ſuch a Confeſſion (though any could be proven) being retracted be conſidered as a Confeſſion: And as to which Law and Lawyers are very clear and poſitive. The Law is, *Lex* 3. *Cod. de Cuſtode reorum*, and Lawyers, as may appear by *Matheus de Criminibus*, *Queſt.* 16. where his expreſs Words are, *Quærunt an Confeſſio promiſſa Impunitate & ſpe veniæ elicita ſufficiet ad condemnandum? Reſpondendum, Non ſufficere, tametſi enim in Judicis poteſtate non ſit promittere impunitatem adeoq; ex promiſſione non obligatur, tamen dolo extorta eſt, & per hanc fraudem etiam Innocentes illaqueari poſſunt.* And *Boſſius* in that Title *De Confeſſis*, after he has ſtated the Caſe, reſolves it thus, *Tutius tamen eſt ut dicamus requirere perſeverantiam & eſt ex mente Doctorum & cum ratione quin negari non poteſt quin talis Confeſſio ſit obumbrata*, and ſays, it were a-

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gainſt Humanitie it ſelf to condemn *ad pœnam ordinariam delicti* in ſuch a Caſe. And *Julius Clarus*, cited be his Majeſties Advocate, ſayes, *Ego non condemnarem ad mortem*, and which is indeed the conſtant and irrefragable Opinion of all Lawyers, and Practice of all Criminal Tribunals. And whereas it is pretended, that *Julius Clarus* ſubjoins theſe Words, *Niſi aliis indiciis ſit gravatus*, and his Majeſties Advocat condeſcends upon ſeveral Preſumptions. It is anſwered, that if his Majeſties Advocat will lay aſide the Confeſſion, and adduce ſuch a preſumptive Probation, whereupon the Pannal may be condemned, then he may plead the Benefite of that Qualification: But the Preſumptions condeſcended upon are remote Conjectures, and no ways concluding; and the Pannal after the alleadged committing of the Fact, did return and live peaceablie for ſeveral Years, and denys the Fact, and cannot otherways be convict thereof. And if any pretended Confeſſion ſhould be made uſe of, either *per ſe*, or in *modum adminiculi*, it cannot be divided from the Qualitie under which it was granted, which the Pannal offers to prove, was upon expreſs Aſſurance. And whereas it is pretended, that the granting of ane Aſſurance and Impunitie is upon the Matter a Remiſſion which no Inferior Judge can grant, but that notwithſtanding he may and ought to condemn; it is anſwered, *Primo*, it will appear by the Probation of what Character and Qualitie the Granter of the Aſſurance was.

2*do*. Lawyers do not conſider whether a Judge *poteſt veniam concedere*, or remitt a Cryme: But a Confeſſion being *elicite ſub ſpe veniæ*, is not a full and abſolute Confeſſion, but a qualified, and cannot be made uſe of, and the Qualitie not performed and made good. And it were a Prejudice to Publick Intereſt, and a way to preclude the Ingenuitie of all Confeſſors, if notwithſtanding of the Interpoſition of Publick Faith and the granting of Aſſurances, and the eliciting of Confeſſions *ſub ſpe veniæ*, theſe Confeſſions might be made uſe of, and the Qualitie and Condition upon which it was emitted altogether neglected, which is downright inconſiſtent with the Opinion of Lawyers and the Practices and Cuſtoms of Criminal Judicatories.

As to what is pretended, that though this Confeſſion be not emitted before the Lords of Juſticiarie, yet it was not extrajudicial or revocable, becauſe it was deliberatlie given, and before a Committee, who had Authoritie from the Lords of his Majeſties Privie Council: It is anſwered, this Point is of extraordinarie Importance and Conſequence, as to the Lives and Fortunes of his Majeſties Subjects, and as to the Lords of Juſticiarie and the Procedure of the Inqueſt, who are Judges to the Probation; and therefore it is repreſented in behalf of the Pannal, That admitting any pretended Confeſſion ſhould be produced, yet if it was not emmitted before the Lords of Juſticiarie, it is not a judicial, but ane extrajudicial Confeſſion, *& fidem non facit*, as to the Probation of the Cryme. As to which, *Primo*, There is an univerſal Concord in the Opinion of all Lawyers, and in the Practiſe and Cuſtoms of Criminal Judicatories, and as to which the Lords of Juſticiarie are deſyred to caſt their Eye upon all who have wrytten upon this Point. And as *Clarus* ſays, *Non invenies diſſentientem in Mundo*; and it is ſtrange that all Lawyers and the Cuſtom of all Nations ſhould have hallucinat in this Point. For which the Pannal's Proctors cite *Julius Clarus*, *Queſt*. 55. *Farin. Queſt*. 81. and many others.

2*do*. Lawyers are likeways clear, that Confeſſions emitted *Coram Judice competente ſed non ſedente pro Tribunali* is but ane extrajudicial Confeſſion, and much more where it is *Confeſſio emiſſa coram Judice incompetente*. And when the Queſtion is, who is to be repute *Judex incompetens*; it is poſitivelie reſolved, That *omnis Judex* is *incompetens* who could not proceed *ad Condemnandum*, as to the Cryme anent which the Confeſſion is emmitted. And certainly though any Confeſſion were produced emmitted before a Committee of the Lords of Privie Council, they have no criminal Juriſdiction ſo as to proceed *ad condemnandum in crimine capitale*; that being clear by *Craig dieg*. 8. that *ex eorum Statutis nec periculum vitæ, hæreditatis aut omnium fortunarum ſubire poſſe*. And whereas it is urged that the Lords of Privie Council have a mixed Juriſdiction, and may proceed be way of Precognition *& per modum Inquiſitionis*, and may reſolve doubtful Caſes and qualifie Sentences. It is anſwered, That it is not denyed but the Lords of Privie Council have and doe very well deſerve that Juriſdiction; but as to criminal Juriſdiction in capital Crymes, it is only competent to the Lords of Juſticiary: And the Precognitions, or previous Inquiſitions, tend not *ad Condemnationem*, but only as to this, whether to ſtop or remitt to the Lords of Juſticiarie. And nothing is conſidered as a judicial Confeſſion, but where there is *formatus proceſſus*, and where a Partie is called *coram Judice competente*, and is *ſub inſtante periculo vitæ*, and knows that the infallible Import of his Confeſſion is to that very Effect for his Condemnation, none of which can be pretended where the Confeſſion is emmitted *coram Judice incompetente ad Condemnandum*.

And whereas it is alleadged, That a Confeſſion in the Opinion of Lawyers cannot be retracted, unleſs the Partie could *docere de errore*, and purge his Innocencie, and did it *ex incontinento*. It is anſwered, the Alleadgance is groundleſs; for though Confeſſion were emmitted *coram Judice competente pro Tribunali*, it might be retracted *ex incontinenti* if he were able *docere de errore*: And there is no Lawyer ever required it in other Terms. But where the Confeſſion is emmitted *coram Judice incompetente fidem non facit quoad probationem delicti*, and may be retracted either *ex incontinenti* or *ex intervallo*, and without ſhowing of any Error or purging of Innocence, ſuch Confeſſions in Law amount not to any Probation, no more than as Lawyers argue if the Depoſitions of Witneſſes taken in *uno Judicio* would *fidem facere* either in *Caſu civile aut criminale in alio Judicio*. And certainly there is leſs Reaſon for Confeſſions where Parties diſown the ſame, and retracts them if emmitted; and much more here where the pretended Confeſſion was *elicite ſub ſpe veniæ*, ſo far was the Pannal from thinking that the emitting of this Confeſſion was in order to Condemnation, ſpeciallie ſeeing it neither is, nor can be proven, that the ſaid pretended Confeſſion was ſo much as judiciallie given in face of Privie Council, where his Grace the Duke of *Lauderdale*, being then his Majeſties Commiſſioner, was preſent: And though it were, the Pannal's Proctors will not debate the Import of his Grace's Commiſſion, but remitts the ſame to the Commiſſion it ſelf in Caſe it be offered to be proven, that the Confeſſion was emitted

emitted before him and the Lords of Privie Council.

And whereas it is alleadged that the Act, 9 Parl. King *James* 6. ordaining all Probation to be led in Preſence of the Aſſyſe does not concern the Caſe, and is miſunderſtood, ſeeing here the Confeſſion will be produced in Preſence of the Aſſyſe: It is anſwered, The Act of Parliament is clear to the contrar, and can admit of no ſuch Interpretation. For albeit the Narrative of the Act of Parliament was onlie *cauſa impulſiva*, and the Statutorie Part of the Act of Parliament is clear and poſitive, that all Probation ſhould be adduced in preſence of the Aſſyſe, who are Judges of the Probation. And of all other Probation there is the greateſt Reaſon that the verie Act of Confeſſion ſhould be in preſence of the Aſſyſe, who are Judges to the Probation, and who are to proceed upon Oath, and whoſe Conſciences are to be ſatisfied and inſtructed as to the Way, Manner, Conditions and Terms whereupon ſuch Confeſſions were elicite; all which are concealed where there is nothing produced to them but a Confeſſion taken without their Preſence, eſpeciallie ſeeing the Pannal alleadges and offers to prove that ſeveral Points of Fact and other Particulars, were condeſcended upon and declared, none of which are mentioned in this pretended Confeſſion; all which ſhould have been inſert, and could not be divided, as being in *Articulo connexo.*

And whereas it is pretended that Decreets pronounced before Lords of Seſſion, is *Probatio probata*; whereupon Aſſyſers may and ought to condemn: It is anſwered, the Argument is *in materia diſparata*, and does not concern the Matter of Confeſſion, and is only in the ſpecial Caſe of Falſhood, and that upon a ſpecial Reaſon, becauſe the Inveſtigation of Falſhood depended upon a Tryall and Concourſe of many and violent Preſumptions, which may require a long Tract of Tyme and Examination of Parties and Witneſſes. It were impoſſible that ſuch Tryalls could be adduced before ane Inqueſt; theſe depending ſeveral Years many tymes before the Seſſion before they can be brought to a cloſe: And therefore Law and Cuſtom in that Caſe has ſuſtained a Decreet of the Lords of Seſſion as a Probation *in Judicio criminale*; but it is abſolutlie denyed that it would in any other Cryme. And certainlie if the Cryme of Theft were perſued civillie before the Lords of Seſſion *ad damnum & intereſſe*, though the Theft ſhould be proven or confeſt before the Lords of Seſſion, it would not *fidem facere in Judicio criminale*, as is evident by the Authoritie of Lawyers, who agree, that *acta probatoria in uno proceſſu fidem non facit in alio:* Nay, which is more, *acta probatoria in uno proceſſu fidem non facit in alio proceſſu coram eodem Judice.* And as to the Inſtance of the *Practiq*; of *Mac Nabb*, the Pannal oppones the ſame, wherein there were Depoſitions of Witneſſes; and though many tymes in the Adjournal-Bookes, the Caſes of Confeſſions emitted has been obtruded, yet it cannot be inſtanced that ever the Lords of Juſticiarie did by Interloquitor ſuſtaine the ſame as Probation; but on the contrar it does appear in the Caſe of *Fraſer*, in the Year 1641. That Sir *Thomas Hope* being then his Majeſties Advocate, declared, that a Confeſſion emitted before a Shirref Depute, who has a Criminal Juriſdiction in ſome Caſes in the Terms allowed by Law, and who beyond all doubt is Judge competent *per modum Inquiſitionis*; yet ſo convinced was he, that it was ane extrajudicial Confeſſion, that he only inſiſted therein *in modum adminiculi*, and joyned it with the other Probation mentioned in that *Practiq*; which was *per ſe* convincing and ſufficient: As alſo ſince his Majeſties happy Reſtauration in the Caſe of one *Robertſone*, allthough the Confeſſion was emmitted before one of the Lords of Juſticiarie and his Majeſties Advocate for the tyme; yet he was ſo convinced of the Inſufficiencie of the ſame, that after it was produced *per modum probationis*; he took up the ſamen even in that State of the Proceſs when the Aſſyſe was ſworn. And as to the Inſtance of Divinitie in *David*'s Practice, it does not concern the Point of Law, and cannot be made appear that the Partie retracted his Confeſſion; and it is a *Practiq*; that either *nimium* or *nihil probat.* In reſpect whereof, *&c.*

The Lords Commiſſioners of Juſticiarie continue the advyſing of this Debate till the Nynth Day of this Inſtant, at two a Clock in the Afternoon; And ordaines Aſſyſers and Witneſſes to attend ilk Perſon under the Pain of ane hundreth Merks.

The ſaid Day *John Grahame* Poſt-maſter, *Patrick Grahame* his Brother, —— *Keith* of *Ludguharne*, *Matthew Colvill* Writer in *Edinburgh*, *Alexander Leiwingſtoune* Enſigne to Captain *Wynhame*, *Walter Kennoway* Merchant in *Edinburgh*, *James Fletcher* of *New Cranſtoun*, *John Achmoutie* Enſigne to the Caſtle of *Edinburgh*, being oftymes called to have compeared before the Lords Commiſſioners of Juſticiarie this Day and Place in the Hour of Cauſe to have paſt upon Mr. *James Mitchel*'s Aſſyſe, as they who were lawfully cited to have made their Appearance for the Effect forſaid, lawfull tyme of Day bidden, and they nor none of them enterand nor appeirand; The Lords Commiſſioners of Juſticiarie therefore, be the Mouth of *Gilbert Mair*, Macer of Court, decerned and adjudged the forenamed Perſons, and ilk ane of them, to be in ane Unlaw and Amerciament of ane hundreth Merks *Scots*, which was pronounced for Doom.

Curia Juſticiariæ S. D. N. *Regis tenta in Prætorio Burgi de* Edenburgi, *Nono die Menſis* Januarii, 1678. *Per honorabiles viros Dominos* Archibaldum Primroſe *de* Caringtoun *Juſticiarium Generalem*, Jacobum Fouclis *de* Colintoun, Robertum Nairn *de* Strathurd, Joannem Lockhart *de* Caſtlehill, Davidem Balfour *de* Ferret, *&* Thomam Murray *de* Glendoick, *Commiſſionarios Juſticiariæ dicti* S. D. N. *Regis.*

Curia legittime affirmata.

Intran' Mr. JAMES MITCHEL, Priſoner.

INDYTED and Accuſed for the Crymes of Aſſaſination, invading of Privy Counſellours, Miniſters and others, *ut in die precedente.*

Perſuer,

Perſuer,	Proctors in Defence.
Sir *George Mac Kenzie* of *Roſeh-ugh*, our Soveraign Lord's Advocate.	Sir *George Lockhart*. Mr. *John Eleis*. Mr. *John Stewart*.

The Lords Commiſſioners of Juſticiarie having conſidered the *Dittay* and Debate relating thereto, find that Article of the *Dittay* founded upon the fourth Act, 16 Parl. King *James* 6. bearing the Pannal's invading by ſhooting and fyring of a Piſtol at his Grace the Archbiſhop of St. *Andrews*, a Privie Counſellour, for doing of his Majeſties Service, relevantlie lybelled, his Majeſties Advocate proveing the Preſumption in his Replye, *viz.* That the Pannal ſaid that he did make the ſaid Attempt and Invaſion becauſe of the Archbiſhop his perſecuting thoſe that were in the Rebellion at *Pentland*, or ſome Words to that purpoſe, relevant to inferr the Paine contained in the forſaid Act of Parliament, and remitt the ſame to the Knowledge of ane Aſſyſe.

And likeways find that part of the *Dittay* anent the invading of Biſhops and Miniſters, relevant to inferr ane arbitrary Puniſhment, and remitt the ſamen to the Knowledge of an Aſſyſe.

And ſiclike that Article of the *Dittay* anent the invading, wounding and mutilating of the Biſhop of *Orkney*, relevant to inferr ane arbitrary Puniſhment, and remitt the ſamen to the Knowledge of ane Aſſyſe.

And alſo having conſidered that part of the Debate anent the Pannal's Confeſſion made and emitted before ane Committee appointed be Authoritie of Council to receive it, and thereafter adhered to and renewed in Preſence of his Majeſties high Commiſſioner and Lords of Privie Council conveened in Council, find it is Judicial and cannot be retracted.

And alſo having conſidered the Debate and Defence againſt the ſaid Confeſſion, *viz.* That the ſame was emmitted upon Promiſe or Aſſurance of Impunitie of Lyfe and Limb, find the ſamen relevant to ſecure the Pannal as to Lyfe and Limb, reſerving to the Commiſſioners of Juſticiary to inflict ſuch arbitrary Puniſhment as they ſhall think fit, in caſe the Defence ſhall be proven, and remitts the ſamen to the Knowledge of ane Aſſyſe.

ASSISA.

——— *Gordon* of *Cairneborrowe*.
David Burnet, Merchant in *Edinburgh*.
James Wood at the *Colledge Port*, Chan.
David Forſyth, Taylor.
Robert Campbel, Apothecary.
Capt. *Andrew Dick*.
David Bruce, Gentleman.
John Hay of *Baro*.
Thomas Comlie, Vintner.
Mr. *Alexander Achmoutie*, Enſigne.
Capt. *John Binning*, Vintner.
Alexander Leivingſtone, Enſigne.
William Steinſon younger, Merchant.
Charles Scot of *Bonnietoun*.
Peter Wiſhart, Lieutenant.

The Aſſyſe lawfullie ſworn, no Objection in the contrar.

His Majeſties Advocate for Probation adduced the Pannals own Confeſſion, with the Witneſſes after deponing; of the whilk Confeſſion, the Tenor followes.

Edinburgh, 10 February 1674. *In Preſence of the Lord Chancellor, Lord Regiſter, Lord Advocate, and Theſaurer Depute, Mr.* James Mitchel, *Priſoner, being called, did freelie confeſs he was the Perſon who ſhot the Piſtol at the Archbiſhop of St.* Andrews, *when the Biſhop of* Orkney *was hurt thereby, in the Year* 1668. *and depones upon Oath, that no living Creature did perſwade him to it, or was upon the Knowledge of it.* Sic ſubſcribitur,

James Mitchel,
Rothes,
A. Primroſe,
John Nisbet.
Ch. Maitland.

Maſter *William Paterſon*, Advocate, purged of partial Counſel, and ſolemnly ſworn, depons, he met a Man with a Piſtol in his Hand in *Black-frier Wynd*, immediatlie after the Piſtol was ſhot at the Archbiſhop, but knows not the Pannal, nor if he was the Perſon that ſhot. And this is the Truth, as he ſhall anſwer to God.
Will. Paterſon, *A. Primroſe*, J. p. d.

Patrick Vanſe, Keeper of the *Tolbuith* of *Edinburgh*, purged of partial Counſel, and ſolemnly ſworn, depon's, That a Day or two before or after the Pannal was examined be the Council, he confeſt to the Deponent, that he ſhot a Piſtol at the Archbiſhop of Saint *Andrews*, and eſcaped down *Black-frier Wynd*, and went up the *Cowe-gate* and into Mr. *Robert Ferguſon*'s Houſe, and patt on a Pitivick, and then came to the Street and ſearched for the Man that ſhot the Piſtol. Being demanded if he heard Mr. *James Mitchel* juſtifie the Deed; he depon's, he remembers it not, *Sic ſubſcribitur*,
P. Vanſe. A. Primroſe, J. p. d.

Mr. *John Vanſe*, Son to the Keeper of the *Tolbuith*, purged and ſworn: Being interrogate, if he heard the Pannal acknowledge the Deed of ſhooting at the Biſhop, or defend it, depon's, That being in Conference with the Pannal in the Priſon-houſe, he inquired at him how he or any Man could be accefſorie to ſo impious ane Act, as to kill a Man in cold Blood who had not wronged him; he ſaid it was not in cold Blood, for the Blood of the Saints was reiking at the Croſs of *Edinburgh*. *Sic ſubſcribitur*,
John Vanſe, *A. Primroſe*, J. p. d. Com.

John Biſhop of *Galloway*, being purged of partial Counſel, ſworn and examined, depon's, That the firſt tyme he ſaw the Pannal was in Sir *William Sharp*'s outter Roume, where he ſaw a Piſtol, which was ſaid to be taken from him, out of which (as he ſuppoſes) there were three Balls taken; and that the Piſtol was like to the Piſtol produced. Depon's, that at that tyme the Pannal did not confeſs any Guilt, but ſeemed to be in a great Conſternation, and fell a trembling. And that the Deponer hearing that he had made a Confeſſion, went to Priſon to ſpeak to him about it, who acknowledged to the Deponent, that he had made Confeſſion of that Attempt againſt the Archbiſhop before the Chancellor, and ſome others of the Council; and

and that he had hopes of Lyfe, and desired the Deponent to interceed for him. And the Deponer having asked him how he could do such a Deed against ane innocent Man: He answered, that he thought him ane Enemy to the Godlie, and that they could not be in Securitie so long as he was alive. And the Deponer having inquired of him if he was sorry for it; he did not say he was sorry for it, but if it were to doe again he would not do it. And this is the Truth, as he shall answer to God. *Sic subscribitur*,

Jo. Gallovidien, *A. Primrose*, J. p. d.

Doctor *Christopher Irvin*, purged of partial Counsel, and solemnly sworn, depon's, that he was the first Chirurgeon that came to the Bishop of *Orkney* after he receaved the Shot, and that he did see a Ball fall out of his Sleeve, so that he knew that it was with a Shot, and that the Bones were fractured, and that they cured him so as he was able to lift his Hand towards his Head; but there was still Scales coming out of the Orifice of the Wound. Depon's, the Bishop said he got the Wound when he was laying his Hand upon the Archbishop's Coach. *Sic subscribitur*,

Irvin, *A. Primrose*, J. p. d.

John Fossie, Chirurgeon, purged, sworn and examined, depon's, That he was called to the Bishop of *Orkney*'s Cure, and that he had a Wound betwixt the Wrest and the Elbow, which did cast out several small Bones at the two small Orifices; and that the Bishop was able to lift his Hand towards his Head. *Sic subscribitur*,

Fossie, *A. Primrose*, J. p. d.

William Borthwick, Chirurgeon, purged of partial Counsel, solemnly sworn and examined, depon's, conformis to *John Fossie* in all things. *Sic subscribitur*,

Will. Brothwick.

John Earle of *Rothes*, Lord High Chancellor of *Scotland*, being sworn, and the Confession under Master *James Mitchel*'s Hand being shown to him, depon's, he was present and saw Mr. *James Mitchel* subscryve that Paper; and depones that he heard him make the Confession contained therein, and that he thereafter heard him ratify the same at the Council-Bar, in presence of the King's Commissioner and Lords of Privie Council sitting in Council, and that his Lordship subscryved the said Confession. Depones, That his Lordship, the Advocate, and Thesaurer Depute, were appointed by the Privie Council to examine Mr. *James Mitchel*. And being interrogate, if after they had removed the Pannal to the Council-Chamber, whether or not his Lordship did offer to the Pannal upon his Confession to secure his Lyfe in these Words, Upon his Lordship's Lyfe, Honour and Reputation. Depon's, that he did not at all give any Assurance to the Pannal for his Lyfe; and that the Pannal never sought any such Assurance from him: And his Lordship does not remember that there was any Warrand given be the Council to his Lordship for that effect; and if there be any Expressions in any Paper which may seem to inferr any thing to the contrary, his Lordship conceaves it has been insert upon some Mistake. *Sic subscribitur*,

Rothes, *A. Primrose*, J. p. d.

Charles Maitland of *Hatton*, Lord Thesaurer Depute, being sworn, and the Confession under Mr. *James Mitchel*'s Hand being shewen unto his Lordship, depon's he was present when Mr. *James Mitchel* made that Confession, and his Lordship first heard him make it verballie, and then he saw him subscryve it; and that his Lordship subscryved it also, and at that tyme there was nothing spoken of any Assurance: But when the Pannal was asked by some of the Committee, upon what Account he committed that Fact; he seemed at first unwilling to answer, but thereafter said, it was becaus the Archbishop is ane Enemie to the good People or Godlie People in the West. Depon's, that within few Days thereafter, at a Meeting of the Council, where the Duke *Lauderdale* then his Majesties Commissioner was present, the Pannal being brought to the Bar, and the Confession produced being shewen to him, he acknowledged the same to be his Hand Wrytt; adhered unto and renewed the same in presence of his Majesties Commissioner and Council: And depones that he did not hear the Pannal either seek Assurance of his Lyfe, or any other Person offer the same to him. *Sic subscribitur*,

Ch. Maitland, *A. Primrose*, J. p. d.

John Duke of *Lauderdale*, being sworn, depon's, That his Grace was present, as the King's Commissioner in Council, when Mr. *James Mitchel* was brought to the Bar. Depons his Grace saw the Pannal's former Confession made at the Committee of Council shewen to him, and he acknowledged it to be his Confession, and that he did adhere thereto and renew the samen in presence of his Grace and the Council. His Grace heard no Assurance given to him, and that his Grace did not give him any Assurance, nor gave Commission to any others to give him any Assurance, and could not do it, having no particular Warrand from his Majestie for that effect. *Sic subscribitur*,

Lauderdale, *A. Primrose*, J. p. d.

James Archbishop of Saint *Andrews*, being sworn, depon's, That that Day that the Pannal did fire a Pistol at his Grace, he had a Wiew of him passing from the Coach and crossing the Street, which had such Impression upon his Grace, that upon the first sight he saw of him after he was taken, he knew him to be the Person who shot the Shot. Depon's, his Grace saw him at the Council-Bar in presence of his Majesties Commissioner and the Council acknowledge his Confession made before the Committee, and heard him adhere thereto and renew the samen; and that there was no Assurance of Lyfe given him, nor any sought be him there. Depon's, that his Grace himself did never give him any Assurance, nor gave Warrand to any others to doe it; only he promised at his first taking, that if he would freelie confess the Fault, and express his Repentance for the same at that tyme, without farder troubling Judicatories therein, his Grace would use his best Indeavour to favour him, or else leave him to Justice: But that he either gave him Assurance, or gave Warrand to any to give it, it is a false and malicious Calumny; and that his Grace made no Promise to *Nicoll Somervel* other than that it was best to make a free Confession. And this is the Truth,

as

as he ſhall anſwer to God. *Sic ſubſcribitur*,
St. *Andrews*, *A. Primroſe*, J. p. d. Com.

The Pannal, Mr. *James Mitchel*, after ſwearing of the Aſſyſe, produced ane Copie of ane pretended Act of Council, and craved that the Regiſter of Council containing the ſaid Act might be produced. And after the Examination and Depoſitions of the Witneſſes upon the *Dittay* and Exculpation, the Pannal and his Proctors farder urged, that the Regiſter of Council might be produced. Seeing the Pannal produced ane Inſtrument againſt Mr. *Thomas Hay*, one of the Clerks of Council, for giving ane Extract thereof; and the Pannal and his Proctors alleadged, that the Regiſter of Council containing the ſaid Act was produced in Court the Day before, and that the ſaid Act was read be ſeveral Members of Court; and being once produced, and ane Inſtrument taken againſt one of the Clerks of Council, who with the other Clerk were cited as Witneſſes be his Majeſties Advocate, the Clerks ought to be ordained either to give ane Extract or produce the Regiſter containing the forſaid Act; and the Pannal and his Proctors deſyre to be heard in Wrytt upon the ſaid Act of Council.

His Majeſties Advocate anſwers, That he was not obleidged to produce a Regiſter for the Pannal; and if any ſuch pretended Act was, he ſhould have uſed a Diligence and cited the Clerks of Council for producing of the Regiſters, or giving ane Extract; which the Pannal not having done, he cannot be allowed a Diligence in this State of the Proceſs. And if any ſuch Act of Council was, it was unwarrantable and could not be made uſe of, after the Lord Chancellor, the Duke of *Lauderdale*, the Lord Theſaurer Depute, and other Lords of Council had deponed that there was no ſuch Aſſurance given, as is either pretended by the Exculpation, or inſinuate by the pretended Act of Council. And be the Coppie produced it is evident, That the Deſigne thereof is to take from the Pannal any pretended Favour he pleads; and if the Act be founded one, it cannot be divided; ſo that ane meer Narrative muſt prove, and the Statutorie Words ſhould not prove; eſpeciallie ſeeing there is nothing more notour and ordinary, then for the Council not to conſider a Narrative if the Statutory Words be Right. And as the Pannal pretends that his Confeſſion cannot be divided from the Aſſurance given, but that it muſt be taken with the Qualitie; ſo much leſs muſt this Act be divided. And the pretended Act is long poſterior to the Pannal's Confeſſion, and even poſterior to a former Dyet in the Juſtice Court appointed for the Pannal's Tryal for the ſaid Cryme. And farder, no ſuch Aſſurance could have been granted, ſeeing none but his Majeſtie can grant Remiſſions.

The Pannal and his Proctors deſyred the Copie produced to be read.

His Majeſties Advocate conſents to the Reading of the pretended Coppie of the Act of Council, and which being publictlie read, is of the Tenor following.

Edinburgh, 12 *March*, 1674.

'THE Lord Commiſſioner his Grace, and 'the Lords of his Majeſties Privie Council having appointed a Committee of Council to examine Mr. *James Mitchel*, Priſoner in the *Tolbuith* of *Edinburgh*; the ſaid Mr. *James* being brought before the ſaid Committee, did make a free and voluntarie Confeſſion of his Acceſſion to the Rebellion, and riſing in Arms in the Weſt; and that after he had Notice of the ſame, he went from *Edinburgh* with Collonel *Wallace* and others, and joyned with the Rebels there, and from thence came alongs and was with them until the Night before the Fight at *Pentland-hills*; and that at the Deſyre of Captain *Arnot*, he came then to *Edinburgh* to ſpeak to ſome Perſons there concerning them. And being examined upon the Attempt made upon the Perſon of the Archbiſhop of St. *Andrews*, and who ſhot the Piſtol at the ſaid Archbiſhop, when the Biſhop of *Orkney* was hurt in the Moneth of *July* 1668. He did declare that at that tyme, and the Day that the ſaid Attempt was made he was in the Town of *Edinburgh*; and that he had bought the Piſtol, which was about him, charged with three Balls when he was apprehended, about that tyme when the Biſhop was ſhot, from *Alexander Logan*, Dage-maker in *Leithwynd*: But refuſed that he was the Perſon that made the ſaid Attempt, until having retired a pace with one of the ſaid Committee, he did confeſs upon his Knees that he was the Perſon, upon Aſſurance given him by one of the Committee, as to his Lyfe, who had Warrand from the Lord Commiſſioner and the Council to grant the ſame. And did thereafter confeſs freelie, before all the Lords that was upon the ſaid Committee, That he ſhot the forſaid Piſtol at the ſaid Archbiſhop, and did ſubſcryve his Confeſſion in Preſence of the ſaid Committee, which is alſo ſubſcryved by them. And therefter the ſaid Mr. *James* in preſence of the Commiſſioner his Grace and Council, did renew and adhere to the ſaid Confeſſion, both as to the Acceſſion to the Rebellion and the Attempt forſaid; and acknowledged he made the ſaid Attempt becauſe he thought that the ſaid Archbiſhop had ane Hand in troubling and perſecuting theſe that were in the Rebellion. And nevertheleſs, being brought before the Lords Commiſſioners of the Juſticiarie, and asked if he did own the Confeſſion forſaid, he did altogether refuſe to anſwer and adhere to his ſaids Confeſſions, notwithſtanding he was told by the Lords Commiſſioners of Juſticiarie and his Majeſties Advocate, that if he would adhere to his ſaids Confeſſions, he ſhould have the Benefite of the ſaid Aſſurance; and if otherways, that he ſhould loſe the ſame. Therefore the Lord Commſſioner his Grace, and the Lords of his Majeſties Privie Council, do declare, That they are free, and that the ſaid Mr. *James* ought not to have the Benefite of any ſuch Promiſe or Aſſurance, and that the ſame is altogether void; and that the Lords of the Juſticiarie and the Aſſyſe ought to proceed without any Reſpect to the ſame. And farder do declare, That the ſaid Mr. *James Mitchel* is the Perſon intended and meaned in the Proclamation in the Years 1666 and 1667. diſcharging any Intercomoning with the Rebels therein mentioned, and excepting the ſaid Mr. *James*, and the other Perſons therein, from his Majeſties Favour and Indempnitie,

'and no other under the Name of Mr. *James* 'Mitchel, though there had been any other of 'that Name involved in the ſaid Rebellion.

The Pannal and his Proctors renew their Deſyre, and crave to be heard to debate upon the Act of Council in Wrytt.

The Lords Commiſſioners of Juſticiarie conſidering that the Copie of the pretended Act of Council produced was never urged, nor made uſe of, nor any Diligence craved for producing the Regiſters of Council, until this Afternoon that the Aſſyſe was ſworne, after which no Diligence can be allowed nor granted in this State of the Proceſs be the Law of the Kingdom, and Practique of this Court; eſpeciallie, ſeeing it appears be the ſaid Coppie, that the Deſigne was to take away any Aſſurance that the Pannal could have pleaded; and that the Truth of the Narrative of the Coppie founded upon inſinuating that there was ane Aſſurance, is cancel'd be the Depoſitions of the Duke of *Lauderdale*, then his Majeſties Commiſſioner, the Lord Chancellor, and other Members of the Committee and Council: The ſaids Lords therefore ordaine the Aſſyſe to incloſe and return their Verdict to Morrow at Two a Clock in the Afternoon.

Curia Juſticiariæ S. D. N. *Regis tenta in Pretorio Burgi de* Edinburgi, *Decimo die Menſis* Januarii, 1678. *per Honorabiles viros Dominos* Archibaldum Primroſe *de* Caringtoun, *Juſticiarium generalem*, Jacobum Foulis *de* Colingtoun, Robertum Nairn *de* Strathurd, Johannem Lockhart *de* Caſtle-hill, Davidem Balfour *de* Ferret, *&* Thomam Murray *de* Glendoick, *Commiſſionarios Juſticiariæ dicti* S. D. N. *Regis.*

Curia legittime affirmata.

The ſaid Day the Perſons who paſt upon the Aſſyſe of Maſter *James Mitchel*, returned their Verdict in preſence of the ſaids Lords: Whereof the Tenor followes.

As to the firſt part of the Lybell, founded upon the 4 Act, 16 Parl. King *James* 6. The Chancellor and whole Aſſyſe, with one Voice, find it proven conform to the Lords Interloquitor.

As to the Invading of Biſhops and Miniſters, and Wounding the Biſhop of *Orkney*, ſiclike proven with one Voice.

As to the third part of the Lords Interloquitor concerning his Confeſſion, firſt before a Committee, and thereafter before his Majeſties High Commiſſioner and Council, the whole Aſſyſe with one Voice find it proven conform to the Lords Interloquitor.

As to the fourth and laſt part of the Interloquitor concerning the Exculpation, the whole Aſſyſe with one Voice find it no ways proven. And furder concerning the Exculpation, when the Pannal was preſſing it ſtronglie upon my Lord Chancellor, the whole Aſſyſe heard his own Confeſſion and Acknowledgment of the Fact. *Sic ſubſcribitur*,

Jo. Hay, Chancellour.

After opening and reading of the whilk Verdict of Aſſyſe, the Lords Commiſſioners of Juſticiarie, by the Mouth of *Adam Auld*, Dempſter of Court, Decerned and Adjudged the ſaid Mr. *James Mitchel* to be taken to the *Graſs Mercat* of *Edinburgh*, upon *Fryday* the Eighteenth Day of *January* Inſtant, betwixt Two and Four Aclock in the Afternoon, and there to be Hanged on ane Gibbet till he be Dead, and all his Moveable Goods and Gear to be Eſcheat and inbrought to his Majeſties Uſe; which was pronounced for Doom.

The

The TRIAL *of* PHILIP *Earl of* PEMBROKE *and* MONTGOMERY, *before the* PEERS *in* Weſtminſter-Hall, *on* Thurſday *the* 4*th of* April 1678.

ABOUT Nine of the Clock the Priſoner with his Guard came from the Tower, with the Ax before him, and went into the Room appointed for him. Between the hours of Eleven and Twelve at Noon, the Lords, Judges, and Aſſiſtants of the Houſe, came in order, two and two, from the Houſe of Lords, to the Court erected in *Weſtminſter*-Hall, with four Maces before them, and before the Lord High-Steward four more, beſides his own Serjeant and Purſe-bearer, with Garter King at Arms, and the Deputy Black-rod bearing the White Staff. After Obeiſance made to the Throne, each Lord, and the others, took their places, the Serjeants, with their Maces erect, kneeling, four on each ſide of the Throne.

Then the Clerk of the Crown in Chancery on the right hand, and the Clerk of the Crown in the Kings-Bench on the left hand, making three Reverences to the Lord High-Steward, came up to his Seat, and there both kneeling, the Clerk of the Crown in Chancery delivered the Commiſſion for the Office of High-Steward (*pro hac vice*) to his Grace, who delivered it to the Clerk of the Crown in the Kings-Bench to read, and then they both in the ſame manner went back to their Seats at the Table.

Then the Clerk of the Crown in the Kings-Bench ſaid as followeth.

Clerk of the Crown. Serjeant at Arms make Proclamation.

Serjeant at Arms. O yes, O yes, O yes: My Lord High-Steward of *England* ſtraitly chargeth and commandeth all manner of perſons here aſſembled, to keep ſilence, and give ear to his Majeſties Commiſſion, unto my Lord High-Steward his Grace directed, upon pain of Impriſonment.

Then all the Peers and Aſſiſtants ſtanding up, and uncovered, he read the Commiſſion *in hæc verba.*

Clerk of the Crown. *Carolus*, &c.

Serjeant. God ſave the King.

Then Garter and the Uſher that held the Staff, making three Reverences to his Grace, Garter on his knees preſented him the white Staff, which his Grace delivered to the Uſher, who likewiſe kneeled to hold the ſame, during the reſt of the Ceremony.

Clerk of the Crown. Serjeant at Arms make Proclamation.

Serjeant. My Lord High-Steward of *England* his Grace ſtraitly chargeth and commandeth all manner of perſons here preſent, to be uncovered, upon pain and peril ſhall fall thereon.

Then the Clerk read the *Certiorari* to the Commiſſioners, before whom the Indictment was found, to return the ſame into the Houſe of Lords with the Return *in hæc verba.*

Clerk of the Crown. *Carolus*, &c. *Virtute*, &c. Serjeant at Arms make Proclamation.

Serjeant. O yes: Conſtable of the Tower of *London* return thy Precept and Writ to thee directed, and bring forth thy Priſoner *Philip* Earl of *Pembroke* and *Montgomery*, on pain and peril ſhall fall thereon.

The Conſtable of the Tower of *London* being a Peer, by Sir *John Robinſon* his Lieutenant returned his Precept, and with the Ax born on his left hand, the edge from him, the Earl of *Pembroke* was brought to the Bar, the Lord High-Steward of *England* having then ordered the Judges to be covered, ſpake to the Priſoner as followeth.

Lord High-Steward. My Lord of *Pembroke* Your Lordſhip is now brought before this Great Aſſembly in order to your Trial, wherein you have to maintain all that can concern you in this World, your Eſtate, your Honour and your Life it ſelf. There is no leſs a Crime charged on you, than the Murther of one of the King's Subjects, and this is not charged on you by common Voice and Fame, nor by the growing Rumour of the multitude, but by the grand Inqueſt of this County, which was made up of Gentlemen of good Quality and Conſideration. Though all this amount to no more than a bare Accuſation, (for God forbid that they who neither did nor could hear the Evidence on both ſides, ſhould any way prejudge your Trial by their partial Examination) yet it hath produced the preſentment of ſuch a Crime, as is attended with extraordinary and unuſual Circumſtances.

And now for this Fact your Lordſhip is to be tried in full Parliament, and your Arraignment is to be made as full and as ſolemnly as is poſſible. The King (who will have a ſtrict account of the Blood of the meaneſt of his Subjects, by whomſoever it is ſhed) hath for this purpoſe appointed an High-Steward: And now your Lordſhip is to be tried not by a ſelect number of Lords, but by the whole Houſe of Peers, who are met together to make Inquiſition for this Blood.

Doubtleſs the ſhame of being made a Spectacle to ſuch an Aſſembly as this, and the having a man's faults and weakneſſes expoſed to the notice and obſervation of ſuch a Preſence as this is, to a generous Mind muſt needs be a penance worſe than death it ſelf; for he that outlives his own Honour, can have very little joy in whatſoever elſe he lives to poſſeſs.

In ſuch a ſtate and condition as this is, it will be very fit for your Lordſhip to recollect your ſelf with all the care and caution you can; it will be neceſſary for you to make uſe of the beſt tem-

per, and the beſt thoughts you have, when you come to make your defence; let not the diſgrace of ſtanding as a Felon at the Bar, too much deject you; no man's credit can fall ſo low, but that if he bear his ſhame as he ſhould do, and profit by it as he ought to do, it is in his own power to redeem his reputation. Therefore let no man deſpair, that deſires and endeavours to recover himſelf again, much leſs let the terrors of Juſtice affright you; for though your Lordſhip have great cauſe to fear, yet whatever may be lawfully hoped for, your Lordſhip may expect from the Peers.

It is indeed juſt cauſe of dreadful apprehenſions, when you conſider how ſtrict and impartial the Judicature is which you ſtand before, and how impoſſible it is that any Conſideration of your Lordſhip's Relation or Family, ſhall have any kind of Ingredience into their Lordſhips Judgment; nay you have cauſe to fear all this will make againſt you, when you conſider how the Quality of the Offender doth aggravate the Crime.

You have reaſon to fear and be diſmayed again, when you conſider how ſevere, and how inexorable the Rule of Law is, in the Caſe of Blood; and how certain it is that the Lords will make that Rule of Law the meaſure of your Life or Death: But yet, my Lord, there are other Conſiderations that may ſupport you.

Your Lordſhip may be ſure that they will receive no proof againſt you, but direct and poſitive Evidence; it will not be left to any proof, but ſuch proof, as by the manifeſt plainneſs of it, deſerves to be called Evidence. In the next place, your Lordſhip ſhall ſuffer no prejudice for want of Counſel, for where there are any advantages that the Law can give you, this Court takes it ſelf obliged in Honour to put you in mind of it; nor can your Lordſhip ſuffer an Inconvenience, by having Counſel to plead againſt you, for no Arguments nor Skill can pervert their Lordſhips Juſtice; you ſhall not fall by the charms of Eloquence; nothing ſhall load or preſs you but your own Crime, and even that burthen may be alleviated, if there be any room for an Abatement, ſo far as it doth not contradict what they owe to the King, to themſelves, to the Law, and to the Juſtice of the Kingdom.

Hearken therefore (my Lord) to your Indictment with patience and attention, give no Interruption to the Counſel or Witneſſes that ſpeak againſt you, and reſerve what you have to ſay for your ſelf till the time come, when your Witneſſes ſhall be examined, and you make your Defence, of which I will give you notice. And this you may rely upon, that when you do come to ſpeak for your ſelf, you ſhall be heard with as much favour and candor as the matter will bear; and when my Lords have heard all that can be ſaid on both ſides, doubtleſs their Lordſhips will give ſuch a Judgment in the Caſe, as is fit for you to receive, ſuch a Judgment as becomes this great Court, and ſuch a Judgment as is ſuitable to that known Equity, which their Lordſhips do always obſerve in all their Proceedings.

Lord High-Steward. Read the Indictment to my Lord.

Clerk of the Crown. *Philip* Earl of *Pembroke* and *Montgomery*, hold up your Hand.

Which he obeyed by holding up his Right Hand.

Cl. of Cr. *You ſtand indicted by the Name of* Philip *Earl of* Pembroke *and* Montgomery, *late of the Pariſh of St.* Martins in the Fields, *in the County of* Middleſex, *for that you not having the Fear of God before your Eyes, but being moved and ſeduced by the Inſtigation of the Devil, the 4th of* February, *in the 30th Year of the Reign of our Sovereign Lord* Charles *the Second, by the Grace of God, of* England, Scotland, France *and* Ireland, *King, Defender of the Faith,* &c. *with Force and Arms, at the Pariſh aforeſaid, in the County aforeſaid, in and upon one* Nathaniel Cony, *Gent. in the Peace of God, and of our ſaid Sovereign Lord the King, then and there being, feloniouſly, voluntarily, and of your Malice forethought, did make an Aſſault; and that you the ſaid* Philip *Earl of* Pembroke *and* Montgomery, *with the Right Fiſt of you the ſaid* Philip, &c. *the ſaid* Nathaniel Cony, *in and upon the Left part of the Head of the ſaid* Nathaniel Cony, *then and there feloniouſly, wilfully, and of your Malice aforethought, did ſtrike and bruiſe, and him the ſaid* Nathaniel Cony, *with your Right Fiſt aforeſaid, did beat and throw down to the Ground; and that you the ſaid* Philip, *&c. the ſaid* Nathaniel Cony *ſo lying upon the Ground, in and upon the Head, Neck, Breaſt, Belly, Sides and Back, of him the ſaid* Nathaniel Cony, *then and there feloniouſly, wilfully, and of your Malice before-thought did ſtrike and kick, by reaſon of which ſaid kicking and bruiſing of the ſaid* Nathaniel Cony *on the ſaid Left part of the Head of the ſaid* Nathaniel Cony *with the ſaid Fiſt of you the ſaid* Philip, *&c. and of the beating and throwing him to the Ground aforeſaid; and alſo by reaſon of kicking of the ſaid* Nathaniel Cony *with the ſaid Feet of you the ſaid* Philip, *&c. on the Head, Neck, Breaſt, Belly, Sides and Back of the ſaid* Nathaniel, *he the ſaid* Nathaniel Cony, *from the aforeſaid 4th Day of* February *in the aforeſaid Year, to the 10th of the ſame Month of* February, *in the Pariſh aforeſaid, did languiſh, and languiſhing did live; on which ſaid 10th Day of* February *in the Year aforeſaid, he the ſaid* Nathaniel Cony, *of the ſtriking and bruiſing, beating and kicking died; and ſo you the ſaid* Philip, *&c. the ſaid* Nathaniel Cony, *at the Pariſh aforeſaid, in the County aforeſaid, in manner and form aforeſaid, feloniouſly, voluntarily, and of your Malice forethought, did Kill and Murther, againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity. How ſay you,* Philip *Earl of* Pembroke *and* Montgomery, *Are you Guilty of this Felony and Murther whereof you ſtand indicted, or Not Guilty?*

E. of Pemb. Not Guilty.

Cl. of Cr. *Culprit*, How will you be tried?

E. of Pemb. By my Peers.

Cl. of Cr. God ſend you a good Deliverance. Serjeant at Arms, make Proclamation.

Serj. O yes, If any one will give Evidence for our Sovereign Lord the King, againſt *Philip* Earl of *Pembroke* and *Montgomery*, the Priſoner at the Bar, let them come forth and they ſhall be heard, for the Priſoner ſtands at the Bar upon his Deliverance.

Then Sir *William Dolben*, Knt. the King's Serjeant at Law, Recorder of the City of *London*, opened the Indictment thus:

Sir *William Dolben.* May it pleaſe your Grace my Lord High-Steward of *England*, and the reſt of my Noble Lords.

Philip Earl of *Pembroke* and *Montgomery* ſtands indicted, for that he, the 4th Day of *February* laſt, in the Pariſh of St. *Martins in the Fields*, in the County

County of *Middlesex*, of his malice fore-thought, did make an assault upon one *Nathaniel Cony*, in God and the King's peace there being; and that he the said *Philip* Earl, *&c.* with his right Fist, on the left part of the Head of the said *Nathaniel*, then and there feloniously did strike and bruise, and with his right Fist aforesaid, him did cast and throw down to the ground, and being so on the ground with his Feet did kick and strike, of which said striking, bruising and kicking, the said *Nathaniel Cony*, from the said 4th of *February*, to the 10th of *February* following, did languish, and then died; and so the Jurors do upon their Oaths say, That the said *Philip* Earl of *Pembroke*, &c. the said *Nathaniel Cony*, at the Parish and County aforesaid, feloniously, wilfully, and of his malice fore-thought, did murther, against the King's peace, his Crown and Dignity. To this Indictment the Earl of *Pembroke* hath pleaded Not guilty, and put himself upon his Peers for his Trial: We who are of Counsel for the King, shall produce our Evidence to confirm this Accusation, with what it is, and of what nature, his Majesty's Attorney General will acquaint your Grace, and the rest of you my Noble Lords.

Then Sir *William Jones*, Attorney-General, (who being called by Writ, as Assistant to the House, was within the Bar) opened the Evidence to this effect.

Att. Gen. May it please your Grace my Lord High Steward of *England*, and the rest of my Noble Lords; *Philip* Earl of *Pembroke* and *Montgomery* stands here Indicted for the Murther of *Nathaniel Cony*: That my Lord of *Pembroke* was the cause of his death, I humbly conceive will need very little question before your Lordships, for we have such proof that it was his hand threw him down, and his feet that trod upon him and kicked him, which was the cause of his death, that it cannot be denied: but whether or no this killing amount to Murther, may be a matter of further controversie; and I hold it my duty to acquaint your Grace and my Lords, what the proof is, and then what we have to offer to prove it to be an offence even of this nature.

My Lords, I know to maintain an Indictment of Murther, there must be a proof of Malice; but the Law is plain (your Lordships know it, and my Lords the Judges will tell it you) that there are two sorts of Malice, the one is Malice expres'd, and that is when a man can be proved to have born before hand an ill will and hatred to the person he killed; this sort of Malice we pretend not to be in this case: But there is another sort of Malice, which also in Law gives the denomination of Murder to the killing of a man, which is Malice implied, when any one shall without any provocation given by the party slain, bring another by violence to his Death: For our Law supposeth, and that upon good ground, that no man without a Provocation would kill his Brother, unless he had Malice to him before-hand; and that is the Malice that falls out to be the Ingredient of this case, for the poor unfortunate Gentleman that was killed, did not for ought that did appear to me, (and I have had all the proof given at the Coroners Inquest under my Examination) give the least Provocation to this Noble Lord. Some have thought that a person might be guilty of malicious Murther, though the party killed had given the Murtherer a blow; but I shall not contend for so strict a construction of a Provocation, for there was not in this case a blow struck, no nor an angry word given: all that I can find came from Mr. *Cony* was, to complain that a Friend of his that came into the Company with him, was turned out of doors; and sure such a thing will never be taken to be a Provocation, at leastwise such a one as will take away Malice implied. I shall now (my Lord) give your Lordships an account of the nature of our Evidence, as to the Fact, and that (my Lords) in short; for as I shall not use any aggravation above what the Cause requires, so I shall not tire your Grace, and my Lords, with any long Speech, but barely open the Evidence, and tell you in short what will come in proof before you.

It was on *Sunday* the 3d of *February*, that my Lord of *Pembroke* and his Company were drinking at the House of one *Long* in the *Hay-Market*, (I am sorry to hear the day was no better imployed by them) and it was the misfortune of this poor Gentleman, together with one Mr. *Goring*, to come into this House to drink a Bottle of Wine; my Lord of *Pembroke* saw them coming in, and knowing Mr. *Cony*, was very importunate with him to joyn Company: he at first refused, because of his Friend, and told his Lordship they had business together; but no denial he would take, and so at last they did go into my Lord's Room. After some distance of time, when it was near twelve of the Clock at Night, there fell out a difference between my Lord, and Mr. *Goring*, (the Gentleman that came in with Mr. *Cony*) who (it seems) gave my Lord of *Pembroke* some words, which provoked him to expres his distaste of them, by throwing a Glass of Wine in his face; which injury Mr. *Goring* so far resented, as that he was about to draw his Sword, but was prevented by some of the Company, and put out of the Room to avoid further mischief. This Gentleman Mr. *Cony* that was killed, was not at all concerned in the matter of the difference, but only desired to go out of the Room, that he might look after his Friend who was thrust out of doors. He knew not why, (without any Provocation, as you will hear by and by) my Lord of *Pembroke* falls upon him, strikes him with one blow to the ground, and when he was there trod upon him on his Back, on his Belly, on his Side, and kicked him so that the poor Gentleman fell into a Swound, and was after some time, with some difficulty brought to himself again: after they had perceived there was Life in him, they liftedhim up, and laid him down on some Chairs thatwere in the Room, and thinking too much hadbeen done by them already, they take their leaves of him, and commit him to the care of the Drawer. He was not (as it should seem) so carefully attended by the Drawer, whose ignorance could not look after him as his condition required, and so fell down off the Chairs again divers times. After some time, early in the morning he was carried away in a Sedan to his own Lodging, and being there put to Bed, as he grew a little more and more recovered out of his stupefaction, so he grew more and more in pain, and sent for Doctors and Chirurgeons to consult with, by whom he had all the means used that was possible to have saved his Life; but it proved there was so much Blood forced out of his Veins, and gathered into one place of his Body,

by

by those Blows and Bruises, that he could not be recovered, and so after a Weeks time passed in intolerable pain, died: But yet all the time of his dying, and even constantly to his death, he did complain that it was my Lord's Bruises brought him into that condition. It will also be proved, that after his death, upon view of the Body by the Coroner and his Jury, there was the appearances of those Blows and Abuses, by broad Bruises in several parts of the Body, and this some of the Jury will testifie. This in short is the matter of the Evidence, which we shall briefly prove, and then submit it all to your Lordships Judgment.

L. H. St. Call the Witnesses together, and speak out Mr. Attorney.

At. Gen. Those we shall call first are Mr. *Henry Goring*, Mr. *Richard Savage*, Mr. *John Shelly*, and Capt. *Fitz-Patrick*.

Cl. of Cr. The Evidence which you and every one of you shall give for our Sovereign Lord the King, against *Philip* Earl of *Pembroke* and *Montgomery*, the Prisoner at the Bar, shall be the truth, the whole truth, and nothing but the truth: So help you God.

L. H. St. Mr. Attorney, whom do you begin with?

At. Gen. Mr. *Henry Goring*.

L. H. St. Stand forward, *Goring*.

At. Gen. Pray Sir acquaint my Lords of the manner of your coming with Mr. *Cony* to Mr. *Long*'s, and what happened there.

L. H. St. Sir, you must speak so loud that I may hear.

Goring. May it please your Grace, Mr. *Cony* and I did on *Sunday* the 3d of *February* last, dine in the City, we stayed very late there, and I must ingenuously confess, we had drank more than was fit for us to have done; after that (if it please your Grace) I offered to set down Mr. *Cony* at his Lodgings, but he was so very ceremonious, that he would see me at home; it seems *Long*'s House, the Tavern in the *Hay-market*, was in the way, and Mr. *Cony* would needs have us drink another bottle of Wine e're we parted: It was late, and the door shut, but we knocking pretty hard for admittance, did get it opened, and as soon as the door was opened, Mr. *Cony* went towards the Bar, and made some noise, being in drink; my Lord of *Pembroke* was then in a low room in the House, and knowing Mr. *Cony*, (as I thought) came and asked him, if he would come in and drink with him; he replied, My Lord, I am with a Friend, and we have some business together: At length my Lord asked me very civilly to come in, and we did after some time come in, and when we were in, my Lord drank to me, as I remember, and we stood round the Table a while, and at last sate down in some Chairs, for we were not so much our selves as to be able to stand all the while; then there was, it seems, some Dispute between my Lord of *Pembroke* and me, wherein my Lord did conceive I had done him some injury, and threw a glass of Wine in my face.

Att. Gen. What kind of Discourse was that, pray Sir?

Goring. Truly (may it please your Grace) I cannot remember all the Discourse, because I was so much in drink at that time; they say, it was about Families and Play, I cannot positively say what it was; but after my Lord of *Pembroke* rose up to draw his Sword, and I laid my hand on mine.

Att. Gen. Well Sir; and what followed then?

Goring. Captain *Savage* stept in between my Lord and me, and the Drawer came bustling about, and took me and shoved me out of the room; while I was thrusting out I heard a noise behind me, and I see my Lord make somewhat towards Mr. *Cony*; but more I cannot say what was done, because Mr. *Savage* was between my Lord and me. When I was out of the room, I found my Sword gone, and my Hat and Perriwig; I then made a noise at the door, and would not go away till I had recovered my things; the Man of the House (who was in bed, it seems, for he was then undrest, and in his Night-Gown) came and asked me what was the matter? I told him, I had been in that room with my Lord of *Pembroke*, where I had received some ill usage, and had lost my Hat and Perriwig; and they had broken a piece of my Sword, and taken it from me, which I desired to have again; and (said I) Mr. *Cony*, I doubt, is in danger, for there is quarrelling within, and I desired to come in to see what they did with him.

Att. Gen. Well Sir, when you came in, what then?

Goring. Upon this, the Master of the House did desire me to go into a room, and a Gentlewoman (his Sister, as I after understood) did also press me to go into another room, and promised they would bring Mr. *Cony* to me; upon which I went into a room there by, but it was something long before I heard from them; and being under some impatience, they at last came and told me, Now, Sir, you may go in, if you please: when I came in, I found a Gentleman lying along upon the Chairs, and no body else in the room; I began to be suspicious (for I was then, as I thought, somewhat soberer) that he had some Wound, and took the Candle and walked about him, and would fain have awakened him, but could not by all my endeavours; the Drawer told me, he was only dead-drunk, and would in a little time come to himself; upon which I desired them to lay some Blankets upon him, and some Pillows under him, and set some more Chairs, to make the place broader, that he might not fall down; and I ordered the Drawer to be sure to watch with him till he awaked, and make a good fire, which he promised to do.

The next day Mr. *Cony* sent to my Lodging to come and see him, but I did not that day, because I did go out early, and did not return till late; but the very next day after, (being *Tuesday*) when I came to him, *Harry*, (said he) I was very much abused the other night in my Lord's company; I am sorry for that (said I) with all my heart; and I asked him, how he came to be abused; My Lord of *Pembroke* (said he) threw me down, and there some body trod upon me and kicked me, and he shall know that he has abused me, and that I expect satisfaction for it, I hope you will let him know so much, and carry him a Challenge from me: Mr. *Cony*, (said I) who did tread upon you? I know not, (said he) for I was in a swound, either my Lord of *Pembroke*, or some of his Creatures for him. I never had the honour to know my Lord of *Pembroke* before, nor above one or two of the Gentlemen that were with him then in the company.

Att.

Att. Gen. Sir, had you any diſcourſe with him afterwards?

Goring. Yes, every day till *Thurſday* at Night.

Att. Gen. Did he complain of much pain?

Goring. Yes, conſtantly in his Belly, his Sides and his Shoulders.

Att. Gen. What did he tell you was the cauſe of his Death?

Goring. He ſaid it was my Lord of *Pembroke* that had done him the injury in throwing him down; who trod on him, or kicked him, he could not tell, but ſaid, my Lord ſhould anſwer for it to him.

Att. Gen. Do you remember what part he complained of moſt?

Goring. His Belly.

Att. Gen. And what elſe?

Goring. I think his Side and Shoulders.

Att. Gen. What diſtance of time was it between your being thruſt out of the Room, and your coming in, and finding him upon the Chairs?

Goring. About half an Hour.

L. H. St. Mr. *Goring*, you ſay you ſaw no ſtroke given by my Lord of *Pembroke* to Mr. *Cony*.

Goring. No truly, may it pleaſe your Grace, I ſaw my Lord make towards him, but Mr. *Savage* was between my Lord and me, and I was put out of the Room.

L. H. St. You did not hear Mr. *Cony* charge my Lord with kicking him, or ſtamping on him?

Goring. He did not in my hearing charge him with ſtamping on him, but that he threw him down, and that then ſome one did kick him.

Att. Gen. My Lords, We have done with this Witneſs.

L. H. St. My Lord of *Pembroke*, Will your Lordſhip pleaſe to ask that Witneſs that ſpoke laſt any Queſtions, for now is your time?

E. of P. No, my Lord.

Att. Gen. Then we deſire Mr. *Savage* may be examined: Mr. *Savage*, pray do you acquaint his Grace and my Lords what you know of this Buſineſs.

Savage. May it pleaſe your Grace, I was in company with my Lord of *Pembroke* at Mr. *Long*'s Houſe in the *Hay-Market*, when Mr. *Cony* came in, and making a great noiſe at the Bar, my Lord of *Pembroke* being in a lower Room, looked out at the Door, and ſeeing who it was, my Lord ſaluted him very kindly, and told him he was glad to ſee him, and deſired him to walk into his Room. Mr. *Cony* told him he had a Friend at Door, and deſired his Lordſhip to admit him, which my Lord embraced very kindly: And then Mr. *Cony* goes to the Door and calls Mr. *Goring*, deſiring him to come in, and they came together into the Room; my Lord deſired them to ſit down and drink a Glaſs of Wine, which they did, and after ſome time falling into diſcourſe, Mr. *Goring* began to make uſe of ſome impertinent language to my Lord, and amongſt the reſt told him he was as good, or a better Gentleman than he was.

Att. Gen. Goring did?

Savage. Yes, *Goring* did; upon which my Lord threw a Glaſs of Wine in his Face, and immediately ſtept back and drew his Sword: Mr. *Goring* was going to draw, but I came up to him, and took his Sword from him, and broke a piece of it, and upon my perſwaſion my Lord put up his Sword again; but for fear there might be more words, I took Mr. *Goring* in my Arms, and ſhoved him out of the Room: And whilſt I was thruſting him out of Doors, I heard a noiſe of a Buſtle behind me, and leaving the Drawer to keep Mr. *Goring* out, I ſaw my Lord of *Pembroke* ſtrike *Cony* with his right Hand, who immediately fell down, and then gave him a kick; and ſo upon that, finding him not ſtir, I took Mr. *Cony* being on the Ground, (I and my Lord together, for I was not ſtrong enough to do it my ſelf) and laid him on the Chairs, and covered him up warm, and ſo left him.

Att. Gen. You ſay my Lord ſtruck him a blow.

Savage. Yes, he did ſtrike him.

Att. Gen. On what part?

Savage. I ſuppoſe on the Face.

Att. Gen. You ſay, Sir, my Lord of *Pembroke* did kick him when he was upon the Ground.

Savage. Yes.

Att. Gen. Did he kick him once, or oftner?

Savage. But once, that I ſaw.

Att. Gen. Pray Sir, on what part was it?

Savage. Some where on the Body, but I cannot tell what part.

Att. Gen. With what force did his Leg move?

Savage. Not with a very great force.

Att. Gen. How high was his Leg lifted up?

Savage. He puſhed his Leg with a quick motion forwards.

Att. Gen. When you took him up he was ſenſleſs, you ſay; pray Sir, how long was it e're he was brought to life again?

Savage. Two or three Minutes.

Att. Gen. What means did you uſe to bring him to himſelf?

Savage. We chafed him over the Temples, and ſuch things.

Att. Gen. When he came to life again, did he ſpeak?

Savage. He did open his Eyes, but did not ſpeak.

Att. Gen. What followed then?

Savage. We laid him upon ſome Chairs gently, for his Pulſe was almoſt gone, that we could feel.

Att. Gen. Did his Eyes continue open after he was revived?

Savage. Not long; for I asked him if he knew me, he ſeemed to ſhake his head, as if he did, and then cloſed his Eyes again.

Att. Gen. Before that Accident, what condition was he in? was he able to talk?

Savage. He was very drunk, but he did ſay ſomething.

Att. Gen. What diſcourſe had he before he was ſtruck down?

Savage. I cannot well remember, but I think he propoſed Play to my Lord.

Att. Gen. Why did my Lord ſtrike *Cony*?

Savage. I cannot tell, I was then putting *Goring* out of the Room, and hearing the noiſe of my Lord's motion towards *Cony*, I looked back and ſaw my Lord ſtrike him.

Att. Gen. What language did he uſe to my Lord, to provoke him to it?

Savage. I cannot tell any at all.

Att. Gen. Did you ſee Mr. *Cony* after that time, and what did he then ſay to you?

Savage. I went two days afterwards to ſee Mr. *Cony*, who told me he was then in a pretty good condition. He asked me whether my Lord had ſtruck him? I told him, yes. Truly, ſaid, he I did

did not know that my Lord had ſtruck me, but finding my ſelf ſo much in pain, I thought I had faln, partly through my Drink, and partly through my Fits I uſed to have.

Att. Gen. We (my Lord) have now done with this Witneſs.

L. H. St. My Lord of *Pembroke*, will you ask Mr. *Savage* any Queſtions?

E. of P. No, my Lord.

L. H. St. Mr. *Savage*, I think you ſay you ſaw my Lord of *Pembroke* kick him once; in your Judgment, was that Kick of ſuch force as to give any great bruiſe?

Savage. I did (my Lord) ſee him kick him once, but not with any great force, as I conceive.

L. H. St. You did not hear Mr. *Cony* complain my Lord had kick'd him?

Savage. No; for as I told your Lordſhip, when I was to ſee him two days after, he asked me the queſtion, and ſaid he did not know it before.

L. H. St. Mr. Attorney, pray on with your Witneſſes.

Att. Gen. We ſhall next call Mr. *John Shelly*: Mr. *Shelly*, pray tell his Grace and my Lords your knowledge in this untoward Accident.

Shelly. May it pleaſe your Grace, I was in the Room at *Long*'s, when Mr. *Cony* and Mr. *Goring* came in; they were both very far in Drink, in ſo much that *Goring* could hardly ſtand, but deſired he might have leave to ſit down, which he had: Mr. *Goring* in a little time propoſeth Play to my Lord, and my Lord told him he would throw with him for 500 *l.* and was ſending away for the Money; but then Mr. *Goring* would not Play: I believe (ſaid my Lord to him) you are an idle Fellow, that you will propoſe theſe things and not purſue them: Upon that Mr. *Goring* tells my Lord, his Name was a better Name than his Lordſhip's, and he a better Gentleman than my Lord: Then my Lord takes ſome Wine, and threw in his Face; hereupon Mr. *Goring* ſteps back, and drew his Sword, and my Lord did the ſame: Captain *Savage* ſteps in between them, and keeps my Lord, while *Goring* was put out of the Room: my Lord then deſired Mr. *Cony* to go out with his Friend: Said he, I do not know upon what account my Friend is ſent out; whereupon my Lord hit *Cony* a Box on the Ear, and that threw him down.

Att. Gen. Pray, Sir, before my Lord ſtruck him, did not *Cony* give my Lord ſome ill Language?

Shelly. He only ſaid as I told you before, I know not upon what account my Friend is turned out of Doors.

Att. Gen. Did you ſee my Lord ſtrike him?

Shelly. Yes.

Att. Gen. Where abouts?

Shelly. On the Head, with his Fiſt, or his Hand.

Att. Gen. Did he fall at the firſt blow.

Shelly. Yes.

Att. Gen. Did he afterwards ſay any thing?

Shelly. No.

Att. Gen. Did you ſee my Lord Kick him?

Shelly. No.

Att. Gen. Did you ſee my Lord hold up his Foot to do it?

Shelly. Yes.

Att. Gen. How high?

Shelly. A pretty height.

Att. Gen. Pray what became of the Gentleman afterwards?

Shelly. They took him up in their Arms, and laid him upon ſome Chairs.

Att. Gen. Did you ſee him laid there?

Shelly. Yes.

Att. Gen. Was he ſenſleſs when he was taken up?

Shelly. Yes.

Att. Gen. What was the reaſon do you think that he did not open his Eyes, and keep them open?

Shelly. Truly I believe his Drink, as well as the Blows.

Att. Gen. The one as well as the other.

Shelly. Yes.

Att. Gen. What then did they do with him?

Shelly. They laid Blankets upon him, and Pillows under him, and laid him upon the Chairs.

Att. Gen. How many Chairs?

Shelly. As many as reach'd his length.

Att. Gen. Who did you leave him in charge withall?

Shelly. With the Drawer.

Att. Gen. Did he ſpeak between the time of his firſt fall, and your going away?

Shelly. No.

Att. Gen. Did you ſee him after?

Shelly. Yes, three days after.

Att. Gen. What did he then ſay to you?

Shelly. That he had a Fit, but was pretty well recovered.

Att. Gen. When was it you ſaw him after that?

Shelly. On the *Saturday* after, and then he told me the ſame again.

L. H. St. Did he impute any thing to my Lord of *Pembroke*?

Shelly. He ſaid nothing at all to me of the ground of his illneſs, but that which I have told your Grace.

L. H. St. My Lord of *Pembroke*, will your Lordſhip ask this Witneſs any Queſtions?

E. of P. No, my Lord.

Att. Gen. Then We for the King deſire to examine Mr. *Fitz-Patrick*. Captain *Fitz-Patrick*, Pray tell my Lord High-Steward, and my Lords the Peers, what you know.

Fitz-Pat. My Lord, I was in the Room at *Long*'s with my Lord of *Pembroke*, and my Lord was walking about the Room, and he hears a noiſe without, and ſteps to the Door, where opening the Door half, he ſaw Mr. *Cony* at the Bar, who was juſt come in, and ſeeing my Lord, comes to ſalute him, my Lord returning into the Room, ſaid to him, Will you come in and joyn Company? Mr. *Cony* anſwered, I have my Friend here my Lord, and brings Mr. *Goring* to my Lord, who ſaluted him kindly, and deſired them both to walk in: Upon which all we that were in the Room ſtood up, and the Drawer gave them Chairs; after the drinking about of a Glaſs or two, Mr. *Goring* (both being drunk) ſaid, amongſt other diſcourſe, I will drink, I will play, I will fight with any Man. Who is this Gentleman, ſaid my Lord of *Pembroke*, that I ſhould never hear of, or know him? How, ſaid *Goring*, ('S Blood) not hear of me? My Name is *Goring*, a Name and Family as good as any Gentleman's in *England*. There is no body doubts it, ſaid my Lord. Your Betters, ſaid *Goring*; and then my Lord threw the Wine in his Face; and *Goring* going to draw, was put out of the Room by Mr. *Savage*, and my Lord, upon ſome words from *Cony*, ſtruck him down with his Hand.

Att. Gen. What words were thoſe?

Fitz-Pat. When I asked my Lord the reaſon why he ſtruck *Cony*, he told me, it was becauſe *Cony* had told him *Goring* ſhould not go out of

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the Room till he knew the reaſon of it.

Att. Gen. Did you hear him ſay ſo?

Fitz-Pat. No, not I, but my Lord upon my asking gave that for the reaſon.

L. H. St. What was the reaſon?

Fitz-Pat. Becauſe Mr. *Cony* told him, *Goring* ſhould not go out of the Room, till he knew ſome reaſon for it: After my Lord had ſtruck him, I was on the other ſide of the Table, and could not ſee whether my Lord did ſtamp on him, or kick him; but I ſee my Lord's Knee ſtir, and if he did kick him, he kickt him but once, for we ran in and took him up to lay him upon the Chairs, and taking his Handkerchief out of his Pocket to wipe his Face, we pluckt out of his Pocket with it ſome falſe Dice, which we afterwards put into the Hands of Mr. *Long*, to prove that they intended and propoſed Play; and after we had laid him on the Chairs, and wrapt him up warm, we left him.

Att. Gen. How was he after he was taken up?

Fitz-Pat. He open'd his Eyes, but being very drunk before, could not keep them open, but ſhut them again; and we made a Bed for him on the Chairs, and having wrapt him up warm, we left him, and ordered the Drawer to make him a Fire.

L. H. St. Did you hear him ſpeak after he was up?

Fitz-Pat. No, my Lord: Mr. *Savage* ſpoke to him, and asked him, if he knew him; he only lookt on him, and by a turn of his Head ſeemed to anſwer him yes.

L. H. St. On the Oath you have taken, did you hear him ſpeak to my Lord of *Pembroke* at any time before he was ſtruck?

Pat. Yes, my Lord, he had ſpoken before, and I ſaw his Lips make a motion towards my Lord, but what he ſaid, I know no otherwiſe than as I ſaid before.

L. H. St. My Lord of *Pembroke*, Will your Lordſhip ask this Witneſs any Queſtions?

E. of P. No, my Lord.

Att. Gen. We have now, my Lord, done with the Witneſſes that were by when the Fact was committed; by all whom your Lordſhips hear, the Blows were all given by my Lord of *Pembroke*, and in their Company; they are all Gentlemen of Quality, and therefore, I believe, ſpeak the truth: We will now call ſome Witneſſes that were with the unfortunate Gentleman in his ſickneſs, whereof one was his Phyſician, another his Nurſe, and others, who were often with him, and after his death had a view of the Body. Theſe will give your Grace and my Lord an Account, that he died of thoſe Wounds, and Bruiſes he then received; they are theſe four, Dr. *David Bruce*, Mr. *Thomas Hemes*, Mr. *Charles Jackſon*, *Alice Avery*.

Cl. of Cr. Hearken to me you four. The Evidence that you and every of you ſhall give for our Sovereign Lord the King, againſt *Philip* Earl of *Pembroke*, ſhall be the truth, the whole truth, and nothing but the truth: So help you God.

L. H. St. Whom do you call firſt Mr. Attorney?

Att. Gen. Dr. *Bruce*; my Lord: Pray Sir acquaint my Lord High-Steward his Grace, and my Lords the Peers, what you know of Mr. *Cony*'s Sickneſs, and the cauſe of his Death, as you apprehend.

Dr. *Bruce.* May it pleaſe your Grace, all that I can evidence in particular of Mr. *Cony*'s Sickneſs was this: On *Monday* Morning after his being in company of the Earl of *Pembroke*, I was ſent for to come to Mr. *Cony*'s Lodgings, and about Ten of the Clock I came; he was then in extremity of pain in both Shoulders, ſo that he could not move, and his pains were ſo acute, that he could not admit of touching: Upon the abating of thoſe pains by my application the next Day, he then began to complain of pains in his Belly, but thoſe not ſo extreme as thoſe in his Shoulders; after ſome applications thereto, he complain'd of both, but in a little time was ſo eaſed, that he kept well all Night, and till Nine or Ten the next Morning. The next day, which was *Wedneſday*, when I came to ſee him, I told him of the common report of his being kickt; he ſeemed diſpleaſed that ſuch a thing ſhould be reported, and throwing down the Bed-cloaths, ſhewed me his Belly, but I could not ſee any blemiſh upon it then, either by diſcolouring or bruiſing; I found him indeed very backward in receiving Remedies, but left him then in a hopeful way of recovery, but I ſaw him not after, becauſe being ſick my ſelf, I could not attend him.

Att. Gen. Did he complain of any Hurt about him then?

Bruce. Only in his Belly.

Att. Gen. Did you then ſee his Belly?

Bruce. Yes, Sir, for he threw away the Cloaths.

Att. Gen. Did you ſee upon his Breaſt, or any where elſe?

Bruce. He did not complain of any Ail there, ſo I lookt not for any thing.

Att. Gen. What did he complain of when you came firſt to him?

Bruce. Only his Shoulders.

Att. Gen. And after his Belly?

Bruce. Yes.

L. H. St. Hark you, Doctor, what day was that you came to look on his Belly, whether he had any Bruiſes or no?

Bruce. Wedneſday Morning, my Lord.

L. H. St. And then you ſay upon your Oath, you ſaw there no ſwelling or diſcolouring.

Bruce. None at all, my Lord, I gave it in upon my Oath before the Coroner, and the ſame I ſay now.

Att. Gen. We have done with the Doctor, my Lord.

L. H. St. My Lord of *Pembroke*, will your Lordſhip examine him to any thing?

E. of P. No, my Lord.

Att. Gen. Then there is Mr. *Hemes*; pray Sir, acquaint my Lords what you know of this Gentleman Mr. *Cony*, and firſt pray you tell his Grace when you came to him firſt.

Hemes. It was on *Monday* morning after this Accident, about eight of the Clock.

Att. Gen. Did he ſend for you?

Hemes. Yes, Sir.

Att. Gen. How did you find him when you came?

Hemes. In great extremity of pain, and very ſore, complaining of pains over all his Body, eſpecially on his Shoulders and Buttocks. Then the Doctor, who came in ſoon after, did apply Plaiſters to him, and when he anointed him he was ſo ſore, that he could not endure any one to touch him, nor could we tell how to turn him in his Bed, or how to place him ſo as to apply the Ointment, but were fain to get a Sheep-skin

to wrap him in, and by Pillows and a broad Joynſtool, raiſe him up by degrees: I did then look upon his Body, but ſaw no ſwelling or bruiſe there.

L. H. St. Did you ſee his Belly?

Hemes. No, my Lord, but he did complain of an inward grief there.

Att. Gen. When did he firſt complain of that?

Hemes. The firſt morning when I came.

At. Gen. What words did he then uſe? tell the very words he uſed, if you can remember them.

Hemes. No, Sir, I cannot; but he complained of a great ſoreneſs in his Belly, and an inward ſoreneſs.

At. Gen. Where, in what part of his Body?

Hemes. In his Belly, I ſay.

At. Gen. Well, now go on; how long did you continue with him? how many days did you come to him?

Hemes. I came to him every day all along.

At. Gen. Were you with him till the day he died?

Hemes. Yes; there was indeed a new Phyſician ſent for, but I ſaw him all along uſuallyonce a day.

At. Gen. Did he complain more than once of his Belly?

Hemes. Yes, all along from the firſt morning.

L. H. St. Did you ſee him opened after he was dead?

Hemes. Yes, my Lord.

L. H. St. What can you ſay as to what you ſaw on him then?

Hemes. When he was opened, in the lower part of his Belly there was a great deal of Blood gathered together on both the *Hypocondria*'s, which is not uſual; I cannot tell the meaning of it, the Phyſician knows that beſt.

Att. Gen. Was it congealed black Blood?

Hemes. It was of an ugly colour.

Att. Gen. What colour.

Hemes. Of a blackiſh livid colour.

Att. Gen Have you obſerved it often ſo in others? Have you uſed to ſee People opened at other times?

Hemes. No indeed not I, but very ſeldom.

Att. Gen. Well then, ſtand down you for we have done with you.

L. H. St. My Lord of *Pembroke*, have you any thing to ſay to him?

E. of P. No, my Lord.

L. H St. Then call your next Witneſs.

Att. Gen. That is Mr. *Jackſon.* Pray you Sir tell my Lords what you know of this Buſineſs: When were you ſent for to Mr. *Cony?*

Jackſon. On *Wedneſday.*

Att. Gen. What Acquaintance had you with him?

Jackſon. I had a very particular Acquaintance with him, and I lookt upon him as a perſon of a ſtrong, healthy Conſtitution, and not ſubject to any Dangerous Diſtemper; my Acquaintance with him was of twelve years ſtanding, and therefore I muſt needs know him pretty well. Upon the *Wedneſday*, after this Accident, hearing he was very weak, I went to viſit him, and when I came, he told me, he had been troubled with very unuſual Swounding, and then fell into one of them, but with ſome Cordials we revived him again, when we thought all of us he had been dead. The *Friday* and *Saturday* before he died, I was with him all day, he complained of great griefs in his Belly, he ſaid, he had great torment there, and believed he had received ſome ill uſage lately, which occaſioned theſe pains.

Att. Gen. From whom had he received it?

Jackſon. He was very ſparing in telling whom it came from.

Att. Gen. Who did he name?

Jackſon. He ſaid, he was a drinking with my Lord of *Pembroke*; but he was in ſuch pains, that I could not ask him many Queſtions which he would anſwer.

Att. Gen. Where were his pains?

Jackſon. In his lower Belly, and he had ſometimes ſtrange fainting Fits.

Att. Gen. When did he firſt complain of his Fits to you?

Jackſon. On the *Wedneſday.*

Att. Gen. When did he die?

Jackſon. On *Monday* following.

Att. Gen. Did he complain on *Saturday* of his Belly?

Jackſon. Yes.

L. H. St. What diſcourſe had you further with him?

Jackſon. None but what I tell your Lordſhip, that I can remember.

L. H. St. My Lord of *Pembroke*, have you any thing to ſay to him?

E. of P. No, my Lord.

L. H. St. Who's next then, Mr. Attorney?

Att. Gen. Alice Avery, my Lord, who was his Nurſe-----Were you attending upon Mr. *Cony* in the time of his Sickneſs?

Avery. Yes, I was.

Att. Gen. Pray tell my Lord your whole knowledge.

Avery. When he came in on the *Monday* morning, I found he was very ill, and could not well ſtand: Sir, ſaid I to him, ſure you are very much in Beer; No, ſaid he, I am very ſore, and full of pain: Sir, ſaid I, I believe you have been in ſome bad company? Yes ſaid he, I have been in ſome company, where I have received a great deal of wrong, I am not able to go nor ſtand, I have been beaten and kickt more than ordinary, I was never ſo abuſed in all my life; and upon his dying-Bed he wiſhed to God, he had never been in my Lord of *Pembroke*'s company, for he did think in his conſcience my Lord had been the death of him.

Att. Gen. Speak that again.

Avery. He wiſhed to God he had never been in my Lord of *Pembroke*'s company, for he did think in his conſcience that he had been the death of him.

L. H. St. How long before he died was that?

Avery. About two or three Hours before he died.

Att. Gen. Did he continue ſenſible to the time that he died?

Avery. Yes, to the laſt minute.

Att. Gen. How often did he complain of his pain?

Avery. All along from the time he came out of my Lord of *Pembroke*'s company.

Att. Gen. What time did he come home?

Avery.

Avery. About ſeven or eight of the Clock on *Monday* morning.

Att. Gen. Where and what part did he complain of then?

Avery. His Sides and all parts about him.

Att. Gen. How often did you diſcourſe with him about his pain?

Avery. Every day divers times, from the time he came home till he died.

Att. Gen. And the ſpoke thoſe Words a little before he died?

Avery. Yes, and often complained of his being abuſed.

L. H St. My Lord of *Pembroke*, will you ask this Woman any Queſtions?

E. of P. No, my Lord.

L. H. St. Have you any more Witneſſes, Mr. Atorney?

Att. Gen. Now, my Lord, we ſhall call three more that had a view of the Body after his death, upon the Coroner's Inqueſt, who will give your Grace an Account what appearings of Murther were there viſible; and they are, *Richard Wheeler*, *William Brown*, *Thomas Roberts*.

Cl. of Cr. Lay your hands on the Book: The Evidence, *&c.*

Att Gen. Which is Mr. *Brown*? Did you ſee the Body of Mr. *Cony* after he was dead?

Brown. Yes, my Lord, I was one of the Coroner's Inqueſt, which after view of the Body went into another Houſe; but ſome of us ſeeing the Body ſwelled at that rate as it was, and being unſatisfied of the cauſe, went back again to look upon it, and there I ſaw upon his right Breaſt a great black Bruiſe; and I looked upon the Cawl, which was all waſted away; and on his left Side again a great black Spot, and in the bottom of his Belly a quantity of very ill-lookt Blood.

Att. Gen. When was this you ſaw it? what day? how long after his death?

Brown. The day after he died.

Att. Gen. Where did you obſerve any Hurt and Bruiſe upon him beſides?

Brown. As he lay before he was opened, we ſaw him all over ſwelled at a prodigious rate, and black and blue in divers places; ſo that I was unſatisfied till I had ſeen the inward parts, and therefore went up and ſaw what I ſaid before.

L. H. St. Did you know the Gentleman before?

Brown. No, my Lord.

L. H. S. My Lord of *Pembroke*, do you deſire to ask him any thing?

E. of P. No, my Lord.

L. H. St. Then go on Sir.

Att. Gen. Richard Weeler, pray tell my Lord what you know.

Wheeler. My Lord, I was ſummoned upon the Jury by the Coroner, and according to my duty I made ſuch an inſpection as I could into the Body; I did obſerve upon his right Breaſt a very black and great Bruiſe, and on the left ſide of his Belly a very black and great Bruiſe, which was indeed of another-guiſe colour than that of ſettled Blood, for I have of my own knowlege had a ſad experience of that kind.

Att. Gen. Did you know the Gentleman before?

Wheeler. Yes, I knew the Gentleman very well, and I had not known him to be the ſame perſon then, but by their deſcription that were about him, for all the parts of his Body were moſt violently ſwelled.

Att. Gen. Did you ſee the ſettled Blood at the bottom of his Belly?

Wheeler. Yes; and as I was informed, that was occaſioned by his being forced to lie on his Back continually, becauſe his pain would not ſuffer him to move: that on the Side, and Ribs, was a perfect Bruiſe.

Att. Gen. Where is Mr. *Roberts*? did you ſee this Gentleman's Body after his death?

Roberts. I ſaw the Body after it was opened, and viewed the inward lower parts of the Belly; where there was a quantity of Blood gathered together.

Att. Gen. Was it more black in that part than in others?

Roberts. It was black congealed Blood.

Att. Gen. How broad were the ſpots?

Roberts. About the breadth of my hand.

L. H. St. Mr. *Roberts*, did you ſee the left ſide of the Belly bruiſed?

Roberts. Yes, my Lord; and (as I ſaid) in the lower inward parts black congealed Blood.

L. H. St. Was there any ſwelling?

Roberts. Yes, my Lord, very much.

L. H. St. The Doctor that was examined before, ſaid there was no ſwelling nor diſcolouring.

Att. Gen. He did ſo, my Lord; but this was ſeveral days after that.

L. H. St. My Lord of *Pembroke*, will you examine theſe men?

E. of P. No, my Lord.

At. Gen. My Lord, we have but one Witneſs more for the King, and that is Mr. *Charles Cony*, who is Brother of the Gentleman that died, who will give you an account what he ſaid in his ſickneſs; and the Sayings of a dying Man in ſuch circumſtances, are remarkable.

Cl. of Cr. Charles Cony, harken to your Oath: The Evidence, *&c.*

Att. Gen. Now Mr. *Cony*, tell his Grace and my Lords the occaſion of your Brother's ſickneſs and death.

Cony. May it pleaſe your Grace, on *Monday* the 4th of *February* I was ſent for by my Brother, about nine of the Clock in the morning, to come to ſpeak with him, but not believing his buſineſs to be urgent, deferred my going; the Meſſenger immediately comes back again, and tells me my Brother was exceeding ill: As ſoon as I came, I found him almoſt dying, his Eyes ſet, and he extreamly ill, but we recovered him in a little time: whilſt he complained of great pain, I examined what might be the cauſe, and where he had been laſt night (for I underſtood he came not home till morning) and in what company. And when I was told of my Lord of *Pembroke*'s company, who had ſtruck him down with a box of the Ear, both he and I quickly concluded how his ill came: But to be ſatisfied, (he telling me he could not remember what he did) we ſent for the Drawer, to know the truth of the matter: but in the mean time, to comfort him, I told him I hoped it was only a fainting Fit, which would be over again in a while. The Drawer came, and did aſſure me

that my Lord did never ſtrike him; which upon aſſurance I did believe, eſpecially when he came again in the Afternoon, and told me the ſame ſtory. All the while he was in the horrideſt pain that could be, and could not be touched, but was forced to lie upon his Back. The Doctor told us, for application to eaſe his pain, the beſt thing to wrap him in was a whole Weather's Skin; which we did at two of the Clock in the Afternoon, by the help of a Chirurgeon, raiſe him up, and put on him. On *Tueſday* morning I ſent to know how he did, being neceſſitated to go another way; he ſent word back, he was pretty well at eaſe, and had reſted pretty well. On *Wedneſday* he roſe, and ſat up; on *Thurſday* he was ſo well, that he would have ſome Friends to Dine with him in his Chamber; on *Friday* he was a little ill again, but on *Saturday* he was ſo well, that he would have gone abroad, and truly we did never (I'm ſure I did not) believe he would have died, till about two hours before he died. One day when Dr. *Conqueſt* came out of his Chamber, he ſeemed to be in a Huff, and ſaid, he was only kept there to do the Drudgery; and when I asked him, what he thought of my Brother? he anſwered me ſhort, *I cannot tell whether it be a* Pembroke-*kick or no.* And when I, upon the report of my Lord's having abuſed him, (which yet upon the Drawer's anſwer I believed not) ſpoke to him about it, he would ſeem diſpleaſed any ſhould mention it: He once indeed told me, he had ſomething elſe to reveal to the Doctor, but what it was I cannot tell.

Att. Gen. Did you apprehend him to be ſo ill as he was?

Cony. No, I never believed it, till an hour before he died: and this is all that I can ſay, my Lord.

L. H. St. Will you, my Lord of *Pembroke*, ask Mr. *Cony* any queſtion?

E. of P. I deſire your Grace to ask him what Chirurgeons they were that did view the Body after dead.

L. H. St. Mr. *Cony*, come forward, my Lord of *Pembroke* deſires to know what Chirurgeons viewed the Body.

Cony. Mr. *Snell* the Chirurgeon, I think, my Lord.

E. of P. I deſire your Grace he may be examined.

L. H. St. If the King's Counſel have done, then your Lordſhip may examine whom you pleaſe: what would your Lordſhip examin into?

E. of P. To give your Grace an account what might be the cauſe of the Blood found in Mr. *Cony*'s Body.

Att. Gen. Becauſe we did omit to examine *Jackſon* to that matter, we deſire for the King we may call him to that point now.

L. H. St. You ſhould have examined all your Witneſſes fully at firſt.

Att. Gen. We acknowledge it, my Lord; but ſince we did forget it, we humbly crave leave to do it now.

L. H. St. Here is Mr. *Jackſon*, what do you ask him?

Att. Gen. Mr. *Jackſon*, were you preſent at the opening of Mr. *Cony*'s Body?

Jackſon. Yes, Sir.

Att. Gen. What did you ſee there?

Jackſon. There was an extraordinary quantity of extravaſated Blood in the lower part of his Belly.

L. H. St. Extravaſated Blood?

Jackſon. Yes, my Lord.

Att. Gen. How might that come? might it not proceed from a natural cauſe?

Jackſon. I believe it came from ſome Bruiſes given him, and from ſome Violences that were done to him.

Att. Gen. In the Belly was it?

Jackſon. Yes, in the Belly.

Att. Gen. You ſaw then: Did you ſee any Swelling there?

Jackſon. Yes, and the *Diaphragma* bruiſed, *&c.*

Att. Gen. Now, my Lord, We have done with our Evidence for the King.

L. H. St. My Lord of *Pembroke*, if your Lordſhip have any Witneſs to call, or will ſay any thing for your ſelf, now is the time.

E. of P. I deſire your Grace that Dr. *Lower*, and Dr. *Conqueſt*, and one Mr. *Raven*, may be examined for me.

L. H. St. Call Dr. *Lower*, Dr. *Conqueſt*, and Mr. *Raven*.

Cl. of Cr. Here they are, make room for them.

L. H. St. My Lord of *Pembroke*, who will your Lordſhip begin with?

E. of P. Dr. *Conqueſt*, my Lord.

L. H. St. Doctor, you are not upon your Oath, but you muſt have a ſtrict care what you ſay, for there will be a good account to be taken of it at another Place, and it being a Teſtimony before a Court of Judicature, the obligation upon you to ſpeak the truth is as great, as if you did ſwear.

Dr. *Conqueſt.* The Account I now give, my Lord, is that Account which I gave upon my Oath before the Coroner.

L. H. St. You muſt give it again *viva voce*; we muſt not read your Examination before the Court.

Conqueſt. The firſt occaſion I had to ſee Mr. *Cony* as a Phyſician, was about three Months before this unhappy Accident; he was then in a fainting Fit at the *Roſe*-Tavern, *&c.* where I was ſent for to him: He had for half an Hour lain quite dead, as they thought, but with their rubbing him, and giving him ſome mull'd Sack, he was come to himſelf juſt as I came, but he had no Pulſe, and was relapſing into his Fit: I gave him ſome Drops and Cordials, and ſent him home pretty well again. We went from thence, and the next Morning his Man came to call me, and told me his Maſter was dying, which was (as I take it) the 6th of *December* laſt: When I came thither, I found his Man ſitting by the Fire; and asking for his Maſter, he told me he was aſleep; I was ſomething vext at the Fellow for troubling of me ſo, and while I was ſpeaking to him, Mr. *Cony* at laſt heard my Voice, and calling me to him, deſired me I would come again in the Afternoon, for he had a mind to reſt this Morning: I came at One of the Clock again, where I found him very ill, and very melancholy; he wept, and ſent his Man down ſtairs, and when the Man was gone, I asked him what was the occaſion? He told me, he found ſo great an oppreſſion at his Heart, that he could hardly ſpeak: I deſired he would take ſome advice, and ſend for another Phyſician; but he would have none elſe, but would needs go abroad that Afternoon: I deſired him all I could; but not prevailing with him, I gave

gave him ſome Cordial Drops, and deſired him to return home betimes; but he did not, but, as I heard, drank very hard, and returned not till very late. In ſhort, in the ſpace of two Months, I have been called out of my Bed above twenty times, to give him advice, and to recover him out of his Fits; but he would take no advice, do whatever I could. After this was his meeting with my Lord of *Pembroke*, which he thus gave me Relation of: He told me, he had been with Mr. *Goring* in the City that day drinking hard, and when he came to *Long*'s, he was ſo extreamly drunk, that he cannot remember any thing that was done there, but finding himſelf much in pain the next day; he was ſo ignorant of the Tranſactions there, that he only thought he had had ſeveral Falls off the Chairs near the Fire; he ſaid indeed, he afterwards ſent to enquire what had paſſed in his Company that Night, and he heard my Lord of *Pembroke* ſhould give him a Box on the Ear, but he remembred it not. Two or three days after he ſent for me, and told me, now he would take advice of me, and enter into a courſe of Phyſick; but knowing his condition to be ſo bad, I would not venture upon it alone, and deſired that he would join ſome one elſe with me in conſultation: He asked me, what Phyſician he ſhould ſend for? I deſired him to name any one whom he had a mind to; he ſaid, he knew none, and therefore would have me take whom I would, and then named Dr. *Lower*, and obtained his conſent to have his advice, whom I brought with me to his Lodgings. And the *Saturday* before he died, as we were coming in the Coach, I told Dr. *Lower* what I had known of his Diſtemper before, and what might be the occaſion of it, which (when we came thither) I repeated again in Mr. *Cony*'s preſence, who did confeſs the whole to be as I ſaid, that he had been a very hard Drinker of Wine, and ſtrong Waters upon it, which had (he believed) cauſed a Stagnation of Blood in his Body, which might be the occaſion of his fainting Fits. We conſulted the whole cauſe; he owned no Blow or Kick that he had received, neither did I believe his Intrails had received any ſuch prejudice, becauſe I ſaw him my ſelf take two or three Gliſters, as particularly that Evening: Yet he would not be regular, but that Night drank three whole Tankards of cold ſmall Beer, which did put him into a very violent Fit of the Gripes. He ſent for me, and having left him pretty well I wondered what alteration could cauſe ſo violent a Diſtemper in him ſo ſuddenly: He fell a vomiting, and vomitted all Night; and when I came and found him in a dying Fit, I gave him ſome Drops I had about me, and fetcht him to Life again; but ſtill he was very bad, and he had a Gliſter for the Gripes; he would fain have had ſome more ſmall Beer, which I diſſwaded him from, and adviſed him rather to White-Wine-Poſſet-drink but he ſwore a great Oath he would have ſmall Beer; Dr. *Lower*, I ſuppoſe, ſaw him that Morning. An hour before he died I came again, and thought fit to Blood, and ſo he was; he bled about eight Ounces, and was a little better, ſo I left him: An hour after I came again, and found he was dead; but for his complaining of any Bruiſe or Hurt that way received, I remember not.

L. H. St. Did you ſee him after he was dead, and when he was opened?

Conqueſt. Yes, my Lord, I did ſee him opened.

L. H. St. What was your Judgment then?

Conqueſt. My Lord, There was clotted Blood among the Bowels, that was extravaſated. My Lord, The breaking out of which, I did attribute to the great quantity of ſmall Beer he had drank, and the Gripings that followed upon it; but the Bowels were none of them touched, and he himſelf attributed his Fits to that.

L. H. St. Mr. Attorney, Will you ask him any croſs Queſtion?

Att. Gen. No, my Lord.

L. H. St. Then Dr. *Lower* pray ſpeak your knowledge.

Lower. All the Account, my Lord, that I can give is, That the day before Mr. *Cony* died, Dr. *Conqueſt* did come to me to deſire me to go with him, and by the way (as he related) told me the manner of his Fits, and what he thought was the occaſion of them; and in that Diſcourſe we continued till we came to his Lodgings, where we found him in his Bed; and when he was up, Dr. *Conqueſt* repeated what he had told me before, and he acknowledged all that to be true: I my ſelf asked him many Queſtions how he found himſelf; he ſaid, thoſe Fits came upon him ſuddenly by ſickneſs upon his Stomach; but there was not any Diſcourſe in my hearing of any Bruiſe or Hurt that way, nor had I any reaſon to ſuſpect any ſuch thing ſhould be the cauſe of his Illneſs, for he had no ſymptome of a Fever upon him, either in Tongue, Pulſe, or Urine, which would have been, had he owed his Diſtemper to any thing of that kind. The next day I was ſent for to him early, but my neceſſary attendance on other Patients would not let me come quickly to him: When I came I found him dying, and ſeeing no hopes of his recovery, left him; I was deſired to be preſent at the Diſſection, but becauſe of the rumour of this Buſineſs, I ſaid it would be a troubleſom matter, and therefore would purpoſely avoid it.

L. H. St. So you did not ſee him diſſected?

Lower. No, my Lord, I did fear being troubled, and would have avoided it, but could not, it ſeems, for I am come here to teſtifie this.

L. H. St. Did he uſe any words to you whilſt he was ſick, complaining of any abuſe or wrong offered him by beating or kicking;

Lower. No, my Lord.

L. H. St. How long was it before he died that you ſaw him?

Lower. It was on *Saturday* at four of the Clock in the afternoon, and he died on *Sunday* at noon.

L. H. St. And when you came to ſee him again, you found him dying?

Lower. Yes, my Lord.

L. H. St. But you ſay, all the time you were with him, you ſaw no ſymptome of a Fever on him?

Lower. No, none at all, my Lord.

L. H. St. I then ask you this Queſtion, Doctor, Can any man be mortally hurt and bruiſed, whereof he may languiſh, and not have a Fever?

Lower. According to my knowledge and experience, my Lord, uſually and moſt commonly upon a mortal Bruiſe, an Inflamation follows, and that Inflamation cauſes a Fever, which will be evident in the Patient's Pulſe, or Tongue, or Water;

Water; but none of these I found so affected with Mr. *Cony*.

L. H. St. Have you any thing to say to this Gentleman, Mr. Attorney?

Att. Gen. No, my Lord.

L. H. St. Where then are the rest of your Witnesses? My Lord of *Pembroke*, Will you call any more Evidence?

E. of P. Yes, my Lord, Mr. *Raven*.

L. H. St. Dr. *Conqueſt*, pray before you go; you say you told Dr. *Lower* of Mr *Cony*'s Fits before, were they the same with those he had in his last sickness?

Conqueſt. Yes, my Lord, the same Fainting Fits.

L. H. St. And you imputed them to the same cause.

Conqueſt. Yes, my Lord, to his hard drinking Wine and Strong-waters, and then great quantities of Small Beer; I told his Landlady often it would kill him, but I could never get him to be regular, nor take any advice.

L. H St. Hath your Lordship any more Witnesses?

E. of P. Mr. *Raven*, my Lord.

L. H. St. Come forward, Mr. *Raven*, and speak out.

Raven. I viewed the Body (my Lord) before and when it was opened, and it was reported to me that there was a Bruise in each side of the Belly, of which thereupon I took a stricter view, and could find no blackness nor blewness, nor marks of Bruises; upon which the Body was opened, and their issued thence clotted Blood; then I looked upon the Cawl, which was withered and consumed, and the Heart was as loose as a Rag, and his Lungs stuck to each side of his Ribs; and as to the matter of the Blood, that was not an extraordinary thing, for it is known to Physicians, that in all natural Deaths there must be extravasated Blood in the lower Belly.

L. H. St. How did you think there came to be that quantity of Blood there?

Raven. This Blood I think (my Lord) must be extravasated by the violence of his Gripes, for it is proved he drank a great quantity of Claret, and afterwards of Small Beer, which set the Blood upon a Fermentation, that set him a Vomiting, by the violence thereby used to Nature this Blood was thrown down into the Belly; but in all Natural Deaths, if there be not so great a consumption of the Blood that there is none left, there must be some extravasated; it is a clear case.

L. H. St My Lord of *Pembroke*, hath your Lordship any more Witnesses?

E. of P. Yes, my Lord, two more, *Benjamin Long* and *William Viner*.

L. H. St. Who does your Lordship begin with?

E. of P. *Long*.

L. H. St. Do you hear, *Long*, you must have as great a care what you say, as if you were upon your Oath.

Long. A little before this business happen'd, Mr. *Cony* comes into my House at *Covent-Garden*, and said he was very ill; he was just going to sit down, and miss'd the Chair, and had like to have fallen down, being almost in a Swound; whereupon he said, send for Dr. *Conqueſt* presently, or else I shall die: so I sent my Servant to call him, who found him at the Coffee-house: When he came in, said he, Sir, how do you? I am glad you are come, said Mr. *Cony*, for I am very ill; and there were two Gentlemen came in with the Doctor, that were then going to the Play-house: said Mr. *Cony*, I am taken with the Fainting Fits, and fear they will kill me; upon that Dr. *Conqueſt* bid him have a care of drinking, for it would ruine him.

L H. St. When was this?

Long. A little before *Christmass*, my Lord.

L. H. St. How long before he died?

Long. It was before he was hurt.

L. H. St. How long?

Long. Five or six Weeks, my Lord, as I remember, I cannot tell exactly.

L. H. St. Well, and what followed?

Long. Dr. *Conqueſt* would have him go home to Bed, which I know not whether he did or no, but he went away from our House, and the Doctor said he would send him a Glister, and some other things the next morning: And this is all I can say.

L. H. St. Is that all you can say?

Long. Yes, my Lord.

L. H. St. Why was not this accident done at your House?

Long. No, my Lord, it was at my Brother's in the *Hay-Market*.

L H. St. Then call next *Viner*; what say you?

Viner. May it please your Grace, I am Drawer at Mr. *Long*'s in the *Hay-Market*, I did see my Lord strike him with his Hand, and that is all; I came in just as he struck the blow, and Captain *Savage* bid me keep out Mr. *Goring*, which while I was doing, I knew not what was done more; but after they had laid him upon the Chairs, they charged me to make a Fire, and look after him, and left him: He fell down divers times off the Chairs; and when he came to himself a little, I asked him how he did? he told me he was very sick, and I got him still up again upon the Chairs: And then he had several Fainting Fits in the Room, and about seven of the Clock in the Morning, we sent him Home in a Chair to his Lodging. The same Day at one of the Clock he sent for me, to know what had happen'd, for his own memory would not serve him to tell: I did not think fit then to tell him my Lord had struck him, but told him he had had many falls in the Room: 'Tis Fits, said he, that I have had not long since, and it comes with my hard drinking, and not looking to my self.

L. H. St. He supposed it to be so.

Viner. Yes, my Lord, he himself did.

L. H. St. Did you see my Lord of *Pembroke* tread upon him?

Viner. No, my Lord, I only saw the blow of his Hand, for I was getting Mr *Goring* out of the Room.

L. H. St. Did he say my Lord of *Pembroke* did tread upon him?

Viner. No, he could not tell any thing that my Lord had done to him; he was drunk that Night, and therefore sent for me to know how it was.

L. H. St. My Lord of *Pembroke*, hath your Lordship any more Witnesses?

E. of P. No, my Lord.

L. H. St. Did not your Lordship speak of one *Snell*, my Lord, a Chirurgeon, at first.

E. of P. I did expect, my Lord, they should have brought the Person your Grace speaks of.

L. H. St. Why, my Lord.

E. of P.

E. of P. Becauſe he was their Chirurgeon.

L. H. St. What ſay you now of the King's Counſel, to my Lord's Defence?

Sol. Gen. If my Lord hath done, we are ready to go on for the King.

L. H. St. Will your Lordſhip ſay any thing more for your ſelf?

E. of P. I have nothing more to ſay, my Lord.

Then Sir Francis Winnington, *his Majeſty's Solicitor General, ſumm'd up the Evidence, and concluded the Charge thus.*

Sir *Francis Winnington, Sol. Gen* May it pleaſe your Grace my Lord High-Steward of *England*, and my Noble Lords, that are now Judges of this Cauſe of Blood; I ſhall with all faithfulneſs endeavour to diſcharge my duty in this Great Court, and confine my ſelf ſolely to the Evidence that hath been given, and I hope I ſhall not do this Noble Lord, the Priſoner at the Bar, any injury, by miſrepetition. This Evidence, my Lords, that hath been produced for the King, to make it out, that the Priſoner at the Bar is guilty of Murder, doth (may it pleaſe your Grace) conſiſt of three parts.

1. In the firſt are contained thoſe Matters of Fact, which did ariſe at the time when the poor unfortunate Gentleman came into my Lord *Pembroke*'s Company, and what happen'd before my Lord of *Pembroke* did depart from that place.

2. The ſecond part of the Evidence conſiſts of Matters that did ariſe by confeſſion of the Party, and his diſcourſing with Perſons who came to viſit him, or were with him during the time of his ſickneſs.

3. The third part doth conſiſt of Matters ariſing after his Death, upon the view of the Body. Under theſe three Heads are comprehended all the King's Evidence, and with humble ſubmiſſion I humbly conceive, that the Evidence doth reach the Indictment, which is for the Crime of wilful Murder. But when I have humbly ſtated the Fact, I muſt ſubmit it to the Judgment of my Noble Lords and Peers.

But to take a due method, I ſhall begin with a word or two of what Mr. Attorney General was pleaſed to hint, when he opened the Cauſe, that is, to ſhew what Murder is, and wherein we conceive the Evidence comes up to the Indictment. Murder in our Law is, when one Man kills another upon Malice fore-thought; now that Malice is comprehended under two particulars: The one is expreſt a former grudge, diſcontent, and hatred to a Man, to lye in wait to ſlay him: The other is Malice imply'd, and that is when a Perſon will come and fall upon another, and kill him with violence, without any provocation; and that I take to be the Caſe now before your Grace, and theſe Noble Lords; whether this Noble Lord, the Priſoner at the Bar, be guilty of Murder, under the head of Malice imply'd, having killed a Man, without any provocation given; for if it ſhould be made appear, as I humbly conceive it hath, with ſubmiſſion, that Mr. *Cony* did receive his Wound, whereby his Death came, from the Earl of *Pembroke*, it is with our Law Murder.

That my Lord of *Pembroke* did invite him into his Company, is ſworn by four Witneſſes; for when they came into the Houſe, they did not ſo much as enquire whether my Lord was there or no; and when my Lord asked him to come into the Room, Mr. *Cony* did excuſe it, in a manner, by having his Friend with him; pray bring your Friend in with you, ſaid my Lord: After a little while it was ſaid, there were ſeveral Diſcourſes paſs'd between my Lord and Mr. *Goring* concerning Play, and their Families; but the third Witneſs doth ſwear, that when they were ſpeaking of playing for 500 *l.* Mr. *Goring* declined; my Lord of *Pembroke* firſt called him idle Fellow, and that occaſioned Mr. *Goring* to give that Language, which was not ſo fit for him to give to a Noble Lord of his Quality. But, may it pleaſe your Grace, let the Diſcourſe between Mr. *Goring* and my Lord of *Pembroke* be what it will, the Queſtion will be, Whether or no the Party that was killed, gave my Lord of *Pembroke* any provocation, or cauſe of diſcontent, which might make him give him that Blow? or whether or no the ſtriking or kicking was the cauſe of his Death? That comes in the laſt place, for I am now under that head; there was no provocation given by Mr. *Cony* to my Lord to ſtrike him, and four Witneſſes there were to that, the Perſons by at the time when it was given, who all as to the ſubſtance ſwear the ſame thing, only one or two Circumſtances come frome ſome of them, that do not come from all. Mr. *Savage*, a Man of Quality, and an Honourable Family, ſwears, That at the time when Mr. *Goring* was put out of the Room, he ſaw the Earl of *Pembroke* (turning his Face) give *Cony* a Blow on the Head, and one Kick when he was down; the Queſtion was asked him, Whether he kickt him upon the Belly; but that he could not anſwer to: He likewiſe doth particularly ſay, after the Blow was given by the Earl of *Pembroke*, that ſtruck him down to the Ground, he ſaw his Knee lifted up to kick him, higher than the motion of uſual walking, ſo that ſome violence was uſed as to that. Mr. *Fitz-Patrick*, though they all agree in ſubſtance, yet he hath one particular differing from the reſt; he ſaith, That when my Lord of *Pembroke* was asked why he ſtruck Mr. *Cony*, he anſwered, Becauſe he ſaid Mr. *Goring* ſhould not go out of the Room, without his knowing ſome reaſon for it; this he ſwears the Earl did ſay, but whether it was ſo or no is the Queſtion. *Shelley* ſays, No ſuch word paſs'd, nor doth *Savage* ſpeak of it: But be that Circumſtance true or not, (for all the Witneſſes agree in Subſtance, and may not be able to agree in all Circumſtances) yet under ſubmiſſion, I muſt leave it to the Judgment of my Lords the Peers, whether that be Provocation ſufficient to lay violent hands on a Man. *Shelley* indeed ſays the words were, I know not why my Friend is turn'd out of doors; now whether theſe are a Provocation, ſuch as in Judgment of Law can be deemed ſufficient to lay violent Hands on a Man to kill him, is the Queſtion; we ſuppoſe it is not, but ſuch a ſtroke is given without a Provocation, in which the Law implies malice. This (may it pleaſe your Grace) is the ſum of that which I humbly take the boldneſs to remember your Lordſhip of, as to the firſt part of the Evidence.

2dly. The ſecond part is upon what ariſeth after the Blow was given. My Lord of *Pembroke* at that time was certainly apprehenſive he had done the Gentleman ſome wrong, and that is evident by his care of him after, for his own Witneſs *Wi-*

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ner doth ſay, that my Lord bid him make a fire and watch with him; ſurely if my Lord had not been conſcious to himſelf, that he had done ſome thing extraordinary to the Perſon of that Gentleman, that caution had not been given to the man: But beſides (my Lord) there are little Circumſtances, which are always allowed for Evidence in ſuch Caſes, where men receive any Wounds to ask them Queſtions while they are ill about it, who hurt them. Now as to this there are four Witneſſes alſo, Dr. *Bruce*, Mr. *Hemes*, Mr. *Jackſon*, and *Alice Avery*.

Dr. *Bruce* ſwears, That when he came on the *Monday* to enquire of Mr. *Cony* what his Ilneſs was, he did complain of ſoreneſs about his Shoulders, but did not make mention of the lower part of his Belly, or any diſcolouring there.

But *Hemes* the Apothecary ſays, He not only complained of extream pains in hisShoulders but alſo of extream inward ſoreneſs in the lower part of his Belly, and this perſon was frequently with him, and the ſame complaints came from him, till he expired his laſt breath.

Jackſon, he did know him for a long time before; he ſaid indeed, He had about two or three months before a fainting Fit or two, but to this time he lookt upon him as a healthy man, and he continued with him off and on till he died, and to him he did declare he had received injury from the Earl of *Pembroke*, though he was very loth to ſay what: And he alſo tells your Lordſhips, that he ſaw the Blood in his Belly after the Diſſection, which he imputed to ſome Hurt he had received. Indeed there is a Chirurgeon that tells your Lordſhips, that it is an ordinary thing, and that it is ſo in all natural Deaths, and it might be occaſioned by his drinking the Beer, which made him vomit, and concluded with theſe words, (I noted them.) 'Tis a clear Caſe; but the man not being upon his Oath, and giving it in as his ſingle opinion, I hope will not bear ſo much weight with your Lordſhips.

The Nurſe that was continually with him to the laſt moment, ſwears, He did continually complain after he came into the Houſe, of pains all over his Body, and (as ſhe ſaith) continued in his ſenſes, and the right uſe of his underſtanding, till the laſt breath, but principally complained of ſoreneſs in his Shoulder, his Side, and his Belly, and did likewiſe often mention my Lord of *Pembroke's* unkindneſs to him, declaring about two hours before he died, that he thought in his conſcience the Earl of *Pembroke* was the cauſe of his death.

Theſe four Witneſſes ſwear what I have truly repeated, for I would be very unwilling in a Cauſe of Blood, to miſrepeat the Evidence, either to the prejudice of a juſt Cauſe for the dead, or to preſs for unjuſt vengeance upon the living, it being my duty only to recollect what is ſworn, and leave it all to your Lordſhips Judgment.

3dly. We have that which is Evidence in Law, upon the view of the Body after his death. It was viewed legally by a Jury of indifferent perſons, ſummoned by the Coroner; three of them being produced do ſwear, that there were a great many viſible Bruiſes upon the Body, and ſwellings all about: And for the diſcolouring of the parts bruiſed, *Roberts* ſwears, the patch was about the breadth of his hand: *Brown* likewiſe ſwears, that he was black and blue up and down the body in broad patches: Theſe are Jury-men, diſintereſted perſons. It is true, Mr. *Cony's* Brother, the laſt Witneſs for the King ſaith, He knew nothing of the Buſineſs, for his Brother would never acknowledge any thing to him but ſomething that he ſpeaks is very material, That Dr. *Conqueſt*, my Lord's Witneſs, coming out of the Chamber one day, ſeemed angry, and to have taken ſome diſtaſte, as if he were neglected, and uſed an expreſſion, which your Lordſhip may remember, upon Mr. *Cony's* asking him what ailed his Brother, he could not tell he ſaid, it might be *A Pembroke-Kick*. And this is the ſum of the Evidence for the King.

For the Evidence on the other ſide, I think the ſubſtance of it is only, That this Gentleman was uſed to have fainting Fits, and thoſe occaſioned, as they think, by his hard Drinking, and that might bring his death upon him; but they offer no Counterproof to the Fact.

But the Queſtion is now, Whether or no this man came to his death by other means; for it is no Argument to ſay, becauſe a man is ſick, it is lawful to kill him: but we are to enquire, whether he came to his death by thoſe Blows given him by the Priſoner at the Bar? If then it be admitted that the Blow was the cauſe of his death, and the Kicks withall, I humbly then ſubmit to yourLordſhips conſideration, whether the King's Evidence hath not reacht up to the Indictment: Here is Murther with Malice implied by the Law, for there is no colour of pleading a Provocation of the Blow, to be the cauſe of his death. Now whether or no it be ſo, I humbly offer theſe Reaſons for the Affirmation; this man was not look'd upon to be a man in that condition as to be a dying man, before the Blow.

Obj. But he was a great drinker, that brought him to thoſe Fits, and that haſtned his end.

Anſw. Though he was ſo, yet from the inſtant that he did receive the blow, he never had any eaſe till he died, inſomuch that Mr. *Savage* tells your Lordſhips, he took him up immediately after my Lord kicked him, and he was ſome minutes before he could get him to life again, and then he could not keep himſelf from Fainting again: ſo that upon the circumſtances of what the Witneſſes for the Priſoner have ſaid, and the Evidence offered in behalf of the King, if this were the cauſe of his death, we leave it to your Lordſhips conſideration, whether it be not Murther in this Noble Lord the Priſoner at the Bar: To that determination we ſubmit the Cauſe, and whatever opinion your Lordſhips ſhall be of in the Cauſe, I have no more to ſay, but that the King's Juſtice in this Proſecution, was ſuitable to the Law given by the Almighty in the Infancy of the World, *That whoſoever ſheddeth man's Blood, by man ſhall his Blood be ſhed.*

L. H. St. Will your Lordſhips pleaſe to withdraw to conſider of the Evidence?

Then the Lords went back in the ſame order they came in, and went into the Houſe of Lords; and from thence, after two hours debate, they returned into the Court, and Proclamation was made as followeth.

Cl. of Cr. Serjeant at Arms, make Proclamation.

Serj. O yes, my Lord High Steward of *England* his Grace ſtraitly chargeth and commandeth all manner of Perſons here preſent, to keep ſilence upon pain of Impriſonment.

Then

Then his Grace ſpake to the Peers.

L. H. St. Your Lordſhips have heard the Evidence againſt the Priſoner, and for him, on both ſides, and the Solemnity in this caſe is, that your Opinions are to be delivered ſeverally, in the abſence of the Priſoner, who is to hear all that is by the Witneſs or Counſel ſaid againſt him, but is to have his Judgment from the High Steward.

Upon the whole matter the Queſtion is this; Whether my Lord of *Pembroke* be guilty of the Felony whereof he ſtands Indicted, for the Murther of Mr. *Cony*, or not guilty?

The order of your Opinions being delivered, is to begin with the Puiſne Baron, and ſo upwards.

I deſire time to take your Lordſhips Judgments diſtinctly, and I deſire each of your Lordſhips to ſpeak out, that I may hear it.

L. H. St. My Lord *Butler*, what is your Opinion? Is *Philip* Earl of *Pembroke* and *Montgomery* guilty of the Felony and Murther whereof he ſtands Indicted, or not guilty?

L. Butler. Not guilty of Murther, but guilty of Manſlaughter.

The ſame Queſtion to the reſt.
The Lord High Steward counted their Numbers.

L. H. St. Six of my Lords find him guilty: eighteen find him not guilty: forty find him guilty of Man-ſlaughter. Call for the Priſoner to the Bar.

Cl. of Cr. Serjeant at Arms, make Proclamation.

Serj. O yes, Conſtable of the Tower of *London*, bring forth the Body of thy Priſoner *Philip* Earl of *Pembroke* and *Montgomery*, on pain and peril ſhall fall thereon.

Then the Priſoner came in, with the edge of the Ax ſtill from him, and his Grace ſpake to him as followeth.

L. H. St. My Lord of *Pembroke*, You have been Indicted for the Murther of *Nathaniel Cony*, and upon your Arraignment you have pleaded *Not guilty*, and have put your ſelf upon the Judgment of your Peers; and your Peers have conſidered what have been ſaid for you, and againſt you, and the Judgment of my Lords is this, That you are guilty of Man-ſlaughter for killing of *Nathaniel Cony*: What can you ſay for your ſelf, why Judgment ſhould not paſs upon you to die according to the Law?

E. of P. I claim the Privilege of the Statute made in that caſe, my Lord.

L. H. St. You muſt have it, my Lord, it cannot be denied you; for by the Act of Parliament, where *Clergy* is allowed to a Common perſon, by Reading, and Burning in the Hand, *a Peer convicted* of ſuch Felony, is to be delivered without either, therefore we cannot deny it you: But your Lordſhip muſt give me leave to tell you, that no man can have the benefit of that Statute but once, and ſo I would have your Lordſhip take notice of it, as a Caution to you for the future.

Your Lordſhip is now to be diſcharged, paying your Fees.

Then the Priſoner went from the Bar, and his Grace by Proclamation thus diſſolved his Commiſſion.

Cl. of Cr. Serjeant at Arms, make Proclamation.

Serj. O yes, O yes, O yes, my Lord High Steward of *England* willeth and commandeth all Perſons here aſſembled, to depart in God's peace and the King's from this place, for his Grace doth now diſſolve his Commiſſion.

God ſave the King.

Then his Grace concluded the Ceremony, by breaking his Staff.

The TRIAL of EDWARD COLEMAN, *Gent.*

ON *Wedneſday* the Twenty Seventh day of *November* 1678. Mr. *Coleman* (having been Arraigned the *Saturday* before for High Treaſon) was brought to the *King's Bench* Bar, to receive his Trial, and the Court proceeded thereupon, as followeth,

Court. Cryer, make Proclamation.

Proclamation for Silence.

Cryer. O yes! Our Sovereign Lord the King do's ſtrictly Charge and Command all manner of Perſons to keep Silence, upon pain of Impriſonment.

If any one can inform our Sovereign Lord the King, the King's Serjeant, or the King's Attorney General, or this Inqueſt now to be taken, of any Treaſon, Murder, Felony, or any other Miſdemeanour committed or done by the Priſoner at the Bar, let them come forth, and they ſhall be heard, for the Priſoner ſtands at the Bar upon his Deliverance.

Court. Cryer, make an O yes.

Cryer. O yes! You Good Men that are impannelled to enquire between our Sovereign Lord the King, and *Edward Coleman* Priſoner at the Bar, anſwer to your Names.

Court. Edward Coleman, Hold up thy Hand.

Theſe Good men that are now called, and here appear, are thoſe which are to paſs between you and our Sovereign Lord the King, upon your Life or Death, if you challenge any of them, you muſt ſpeak as they come to the Book to be ſworn, and before they are ſworn.

The Prisoner Challenging none, the Court proceeded, and the Jury were sworn, *viz.*

JURY.

Sir *Reginald Foster*, Bar^{t}	*Simon Middleton*, Esq;
Sir *Charles Lee.*	*Henry Johnson*, Esq;
Edward Wilford, Esq;	*Charles Umfreville*, Esq;
John Bathurst, Esq;	*Thomas Johnson*, Esq;
Joshua Galliard, Esq;	*Thomas Eaglesfield*, Esq;
John Bisield, Esq;	*William Bobee*, Esq;

Court. Cryer, make an O yes.

Cryer. O yes! Our Sovereign Lord the King does strictly charge and command all manner of Persons to keep Silence upon pain of Imprisonment.

Court. Edward Coleman, Hold up thy Hand.

You Gentlemen of the Jury that are now sworn, look upon the Prisoner, and hearken to his Charge.

You shall understand, that the Prisoner stands Indicted by the Name of *Edward Coleman* late of the Parish of St. *Margarets Westminster* in the County of *Middlesex*, Gent. for that he as a false Traitor against our most Illustrious, Serene, and most Excellent Prince *Charles*, by the Grace of God of *England*, *Scotland*, *France*, and *Ireland* King, Defender of the Faith, *&c.* and his Natural Lord; having not the Fear of God in his Heart, nor duely weighing his Allegiance, but being moved and seduced by the Instigation of the Devil, his cordial Love and true Duty, and natural Obedience, (which true and lawful Subjects of our said Lord the King ought to bear towards him, and by Law ought to have) altogether withdrawing, and devising, and with all his strength intending, the Peace and common Tranquillity of this Kingdom of *England* to Disturb, and the true Worship of God within the Kingdom of *England* practised, and by Law Established, to overthrow, and Sedition and Rebellion within this Realm of *England* to move, stir up, and procure, and the cordial Love and true Duty and Allegiance, which true and lawful Subjects of our Sovereign Lord the King toward their Sovereign bear, and by Law ought to have, altogether to Withdraw, Forsake, and Extinguish; and our said Sovereign Lord the King to Death and final Destruction to bring and put, the Twenty Ninth Day of *September* in the Seven and Twentieth Year of the Reign of our said Sovereign Lord *Charles* the Second, of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c.* at the Parish of St. *Margarets Westminster* aforesaid, in the County aforesaid, Falsly, Maliciously, and Traiterously Proposed, Compassed, Imagined and Intended, to stir up, and raise Sedition and Rebellion within the Kingdom of *England*, and to procure and cause a miserable Destruction among the Subjects of our said Lord the King, and wholly to Deprive, Depose, Deject, and Disinherit our said Sovereign Lord the King, of his Royal State, Title, Power, and Rule of his Kingdom of *England*, and to bring and put our said Sovereign Lord the King to final Death and Destruction, and to overthrow and change the Government of the Kingdom of *England*, and to alter the sincere and true Religion of God, in this Kingdom by Law established; and wholly to subvert and destroy the state of the whole Kingdom, being in the universal parts thereof well Established and Ordained, and to levy War against our said Sovereign Lord the King, within his Realm of *England*: And to accomplish and fulfil these his most wicked Treasons, and Traiterous Designs and Imaginations aforesaid, the said *Edward Coleman* afterward, that is to say, the Nine and twentieth Day of *September* in the Twenty seventh Year of the Reign of our said Lord the King, at the Parish of St. *Margarets Westminster* aforesaid, in the County of *Middlesex* aforesaid, Falsly, Deceitfully, and Traiterously Composed, Contrived, and Writ two Letters, to be sent to one *Monsieur le Chese*, then Servant and Confessor of *Lewis* the *French* King, to Desire, Procure, and Obtain, for the said *Edward Coleman* and other False Traitors against our said Sovereign Lord the King, the Aid, Assistance, and Adherence of the said *French* King, to alter the true Religion in this Kingdom Established, to the Superstition of the Church of *Rome*, and to subvert the Government of this Kingdom of *England*: And afterwards, (that is to say) the said Nine and twentieth Day of *September* in the Year aforesaid, at the Parish of St. *Margarets Westminster* in the County of *Middlesex* aforesaid, the said *Edward Coleman* Falsly, Traiterously, and Maliciously Composed and Writ two other Letters, to be sent to the said *Monsieur le Chese*, then Servant and Confessor to the said *French* King, to the Intent that he the said *Monsieur le Chese* should Intreat, Procure, and Obtain for the said *Edward Coleman* and other False Traitors against our Sovereign Lord the King, Aid, Assistance, and Adherence of the said *French* King, to alter the true Religion in this Kingdom of *England* Established, to the Superstition of the Church of *Rome*, and to subvert the Government of this Kingdom of *England*: And that the said *Edward Coleman*, in further Prosecution of his Treason and Traiterous Imaginations and Intentions, as aforesaid, afterwards, *viz.* the Twenty ninth Day of *September* in the Seven and twentieth Year of the Reign of our said Sovereign Lord King *Charles*, of *England*, *&c.* the said several Letters, from the said Parish of St. *Margarets Westminster*, in the County of *Middlesex* aforesaid, Falsly, Maliciously and Traiterously, did send to the said *Monsieur le Chese*, into Parts beyond the Seas, there to be delivered to him: And that the said *Edward Coleman*, afterward, *viz.* the First Day of *December*, in the Seven and twentieth Year of our said Sovereign Lord the King, at the said Parish of St. *Margarets Westminster*, in the County of *Middlesex* aforesaid, did receive from the said *Monsieur le Chese*, one Letter, in Answer to one of the said Letters first mentioned, and written by him the said *Edward Coleman*, to the said *Monsieur le Chese*, which said Letter in Answer, as aforesaid, Falsly, Maliciously, and Traiterously received, the Day and Year aforesaid, at the Parish of St. *Margarets Westminster* aforesaid, the said *Edward Coleman* did falsly, traiterously and maliciously read over and peruse; And that the said *Edward Coleman*, the Letter so as aforesaid, by him in Answer to the said Letter, received into his Custody and Possession, the Day and Year last mentioned, at the Parish of St. *Margarets Westminster* aforesaid, in the County of *Middlesex* aforesaid, did Falsly, Maliciously, and Traiterously Detain, Conceal, and Keep. By which Letter the said *Monsieur le Chese*, the Day and Year last mentioned,

tioned, at the Parish of St. *Margarets Westminster* in the County of *Middlesex* aforesaid, did signifie and promise to the said *Edward Coleman*, to obtain for the said *Edward Coleman*, and other false Traitors against our Sovereign Lord the King, Aid, Assistance and Adherence from the said *French* King, and that the said *Edward Coleman* afterward, *Viz.* the tenth day of *December* in the seven and twentieth year of the Reign of our said Sovereign Lord the King, at the Parish of St. *Margarets Westminster*, in the County of *Middlesex* aforesaid, his wicked Treasons and Traiterous Designs and Proposals as aforesaid did tell and declare to one Mounsieur *Revigni*, Envoy extraordinary from the *French* King to our most Serene and Sovereign Lord King *Charles*, &c. in the County aforesaid residing, and did falsly, maliciously and traiterously move and excite the said Envoy extraordinary to partake in his Treason; and the sooner to fulfill and compleat his Traiterous Designs, and wicked Imaginations and Intentions, the said *Edward Coleman* afterward, *Viz.* the tenth day of *December* in the seven and twentieth year of the Reign of our Sovereign Lord King *Charles* the Second of *England*, &c. aforesaid, at the Parish of St. *Margarets Westminster*, in the County of *Middlesex* aforesaid, did advisedly, maliciously, deceitfully, and traiterously compose and write three other Letters to be sent to one Sir *William Throckmorton* Kt. then a Subject of our said Sovereign Lord the King of this Kingdom of *England*, and residing in *France*, in parts beyond the Seas, *Viz.* at the Parish of St. *Margarets Westminster*, in the County of *Middlesex* aforesaid, to solicite the said Monsieur *Le Chese* to procure and obtain of the said *French* King, Aid, Assistance, and Adherance, as aforesaid, and the said Letters last mentioned afterward, *Viz.* the day and year last named as aforesaid from the said Parish of St. *Margarets Westminster*, in the County of *Middlesex* aforesaid, did falsly and traiterously send, and cause to be delivered to the said Sir *William Throckmorton* in *France* aforesaid, against his true Allegiance, and against the Peace of our Sovereign Lord the King that now is, his Crown and Dignity, and against the Form of the Statute in that Case made and provided.

Court. Upon this Indictment he hath been arraigned, and hath pleaded thereunto not guilty; and for his Tryal he puts himself upon God and his Country; Which Country you are.

Your Charge is to enquire, whether he be guilty of the High Treason whereof he stands indicted, or not guilty. If you find him guilty, you are to enquire what Goods and Chattels, Lands and Tenements he had at the time when the High Treason was committed, or at any time since; If you find him not guilty, you are to say so, and no more, and hear your Evidence.

Cryer. If any one will give Evidence on the behalf of our Sovereign Lord the King, against *Edward Coleman* the Prisoner at the Bar, let him come forth, and he shall be heard; for the Prisoner now stands at the Bar upon his Deliverance.

Mr. *Recorder.* May it please you my Lord, and you Gentlemen of the Jury; Mr. *Edward Coleman*, now the Prisoner at the Bar, stands indicted for High Treason, and the Indictment sets forth, that the said *Edward Coleman*, indeavouring to subvert the Protestant Religion, and to change and alter the same; And likewise to stir up Rebellion and Sedition amongst the King's Liege People, and also to kill the King; did on the 29th of *September* in the twenty seventh year of the Reign of our Sovereign Lord the King, at the Parish of St. *Margarets Westminster* in this County, compose and write two several Letters to one Mounsieur *Le Chese*, that was then Servant and Confessor to the *French* King, and this was to procure the *French* King's aid and assistance to him and other Traitors, to alter the Religion practised, and by Law established here in *England*, to the Romish Superstition. The Indictment sets forth likewise, that on the same day, he did write and compose two other Letters to the same Gentleman, that was Servant and Confessor to the said King, to prevail with him to procure the *French* King's assistance to alter the Religion in this Kingdom established to the Romish Religion. The Indictment sets further forth, that he caused these two Letters to be sent beyond the Seas. And it also sets forth that on the tenth of *December*, the same Month he did receive a Letter from the Gentleman, that was the Confessor, in answer to one of the former Letters, and in that Letter aid and assistance from the *French* King was promised; and that he did traiterously conceal that Letter. My Lord, the Indictment sets out further, that on the tenth day of the same Month, he did reveal his Treasons and Traiterous Conspiracies to one Mounsieur *Revigni*, who was Envoy from the *French* King to his Majesty of *Great Britain*. And his Indictment declares, he afterwards did write three Letters more to Sir *William Throckmorton*, then residing in *France*, to procure the *French* King's assistance to the alteration of the Religion practised here in *England*. Of these several Offences he stands here indicted.

To this he hath pleaded not guilty. If we prove these, or either of them in the Indictment, you ought to find him guilty.

Serj. Maynard. May it please your Lordship, and you Gentlemen of the Jury; This is a Cause of great Concernment. Gentlemen, the Prisoner at the Bar stands indicted for no less than for an intention and endeavour to Murther the King; For an endeavour and attempt to change the Government of the Nation, so well settled and instituted, and to bring us all to ruin and slaughter of one another, and for an endeavour to alter the Protestant Religion, and to introduce instead of it, the Romish Superstition, and Popery.

This is the Charge (in general) of the Indictment. We will proceed unto particulars, whereby it may appear, and whereupon he indeavoureth to accomplish his ends. One or two Letters written to Mounsieur *Le Chese* (he is a Foreigner, and we have nothing to say to him, being Confessor to the *French* King) it was to excite and stir him up to procure aid and assistance (and you know what aid and assistance means) from a Foreign Prince, Arms, and other Levies. We charge him with it, that he did receive this Letter, I, and received an answer with a promise, that he should have assistance. He writ other Letters to Sir *William Throckmorton*, who traiterously conspired with him, and had intelligence from time to time

from him. This is the Charge in the Indictment; To which he hath pleaded, not guilty. We will go on in our Evidence: I ſhall, but more generally, open our method, that we intend to take. For it may ſeem ſtrange, and is not reaſonably to be imagined, that a private Gentleman, as the Priſoner at the Bar is, ſhould have ſuch vaſt and great deſigns as this, to alter Religion, deſtroy the Government, I, and deſtroy the Subjects too in a great meaſure. But 'tis not himſelf alone, but he imploys himſelf for Foreign Aſſiſtance, great Confederacies and Combinations with the Subjects of that King, many of whom he did pervert.

In the courſe of the Evidence I ſhall not open the particulars, (Mr. Attorny, I think, will do that by and by) thoſe that we have occaſion to ſpeak of, and ſhall in proof mention to you, will be theſe.

Le Cheſe, the *French* King's preſent Confeſſor we have mentioned: before him there was one Father *Ferryer*, with whom he held Correſpondence. That *Ferryer* being removed by death, the Priſoner had an imployment here amongſt us, by which he gave to *Le Cheſe* inſtructions how to proceed. This Gentleman is the great Contriver and Plotter, which gives him inſtructions how to proceed. He doth give him an account by way of Narrative, how all things had ſtood upon former Treaties and Negotiations, how buſineſſes were contrived, and how far they were gone; this he diligently and accurately gives an account of. This (my Lord) doth diſcover and delineate what had been done before until 1674. My Lord, there was likewiſe Sir *William Throckmorton* and ſome others, that are *Engliſhmen* too, there are none of them, but what were firſt Proteſtants, but when they once renounced their Religion, no wonder they ſhould renounce their Nation, and their Prince too. He was gone beyond the Seas, ſeveral Letters paſt between them, and all to promote and encourage, and accompliſh this Deſign. My Lord, there is likewiſe a conſult of Jeſuits uſed too, where, in expreſs words they deſigned to murther the King, or contrived, and adviſed upon it.

My Lord, there were four *Iriſh* Men (I open but the Heads of things) ſent to *Windſor* to murther the King: This Gentleman received and diſburſed Money about this buſineſs, and one *Aſhby* a Jeſuit here had Inſtructions from him to proſecute the Deſign, and to treat with a Phyſician to poyſon the King. This the Priſoner approved of, and contributed to it. There were Commiſſions (as I take it) delivered from *Ferryer*; or by his Hand, that came from Foreign Powers. Sir *Henry Titchburn* was another that received and delivered Commiſſions. *Pompone* the *French* Gentleman, he maintains Intelligence with him about this buſineſs, the Titular Arch-Biſhop of *Dublin*.

There's Cardinal *Norfolk*, by him he had acceſſion to the Pope.

There was likewiſe the Pope's *Nuncio* (I do not open the Tranſactions of theſe Inſtructions) theſe particulars will be made out, not only by Witneſs *Viva Voce*, and not ſingle only, but but Letters of this Mr. *Coleman*'s own writing. But I offer that to the conſideration of the Jury.

Mr. *Oats* was the firſt Man, that we hear of, that diſcovered this Treaſon; he was the ſingle Man that diſcovered ſo many active Agents in ſo great a Treaſon, as this was, and it needed to be well ſeconded; but, he being found to be but ſingle, the Boldneſs and Courage of theſe Complotters in it grew great thereupon. We know what followed; the Damnable Murther of that Gentleman, in Execution of his Office, ſo Helliſhly contrived, and the endeavours that were uſed to hide it, every body knows: How many Stories were told to hide that abominable Murther, how many lies there were about it, but it could not be ſuppreſt. The Nation is awaken'd out of ſleep, and it concerns us now to look about us. But all this while, Mr. *Coleman* thought himſelf ſafe, walked in the Fields, goes abroad, Jealouſie increaſing, and he himſelf ſtill ſecure.

The Letters that are produced go but to ſome part of the Year 75: from 75 unto 78 all lies in the dark, we have no certain Proof of it; but we apprehend he had Intelligence until 78; That there were the ſame Perſons continuing here, and his Company increaſing here: But this I ſpeak but as probable, (but very exceeding probable) that there was other paſſages of Intelligence between this Perſon and other Confederates.

It ſeems (my Lord) that this *Coleman* was aware that he was concerned: but God blinded and infatuated him, and took away his Reaſon. It's no queſtion but he carried away ſome of thoſe Papers; thoſe that were left behind, and are produced, he forgot and neglected; and by that (my Lord) thoſe which are produced, are Evidence againſt him at this time. Surely he thought we were in ſuch a condition, that had Eyes and could not ſee, and Ears that could not hear, and underſtandings without underſtanding: for he was bold, and walked Abroad, and that until this Proſecution was made upon him, he endeavoured to murther the King, change the Government, make an alteration of Religion, and deſtruction of Proteſtants, as well as the Proteſtant Religion; and it will be proved by ſome Letters, when they were rejected by the Duke, that he ſent them in the Duke's Name. And by this no Man will doubt but he is a great Traitor.

Attorn. Gen. Sir *William Jones*. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, The King's Serjeant hath opened the general parts of our Evidence; and we have reaſon to foreſee that our Evidence will be very long, and will take up much of your time; and therefore I ſhall ſpend no more time in opening of it than is juſt neceſſary. And indeed (my Lord) Mr. *Coleman* himſelf hath ſaved me much of the labour, which otherwiſe I ſhould have beſtowed; for he hath left ſuch Elegant and copious Narratives of the whole Deſign under his own Hand, that the reading of them will be better than any new one I can make.

But (my Lord) ſome ſhort Account I ſhall give you, ſuch as may ſhew you the courſe of our Evidence, and will make our Evidence, when it comes to be given, to be more intelligible.

My Lord, It will appear, that there hath been for many Years laſt paſt, a more than ordinary Deſign and Induſtry to bring in the Popiſh, and extirpate the Proteſtant Religion.

I doubt not but this Deſign, in ſome meaſure, hath been contriving ever ſince the Reformation,

on, by the Jeſuits, or ſome of their Emiſſaries, but hath often received interruption; ſo that they have proceeded ſometimes more coldly, ſometimes more hotly: And I do think, at no time ſince the Reformation, that ever this Deſign was carried on with greater induſtry, nor with fairer hopes of Succeſs, than for theſe laſt Years.

My Lord, You will hear from our Witneſſes, that the firſt Onſet, which was to be made upon us, was by whole Troops of Jeſuits and Prieſts, who were ſent hither from the Seminaries Abroad, where they had been trained up in all the Subtilty and Skill that was fit to work upon the People.

My Lord, you will hear how active they have been, and what Inſinuations they uſed for the perverting of particular Perſons. After ſome time ſpent in ſuch Attempts, they quickly grew weary of that courſe; though they got ſome Proſelytes, they were but few. Some Bodies, in whom there was a prediſpoſition of humors, were infected, but their Numbers were not great. They at laſt reſolve to take a more expeditious way; for in truth, (my Lord) they could not far prevail by the former. And I wiſh with all my heart, that the Bodies of Proteſtants may be as much out of danger of the Violence of their Hands, as their Underſtandings will be of the force of their Arguments. But (my Lord) when this way would not take, they began then to conſider they muſt throw at all at once. No doubt but they would have been glad, that the People of *England* had had but one Neck; but they knew the People of *England* had but one Head, and therefore they were reſolved to ſtrike at that.

My Lord, you will find, that there was a Summons of the principal Jeſuits, of the moſt able Head-pieces, who were to meet in *April* or *May* laſt, to conſult of very great things, of a moſt Diabolical Nature, no leſs than how to take away the Life of the King our Sovereign.

My Lord, you will find (as is uſually practiſed in ſuch horrid Conſpiracies) to make all ſecure, that there was an Oath of Secrecy taken, and that upon the Sacrament. You will find Agreements made, that this moſt Wicked and Horrible Deſign ſhould be attempted. You will find two Villains were found among them, who undertook to do this execrable work; and you will hear of the rewards they were to have: Money in caſe they did ſucceed, and Maſſes good ſtore in caſe they periſhed; ſo that their Bodies were provided for in caſe they ſurvived, and their Souls if they died. My Lord, What was the reaſon they did not effect their Deſign, but either that theſe Villains wanted opportunity, or their Hearts failed them, when they came to put in execution this Wicked Deſign? or, perhaps (which is moſt probable) it was the Providence of God, which over-rul'd them, that this Bloody Deſign did not take its effect.

But theſe Gentlemen were not content with one Eſſay, they quickly thought of another; and there were four *Iriſh-Men* prepared (Men of very mean Fortunes, and deſperate Conditions) and they were to make the attempt no longer ſince, than when the King was laſt at *Windſor*.

My Lord, I perceive by the Proofs, that theſe laſt Aſſaſſinates went down thither; but it came to paſs (for ſome of the Reaſons aforeſaid) that that attempt failed likewiſe.

My Lord, Theſe Gentlemen, thoſe wiſe Heads, who had met here in Conſultation, did then, and long before, conſider with themſelves, that ſo great a Cauſe as this, was not to be put upon the hazard of ſome few Hands; they therefore propoſed Forces, Aids, and Aſſiſtances, both at Home and Abroad, to ſecond this Wicked Deſign; if it had ſucceeded as to the Perſon of the King, and if that fail'd, then by their Foreign and Domeſtick Aids and Aſſiſtances, to begin and accompliſh the whole Work of ſubverting our Government and Religion. And here we muſt needs confeſs, as to the former part of this Plot, which we have mentioned, I mean the attempt upon the King's Perſon, Mr. *Coleman* was not the Contriver, nor to be the Executioner; But yet your Lordſhip knows, in all Treaſons there is no Acceſſory, but every Man is a Principal. And thus much we have againſt him, even as to this part of the Deſign, which will involve him in the whole guilt of it, that Mr. *Coleman* conſented to it, though his Hand were not to do it. Mr. *Coleman* encouraged a Meſſenger to carry Money down as a Reward of theſe Murtherers, that were at *Windſor*; of this we have proof againſt him, which is ſufficient. My Lord, Mr. *Coleman*, as a Man of greater Abilities, is reſerved for greater Employments, and ſuch wherein, I confeſs, all his Abilities were little enough. There were Negotiations to be made with Men Abroad, Money to be procured, partly at home from Friends here, and partly abroad from thoſe, that wiſh'd them well: And in all theſe Negotiations Mr. *Coleman* had a mighty Hand; and you will perceive by and by what a great progreſs he made in them. This Conſpiracy went ſo far, as you will hear it proved, That there were general Officers named and appointed, that ſhould Command their new Catholick Army, and many were Engaged, if not Liſted. There were not only in *England*, but in *Ireland* likewiſe, where Arms and all other Neceſſaries were provided, and whither great Sums of Money were returned to ſerve upon occaſion. But one thing there is, my Lord, that comes neareſt Mr. *Coleman*; As there were Military Officers named, ſo likewiſe the great Civil Places and Offices of the Kingdom were to be diſpoſed of; I will not name to whom at this time, more than what is pertinent to the preſent buſineſs.

This Gentleman, ſuch were his great Abilities, the truſt and reliance that his Party had upon him, that no leſs an Office would ſerve his turn than that of Principal Secretary of State; and he had a Commiſſion, that came to him from the Superiours of the Jeſuits, to enable him to execute that great Office. My Lord, it ſeems ſtrange, that ſo great an Office ſhould be conferred by no greater a Man than the Superior of the Jeſuits. But if the Pope can depoſe Kings, and diſpoſe of Kingdoms, no wonder if the Superior of the Jeſuits can, by a Power delegated from him, make Secretaries. It is not certain what the Date of this Commiſſion was, nor the very time when he received it: but I believe he was ſo earneſt and forward in this Plot, that he began to execute his Office long before he had his Commiſſion for it; for I find by his Letters, which are of a more early Date, that he had proceeded ſo far as to treat with Father *Ferrier*, who was the *French* King's Confeſſor, before he had actually received this Commiſſion.

Commiſſion. You will underſtand by the Letters, which we ſhall produce, what he had to do with him, and what with the other Confeſſor, that ſucceeded Father *Le Cheſe*. There were two ſmall matters they treated of, no leſs than the Diſſolving the Parliament; and the Extirpation of the Proteſtant Religion. Nay, you will find, and you will hear enough, when the Letters come to be read, that Mr. *Coleman* made many ſtrokes at the Parliament, he had no good opinion of them. And we cannot blame him; for without all peradventure they had made, and I hope ever will make, ſtrong reſiſtance againſt ſuch Deſigns as theſe. But a great mind he had to be rid of them; and he had hopes of great Sums of Money from abroad, if it had been to be done that way. And it is very remarkable (and ſhews the vanity of the Man) he had ſuch an opinion of the ſucceſs of theſe Negotiations, that he had penn'd a Declaration prepared by him, and writ with his own hand, to be publiſhed in Print, upon the Diſſolution of the Parliament, to juſtifie that Action with many ſpecious and plauſible Reaſons. As he did this without any Direction, ſo he takes upon him to write a Declaration, as in the Name of the King, without the leaſt ſhadow of any command to do it, ſo he prepares a Letter alſo in the Name of the Duke; and I would not affirm, unleſs I could prove it, and that from his own Confeſſion, (being examined before the Lords upon Oath) that he had no manner of Authority from the Duke to prepare ſuch a Letter; and when it was written, and brought to the Duke, it was rejected, and the Writer juſtly blamed for his preſumption. By this you will perceive the forwardneſs of this Man. And you muſt of neceſſity take notice, that in his Letters he took upon himſelf to manage Affairs, as authorized by the greateſt Perſons in the Kingdom, yet without the leaſt ſhadow of proof that he was by them impowered to do it.

My Lord, you ſhall find, Mr. *Coleman* thought himſelf above all; and ſuch was his own overweening opinion of his Wit and Policy, that he thought himſelf the ſole and ſupreme Director of all the Affairs of the Catholicks. You will likewiſe perceive that he held Intelligence with Cardinal *Norfolk*, with Father *Sheldon*, and the Popes Internuntio at *Bruſſels*. And I cannot but obſerve out of the Proofs, that as we ſhall find Mr. *Coleman* very ambitious and forward in all great Affairs, ſo he had a little too much Eye to the Reward; he looked too much aſquint upon the matter of Money: His great endeavours were not ſo much out of Conſcience, or out of Zeal to his Religion, as out of temporal Intereſt; to him Gain was inſtead of Godlineſs. And by his Letters to the *French* Confeſſor Mounſieur *Le Cheſe*, it will be proved, that he got much Money from the Catholicks here, and ſome from abroad, but ſtill he wanted Money. What to do? (I do not mean the greater ſum of two hundred thouſand Pounds to procure the Diſſolution of the Parliament, but ſome twenty thouſand Pounds only) To be expended by him in ſecret Service. I do not know what account he would have given of it, if he had been intruſted with it. But that he earneſtly thirſted after Money, appeareth by moſt of his Letters.

My Lord, you will obſerve, beſides his Intelligences, that he had with Father *Le Cheſe*, and ſeveral others, one that deſerves to be named, and that is his Negotiation with Sir *William Frogmorton*, who was ſent over into *France*, and there reſided a long time to promote theſe Deſigns. He is dead; therefore I will not ſay ſo much of him, as I would ſay againſt him, if he was here to be tried. But, my Lord, I find in his Letters ſuch Treaſonable, ſuch Impious Expreſſions againſt the King, ſuch undutiful Characters of him, that no good Subject would write, and no good Subject would receive and conceal, as Mr. *Coleman* hath done. My Lord, it may paſs for a wonder, how we come to be Maſters of all theſe Papers; it has in part been told you already.

There was an information given of the general Deſign, nay of ſome of the particulars againſt the King's Life. And without all peradventure, Mr. *Coleman* knew of this Diſcovery; and he knew that he had Papers, that could ſpeak too much, and he had time and opportunity enough to have made them away, and I make no Queſtion, but he did make many away. We are not able to prove the continuance of his correſpondence, ſo as to make it clearly out; but we ſuppoſe that continued until the day he was ſeized. And there is this to be proved, that Letters came for him, though we cannot ſay any were delivered to him, after he was in Priſon. But without all peradventure, the Man had too much to do, too many Papers to conceal: Then, you'll ſay, he might have burnt them all, (for many would burn as well as a few:) But then he had loſt much of the Honour of a great States-man; many a fine Sentence, and many a deep Intrigue had been loſt to all Poſterity. I believe that we owe this Diſcovery to ſomething of Mr. *Coleman*'s Vanity; he would not loſe the Glory of managing theſe important Negotiations about ſo great a Deſign: He thought 'twas no ſmall Reputation to be intruſted with the Secrets of Foreign Miniſters. If this was not his reaſon, God (I believe) took away from him that clearneſs of Judgment, and ſtrength of Memory, which he had upon other Occaſions.

My Lord, I ſhall no longer detain you from reading the Papers themſelves. But I cannot but account this Kingdom happy, that theſe Papers are preſerved. For (my Lord) We are to deal with a ſort of Men, that have that prodigious confidence, that their words and deeds (though proved by never ſo unſuſpected Teſtimony) they will ſtill deny. But (my Lord) no denial of this Plot will prevail, for Mr. *Coleman* himſelf hath, with his own hand, recorded this Conſpiracy; and we can prove his hand, not only by his own Servants, and Relations, but by his own Confeſſion. So that (my Lord) I doubt not, that if there be any of their own Party that hear this Trial, they themſelves will be ſatisfy'd with the truth of theſe things. And I believe we have an advantage in this caſe, which they will not allow us, in another matter; namely, that we ſhall be for this once permitted to believe our own Senſes. Our Evidence conſiſteth of two parts; one is, Witneſſes *Viva voce*, which we deſire (with the favour of the Court) to begin with; and when that is done, we ſhall read ſeveral Letters, or Negotiations, in writing, and ſo ſubmit the whole to your Lordſhip's direction.

Prif. I beg leave that a poor ignorant Man, that is ſo heavily charged, that it ſeems a little unequal to conſider the reaſon, why a Priſoner, in ſuch a caſe as this is, is not allowed Counſel; but your Lordſhip is ſuppoſed to be Counſel for him. But I think it very hard I cannot be admitted Counſel; and I humbly hope your Lordſhip will not ſuffer me to be loſt by things that my ſelf cannot anſwer. I deny the Concluſion, but the Premiſſes are too ſtrong and artificial.

Sir *William Scroggs L. C. J.* You cannot deny the Premiſſes, but that you have done theſe things; but you deny the Concluſion that you are a Traitor.

Prif. I can ſafely and honeſtly.

L. C. J. You would make a better Secretary of State, than a Logician; for they never deny the Concluſion.

Prif. I grant it your Lordſhip: You ſee the advantage great men have of me, that do not pretend to Logick.

L. C. J. The labour lies upon their Hands; the Proof belongs to them to make out theſe Intrigues of yours; therefore you need not have Counſel, becauſe the Proof muſt be plain upon you, and then it will be in vain to deny the Concluſion.

Prif. I hope (my Lord) if there be any Point of Law that I am not skill'd in, that your Lordſhip will be pleaſed not to take the advantage over me. Another thing ſeems moſt dreadful, that is, the violent Prejudices that ſeems to be againſt every man in *England*, that is confeſs'd to be a Roman Catholick. It is poſſible that a Roman Catholick may be very innocent of theſe Crimes. If one of thoſe Innocent Roman Catholicks ſhould come to this Bar, he lies under ſuch Diſadvantages already, and his Prejudices ſo greatly byaſſeth human Nature, that unleſs your Lordſhip will lean extremely much on the other ſide, Juſtice will hardly ſtand upright, and lie upon a Level. But to ſatisfie your Lordſhip, I do not think it any ſervice to deſtroy any of the King's Subjects, unleſs it be in a very plain caſe.

L. C. J. You need not make any preparations for us in this matter, you ſhall have a fair, juſt, and legal Trial; if Condemned, it will be apparent you ought to be ſo; and without a fair Proof, there ſhall be no Condemnation. Therefore you ſhall find, we will not do to you, as you do to us, blow up at adventure, kill people becauſe they are not of your perſwaſion; our Religion teacheth us another Doctrine, and you ſhall find it clearly to your advantage. We ſeek no Man's Blood, but our own Safety. But you are brought here from the neceſſity of things, which your ſelves have made; and from your own Actions you ſhall be condemned, or acquitted.

Prif. It is ſuppoſed upon Evidence, that the Examinations that have been of me in Priſon, are like to be Evidence againſt me now; I have nothing to ſay againſt it: But give me leave to ſay at this time, that when I was in Priſon, I was upon my ingenuity charged; I promiſed I would confeſs all I knew. And I only ſay this, That what I ſaid in Priſon is true, and am ready at any time to Swear and Evidence, that that is all the truth.

L. C. J. It is all true that you ſay; but did you tell all that was true?

Prif. I know no more, than what I declared to the Two Houſes.

L. C. J. Mr. *Coleman*, I'll tell you when you will be apt to gain credit in this matter: You ſay, that you told all things that you knew, the Truth, and the whole Truth. Can Mankind be perſuaded, that you, that had this Negotiation in 74. and 75. left off juſt then, at that time when your Letters were found according to their Dates? Do you believe, there was no Negotiation after 75. becauſe we have not found them? Have you ſpoke one word to that? Have you confeſſed, or produced thoſe Papers and Weekly Intelligence? When you anſwer that, you may have credit; without that, it is impoſſible: For I cannot give credit to one word you ſay, unleſs you give an account of the ſubſequent Negotiation.

Prif. After that time (as I ſaid to the Houſe of Commons) I did give over Correſponding. I did offer to take all Oaths and Teſts in the World, that I never had one Letter for at leaſt two years; yea, (that I may keep my ſelf within compaſs) I think it was for three or four. Now I have acknowledged to the Houſe of Commons, I have had a curſory Correſpondence, which I never regarded or valued; but as the Letters came, I burnt them, or made uſe of them as common Paper. I ſay, that for the general Correſpondence I have had for two or three years, they have had every one of them Letters, that I know of.

Att. Gen. Whether you had or no, you ſhall have the faireſt Trial that can be. And we cannot blame the Gentleman, for he is more uſed to greater Affairs, than theſe Matters or Forms of Law. But (my Lord) I deſire to go unto Evidence, and when that is done, he ſhall be heard, as long as he pleaſeth, without any Interruption. If he deſire it, before I give my Evidence, let him have Pen, Ink, and Paper (with your Lordſhip's leave.)

L. C. J. Help him to Pen, Ink, and Paper.

Record. Then we deſire to go on in our Evidence. We deſire that Mr. *Oates* may not be interrupted.

Court. He ſhall not be interrupted.

Att. Gen. The firſt thing we will inquire, what account he can give of the Priſoner at the Bar, whether he was any way privy to the murther of the King?

L. C. J. Mr. *Oates*, we leave it to your ſelf to take your own way, and your own method: Only this we ſay, here's a Gentleman ſtands at the Bar for his Life; And on the other ſide, the King is concerned for his Life: You are to ſpeak the Truth and the whole Truth; for there is no reaſon in the World that you ſhould add any one thing that is falſe, I would not have a tittle added for any advantage, or conſequences that may fall, when a Man's Blood and Life lieth at ſtake: Let him be Condemned by truth: You have taken an Oath, and you being a Miniſter, know the great regard you ought to have of the ſacredneſs of an Oath; and that to take a Man's Life away by a falſe Oath is murther, I need not teach you that. But that Mr. *Coleman* may be ſatisfied in the Trial, and all People elſe be ſatisfied, there is nothing required or expected, but downright plain truth, and without any arts either to conceal, or expatiate, to make things larger than

in truth they are; he must be condemned by plain Evidence of Fact.

Mr. *Oates.* My Lord, Mr. *Coleman* in the Month of *November* last, did entertain in his own House *John Keins*, which *John Keins* was a Father Confessor to certain Persons that were Converted, amongst which I was one. My Lord, I went and visited this *John Keins* at Mr. *Coleman*'s House then in *Stable-yard*. Mr. *Coleman* inquiring of *John Keins* who I was? He said, I was one that designed to go over upon business to St. *Omers*. My Lord, Mr. *Coleman* told me then he should trouble me with a Letter or two to St. *Omers*, but he told me he would leave them with one *Fenwick* that was Procurator for the Society of Jesuits in *London*. I went on *Monday* Morning and took Coach, went to *Dover*, and had his Pacquet with me, which Pacquet when I came to St. *Omers* I opened. The outside sheet of this Paper was a Letter of News which was called Mr. *Coleman*'s Letter, and at the bottom of this Letter there was this Recommendation, Pray Recommend me to my Kinsman *Playford*. In this Letter of News there were expressions of the King, calling him Tyrant, and that the Marriage between the Prince of *Orange* and the Lady *Mary* the Duke of *York*'s Eldest Daughter would prove the Traitor's and Tyrant's ruine.

L. C. J. In what Language was it written?

Mr. *Oates.* In plain *English* words at length.

L. C. J. Directed to whom?

Mr. *Oates.* It was directed to the Rector of St. *Omers*, to give him Intelligence how affairs went in *England*.

L. C. J. Did you break it open?

Mr. *Oates.* I was at the opening of it, and saw it and read it. There was a Letter to Father *Lechees*, which was superscribed by the same hand that the treasonable Letter of News was written, and the same hand that the recommendation to *Playford* was written in. When this Letter was open there was a Seal fixt, a flying Seal, and no Man's Name to it.

L. C. J. What was the Contents of that Letter to *Lechees*?

Mr. *Oates.* My Lord, to give you an account of the import of this Letter, it was writ in *Lattain*, and in it there were thanks given to Father *Lechees* for the Ten Thousand Pounds which was given for the propagation of the Catholick Religion, and that it should be imployed for no other intent and purpose but that for which it was sent, now that was to cut off the King of *England*; those words were not in that Letter, but *Lechees* Letter, to which this was an Answer, I saw and read: It was dated the Month of *August*, and as near as I remember there was this Instruction in it. That the Ten Thousand Pound should be imployed for no other intent and purpose but to cut off the King of *England*. I do not swear the words, but that's the sense and substance; I believe I may swear the words.

L. C. J. To whom was that directed?

Mr. *Oates.* To one *Strange* that was then Provincial of the Society in *London*, which Mr. *Coleman* answered.

L. C. J. How came Mr. *Coleman* to answer it?

Mr. *Oates. Strange* having run a Reed into his Finger, had wounded his Hand, and Secretary *Mico* was ill, so he got Mr. *Coleman* to write an Answer unto it.

L. C. J. Did he write it as from himself?

Mr. *Oates.* Yes, by order of the Provincial.

L. C. J. What was the substance of that Answer?

Mr. *Oates.* That thanks was given to him in the Name of the whole Society for the Ten Thousand Pound which was paid and received here, and that it should be employed to the intent for which it was received. It was superscribed from Mr. *Coleman*.

L. C. J. Was it subscribed *Coleman*?

Mr. *Oates.* It was not subscribed; I did not see him write it, but I really believe it was by the same hand. I went and delivered this Letter.

L. C. J. I understood you because of the accident of his Hand he had employed Mr. *Coleman* to write this for him.

Mr. *Oates.* He did write this Letter then, the Body of the Letter was written by Mr. *Coleman*. I did not see him write it, but I shall give an account how I can prove he wrote it. I delivered this Letter to *Lechees* his own Hand. When I opened the Letter he asked me how a Gentleman (naming a French name) did doe.

L. C. J. When you carried this Letter, you carried it to *Lechees*, and delivered it to him; then he asked you of the Gentleman of the French name, whom ment he by that name?

Mr. *Oates.* I understood it to be Mr. *Coleman*.

L. C. J. Did he know him by some French name? What said you?

Mr. *Oates.* I could say little to this.

L. C. J. Could you guess whom he meant?

Mr. *Oates.* He told me he was sometime Secretary to the Dutchess of *York*, which I understood to be Mr. *Coleman*. I stuck at it, and when he said he was sometime Secretary to the Dutchess of *York*, I spoke in Latine to him, and asked whether he meant Mr. *Coleman*, and his Answer I cannot remember. He sends an Answer to this Letter. I brought it to St. *Omers*, and there it was inclosed in the Letter from the Society to *Coleman*; wherein the Society expresly told him this Letter was delivered and acknowledged. I saw the Letter at St. *Omers*, and the Letter was sent to him. Mr. *Coleman* did acknowledge the Receipt of this Letter from *Lechees* in the same hand with that of the News Letter, and so it was understood by all, I saw it.

L. C. J. How came you to see it?

Mr. *Oates.* I by a Patent from them was of the Consult.

L. C. J. You saw the Letter of the same hand which the News Letter was of with Mr. *Coleman*'s Name subscribed?

Mr. *Oates.* The Contents of the Letter did own the Letter from *Lechees* was received; this Letter was presumed to be the Hand-writing of Mr. *Coleman*, and it was understood to be Mr. *Coleman*'s Letter.

L. C. J. You say the Letter was thanks for the Ten Thousand Pound; what was the other Contents?

Mr. *Oates.* That all Endeavours should be used to cut off the Protestant Religion Root and Branch.

L. C. J. You say you delivered this Letter, from whom had you it?

Mr. *Oates.* From *Fenwick*, it was left in his Hand, and he accompanied me from *Groves* to the Coach, and gave it to me.

L. C. J. Did you hear him speak to Mr. *Coleman* to write for him?

Mr. *Oates. Strange* told me he had spoke to him.

L.

L. C. J. He doth ſuppoſe it was Mr. *Coleman*'s hand becauſe it was juſt the ſame hand that the News Letter was. Are you ſure the Letter was of his hand?

Mr. *Oates.* It was taken for his hand.

Juſt. Wild. Had he ſuch a Kinſman there?

Mr. *Oates.* Yes he hath confeſſed it.

Att. Gen. We deſire your Lordſhip he may give an account of the Conſult here in *May* laſt, and how far Mr. *Coleman* was privy to the murthering of the King.

Mr. *Oates.* In the Month of *April* Old-Stile, in the Month of *May* New-Stile, there was a Conſult held, it was begun at the *White Horſe Tavern*, it did not continue there. After that there they had conſulted to ſend one Father *Cary* to be Agent and Procurator for *Rome*, they did adjourn themſelves to ſeveral Clubs in Companies; ſome met at *Wild-Houſe*, and ſome at *Harcourt*'s Lodging in *Duke-Street*; ſome met at *Ireland*'s Lodging in *Ruſſel-Street*; and ſome in *Fenwick*'s Lodging in *Drury-Lane*. They were ordered to meet by virtue of a Brief from *Rome*, ſent by the Father General of the Society: They went on to theſe Reſolves, That *Pickering* and *Groves* ſhould go on and continue in attempting to Aſſaſſinate the King's Perſon by Shooting, or other means. *Groves* was to have Fifteen Hundred Pounds. *Pickering* being a Religious Man was to have Thirty Thouſand Maſſes, which at Twelve Pence a Maſs amounted much what to that Money. This Reſolve of the Jeſuits was communicated to Mr. *Coleman* in my hearing at *Wild-Houſe*. My Lord, this was not only ſo, but in ſeveral Letters he did mention it; and in one Letter (I think I was gone a few Miles out of *London*) he ſent to me by a Meſſenger, and did deſire the Duke might be trappan'd into this Plot to Murther the King.

L. C. J. How did he deſire it?

Mr. *Oates.* In a Letter, that all means ſhould be uſed for the drawing in the Duke. This Letter was written to one *Ireland*. I ſaw the Letter and read it.

L. C. J. How do you know it was his Letter?

Mr. *Oates.* Becauſe of the Inſtructions, which I ſaw Mr. *Coleman* take a Copy of and write, which was the ſame Hand with the News Letter, and what elſe I have mentioned, the Subſcription was, *Recommend me to Father Lechees*, and it was the ſame Hand whereof I now ſpeak.

L. C. J. What was the ſubſtance of the Letter?

Mr. *Oates.* Nothing but Complement, and Recommendation, and that all means might be uſed for the trappanning the Duke of *York* (as near as I can remember that was the word.)

Juſt. Wild. You did ſay poſitively that Mr. *Coleman* did conſent and agree to what was conſulted by the Jeſuits, which was to kill the King, and *Pickering* and *Groves* were the two Perſons deſigned to do it. Did you hear him conſent to it?

Mr. *Oates.* I heard him ſay at *Wild-Houſe*, he thought it was well contrived.

Recor. Do the Gentlemen of the Jury hear what he ſaith?

L. C. J. Gentlemen of the Jury, do you hear what he ſaith?

Jury. Yes.

Att. Gen. What do you know of any Rebellion to have been raiſed in *Ireland*? and what was to be done with the Duke of *Ormond*?

Mr. *Oates.* In the Month of *Auguſt* there was a Conſult with the Jeſuits, and with the Benedictine Monks at the *Savoy*. In this Month of *Auguſt* there was a Letter writ from Arch-Biſhop *Talbot*, the Titular Arch-Biſhop of *Dublin*; wherein he gave an account of a Legate from the Pope, an *Italian* Biſhop, (the Biſhop of *Caſſay* I think) who aſſerted the Pope's Right to the Kingdom of *Ireland*. In this Letter (to mention in ſpecial) there were Four Jeſuits had contrived to diſpatch the Duke of *Ormond* (theſe were his words) To find the moſt expedient way for his Death, and *Fogarthy* was to be ſent to do it by Poyſon, if theſe Four good Fathers did not hit of their Deſign. My Lord, *Fogarthy* was preſent. And when the Conſult was almoſt at a period, Mr. *Coleman* came to the *Savoy* to the Conſult, and was mighty forward to have Father *Fogarthy* ſent to *Ireland* to diſpatch the Duke by Poyſon. This Letter did ſpecify they were there ready to riſe in Rebellion againſt the King for the Pope.

Att. Gen. Do you know any thing of Arms?

Mr. *Oates.* There were 40000 Black Bills, I am not ſo skilful in Arms to know what they meant (Military Men know what they are) that were provided to be ſent into *Ireland*; but they were ready for the uſe of the Catholick Party.

L. C. J. Who were they provided by?

Mr. *Oates.* I do not know.

L. C. J. How do you know they were provided?

Mr. *Oates.* That Letter doth not mention who they were provided by, but another Letter mentioned they were provided by thoſe that were Commiſſion Officers for the aid and help of the Pope; the Popiſh Commiſſioners they were provided by, and they had them ready in *Ireland*.

L. C. J. Who wrote this Letter?

Mr. *Oates.* It came from *Talbot*, I might forget the day of the Month becauſe my Information is ſo large, but it was the former part of the Year, I think either *January* or *February*, (77) (78) laſt *January* or *February*.

L. C. J. Was this Conſult but in *Auguſt* laſt?

Mr. *Oates.* I am forced to run back from that Conſult to this; Mr. *Coleman* was privy, and was the main Agent, and did in the Month of *Auguſt* laſt paſt ſay to *Fenwick*, he had found a way to tranſmit the 200000 *l.* for the carrying on of this Rebellion in *Ireland*.

L. C. J. Did you hear him ſay ſo?

Mr. *Oates.* I did, a Week before.

L. C. J. You ſay he was very forward to ſend *Fogarthy* into *Ireland* to kill the Duke of *Ormond*.

Mr. *Oates.* Yes that I ſay; and that he had found a way to tranſmit 200000 *l.* to carry on the Rebellion in *Ireland*.

Court. Who was by beſides *Fenwick*?

Mr. *Oates.* My ſelf and no Body elſe.

Court. Where was it ſaid?

Mr. *Oates.* In *Fenwick*'s Chamber in *Drury-lane*.

Att. Gen. Do you know any thing of tranſmitting the Money to *Windſor*, or perſuading any to be ſent thither, and the time when?

Mr. *Oates.* In the Month of *Auguſt* there were four Ruffians procured by Dr. *Fogarthy*. Theſe Four were not nominated in the Conſult with

the Benedictine Convent, but (my Lord) these four Ruffians without Names were accepted of by them.

Court. Who proposed them?

Mr. *Oates. Fogarthy.* These four *Irish-Men* were sent that Night to *Windsor.* How they went I know not, but the next Day there was a provision of 80 *l.* ordered to them by the Rector of *London,* which is a Jesuit, one *Will. Harcourt* in the Name of the Provincial, because he acted in his Name and Authority, the Provincial being then beyond the Seas, visiting his Colleges in *Flanders.*

L. C. J. Did he order the 80 *l.*

Mr. *Oates.* Mr *Coleman* came to this *Harcourt*'s House, then lying in *Duke-Street,* and *Harcourt* was not within; but he was directed to come to *Wild-House,* and at *Wild-House* he found *Harcourt.*

L. C. J. How do you know that?

Mr. *Oates.* He said he had been at his House, and was not within, finding him at *Wild-House,* he asked what care was taken for those four Gentlemen that went last Night to *Windsor?* He said there was 80 *l.* ordered.

L. C. J. Who said so?

Mr. *Oates. Harcourt.* And there was the Messenger that was to carry it, I think the most part of this 80 *l.* was in Guineas: Mr. *Coleman* gave the Messenger a Guinea to be nimble, and to expedite his Journey.

L. C. J. How know you they were Guineas?

Mr. *Oates.* I saw the Money upon the Table before *Harcourt,* not in his Hand.

L. C. J. Were the four *Irish-Men* there?

Mr. *Oates.* No, they were gone before I came.

L. C. J. Who was to carry it after them, what was his Name?

Mr *Oates.* I never saw him before or since, the Money was upon the Table: When Mr. *Coleman* came in, he gave the Messenger a Guinea to expedite the business.

Recorder. You say Mr. *Coleman* inquired what Care was taken for those Ruffians that were to Assassinate the King; pray, Mr. *Oates,* tell my Lord and the Jury what you can say concerning Mr. *Coleman*'s discourse with one *Ashby.*

Mr. *Oates.* In the Month of *July,* one *Ashby,* who was sometime Rector of St. *Omers,* being ill of the Gout was ordered to go to the *Bath*; this *Ashby* being in *London,* Mr. *Coleman* came to attend him; this *Ashby* brought with him Treasonable Instructions, in order to expedite the King by Poison, provided *Pickering* and *Groves* did not do the Work: Ten thousand Pound should be proposed to Sir *George Wakeman* to Poison the King, in case Pistol and Stab did not take effect, and opportunity was to be taken at the King's taking Physick. I could give other Evidence but will not, because of other things which are not fit to be known yet.

L. C. J. Who wrote this Letter?

Mr. *Oates.* It was under the Hand of *White* the Provincial beyond the Seas, whom *Ashby* left; it was in the Name of Memorials to impower *Ashby* and the rest of the Consulters at *London* to propound Ten thousand Pound to Sir *George Wakeman* to take the opportunity to Poison the King. These Instructions were seen and read by Mr. *Coleman,* by him Copied out, and transmitted to several Conspirators of the King's Death, in this Kingdom of *England,* that were privy to this Plot.

Recorder. Know you of any Commission? We have hitherto spoken altgether of the Work of others; now we come to his own Work a little nearer.

L. C. J. Who saw Mr. *Coleman* read these Instructions? What said he?

Mr. *Oates.* He said he thought it was too little, I heard him say so.

L. C. J. Did you see him take a Copy of these Instructions?

Mr. *Oates.* Yes, and he said he did believe Sir *George Wakeman* would scarce take it, and thought it necessary the other Five thousand Pound should be added to it, that they might be sure to have it done.

L. C. J. Where was it he said this?

Mr. *Oates.* It was in the Provincial's Chamber, which *Ashby* had taken for his convenience at *London,* until he went down to the *Bath,* it was at *Wild-House,* at Mr. *Sanderson*'s House.

L. C. J. Ashby was imployed by his Instructions to acquaint the Consult of the Jesuits, that there should be Ten thousand Pound advanced, if Dr. *Wakeman* would Poison the King, now *Ashby* comes and acquaints him with it. Why should *Coleman* take Copies?

Mr. *Oates,* Because he was to send Copies to several Conspirators in the Kingdom of *England.*

L. C. J. To what purpose should Mr. *Coleman* take a Copy of these Instructions?

Mr. *Oates.* The reason is plain, they were then a gathering a Contribution about the Kingdom, and these Instructions were sent that they might be incouraged, because they saw there was incouragement from beyond Seas to assist them. And another Reason was, because now they were assured by this their business would quickly be dispatched, and by this means some Thousands of Pounds were gathered in the Kingdom of *England.*

L. C. J. To whom was Mr. *Coleman* to send them?

Mr. *Oates.* I know not any of the Persons, but Mr. *Coleman* did say he had sent his Suffrages (which was a Canting Word for Instructions) to the Principal Gentry of the Catholicks of the Kingdom of *England.*

L. C. J. How know you this, that Mr. *Coleman* did take a Copy of these Instructions for that purpose as you say?

Mr. *Oates.* Because he said so.

L. C. J. Did any Body ask him why he took them?

Mr. *Oates.* Saith *Ashby,* you had best make haste and Communicate these things. Mr. *Coleman* answered, I will make hast with my Copies, that I may dispatch them away this Night.

Recorder. Was he not to be one of the Principal Secretaries of State?

Mr. *Oates.* In the Month of *May* last New Stile, *April* Old Stile, I think within a Day after our Consult, I was at Mr. *Langhorn*'s Chamber, he had several Commissions, which he called Patents: Among his Commissions I saw one from the General of the Society of *Jesus, Joannes Paulus D'Oliva,* by virtue of a Brief from the Pope by whom he was enabled.

L. C. J. Did you know his Hand?

Mr. *Oates.* I believe I have seen it Forty times, I have seen Forty things under his Hand, and this agreed with them, but I never did see him write in my Life, we all took it to be his Hand, and we all knew the Hand and Seal.

L. C. J. What Inscription was upon the Seal?

Mr. *Oates*

Mr. *Oates*, I. H. ✠. with a Croſs, in Engliſh it had the Characters of I. H. S. This Commiſſion to Mr. *Coleman* in the Month of *July*, I ſaw in *Fenwick*'s preſence, and at his Chamber in *Drury-Lane*, where then Mr. *Coleman* did acknowledge the Receipt of this Patent, opened it and ſaid, It was a very good exchange.

L. C. J. What was the Commiſſion for?

Mr. *Oates*. It was to be Secretary of State. I ſaw the Commiſſion and heard him own the Receipt of it.

Juſtice Wild. What other Commiſſions were there at Mr. *Langhorn*'s Chamber?

Mr. *Oates*. A great many, I cannot remember, there was a Commiſſion for my Lord *Arundel* of *Warder*, the Lord *Powis*, and ſeveral other Perſons. But this belongs not to the Priſoner at the Bar: I mention his Commiſſion.

L. C. J. Were you acquainted with Mr. *Langhorn*?

Mr. *Oates*. Yes, I'll tell your Lordſhip how I was acquainted. I was in *Spain*, he had there two Sons; to ſhew them ſpecial favour and kindneſs (being meer Strangers at the College) I did uſe to tranſmit ſome Letters for them to the Kingdom of *England* in my Pacquet. When I came out of *Spain*, I did receive Recommendations from them to their Father, and in great Civility he received me. This was in *November* that I came to his Houſe. He lived in *Shear-Lane* or thereabouts. I underſtood that his Wife was a zealous Proteſtant; therefore he deſired me not to come any more to his Houſe, but for the future to come to his Chamber in the *Temple*.

L. C. J. Had you ever ſeen Mr. *Langhorn* in *London* before?

Mr. *Oates*. I never ſaw him till *Nov.* (77.) to my knowledge. I was ſeveral times in his Company at his Chamber, and he brought me there to ſhew me ſome kindneſs upon the account of his Sons. It was at the *Temple*, for his Wife being a Proteſtant was not willing any Jeſuits ſhould come to the Houſe. I was to carry him a ſummary of all the reſults and particulars of the Conſult at the *White-Horſe* and *Wild-Houſe*. The Provincial ordered me to do it, he knowing me, being in that affair often imployed.

L. C. J. Was it the ſecond time you ſaw him, that you ſaw the Commiſſions?

Mr. *Oates*. I ſaw him ſeveral times in the Month of *November*.

L. C. J. When did you ſee the Commiſſions?

Mr. *Oates*. In the Month of *April* Old Stile, *May* New Stile.

L. C. J. How came he to ſhew you the Commiſſions?

Mr. *Oates*. I hearing of their being come, had a curioſity to ſee them, and he knew me to be privy to the concerns.

L. C. J. How did you know he had the Commiſſions?

Mr. *Oates*. by Letters.

L. C. J. From whom?

Mr. *Oates*. From thoſe of the Society at *Rome*, wherein one *Harcourt* one of the Fathers was certified, that the Commiſſions were come to *Langhorn*, and were in his Hand, I ſaw the Letters at St. *Omers* before they came to *Harcourt*, we read the Letters there before they came to *England*, I had power to open them.

L. C. J. Did you open the Letters?

Mr. *Oates*. Yes.

L. C. J. When ſaw you the Letters at St. *Omers*?

Mr. *Oates*. I ſaw the Letters at St. *Omers* in the Month of *January*; then they came from *Rome*; and after I received ſummons to be at this Conſult in the Month of *April*; and accordingly we came over.

L. C. J. What time did you come over?

Mr. *Oates*, In the Month of *April*.

L. C. J. What time went you to *Langhorn*'s Chamber? I cannot reconcile the Months together.

Juſt. Dolben. Did you not ſay you came to *Langhorn* in *November*?

Mr. *Oates*, Yes, before I went to St. *Omers*.

Juſt. Wild. How many came over with you?

Mr. *Oates*. I cannot tell how many came over together; there were Nine of us all Jeſuits.

L. C. J. Did not you ſay you went to *Langhorn* in *November*?

Mr. *Oates*. That was before I went to St. *Omers*.

Att. Gen. Tell how many Prieſts or Jeſuits were lately in *England*, that you know of, at one time?

Mr. *Oates*. There was, and have been to my knowledge in the Kingdom of *England*, Secular Prieſts Eightſcore, and Jeſuits Fourſcore, and by Name in the Catalogue, I think Three hundred and odd.

L. C. J. How long had you been in *England* before you were at Mr. *Langhorn*'s Chamber?

Mr. *Oates*. Not long; becauſe I had Letters in my Pacquet from his Sons, aſſoon as I had reſted a little, I went to him.

L. C. J. What ſaid Mr. *Langhorn* to you about the Commiſſions in his Chamber?

Mr. *Oates*. Not a word; but ſeem'd glad.

L. C. J. Did you ſee them open upon his Table? or did you ask to ſee them?

Mr. *Oates*. They did not lye open upon the Table, but the Commiſſions were before him; I asked to ſee them. Mr. *Langhorn* (ſaid I) I hear you have received the Commiſſions from *Rome*; he ſaid, he had. Shall I have the honour to ſee ſome of them? He ſaid I might; he thought he might truſt me; and ſo he might, becauſe that very Day I gave him an account of the Conſult.

L. C. J. When was it you gave him an account of the Conſult?

Mr. *Oates*. In the Morning.

L. C. J. You ſay you were twice there that Day.

Mr. *Oates*. I was there the whole Forenoon.

L. C. J. That Day you ſaw the Commiſſions.

Mr. *Oates*. I had been there ſeveral times the ſame Day, and meeting him at laſt, he asked me how often I was there before, I ſaid twice or thrice; but that Day was the laſt time I ever ſaw him; I have not ſeen him ſince to my knowledge.

L. C. J. Was that the firſt time that you ſaw him after you came from *Spain*?

Mr. *Oates*. I ſaw him thrice in *November*, then I went to St. *Omers*, the firſt time I ſaw him after I came from thence I ſaw the Commiſſions.

Att. Gen. What were the Names of thoſe Men that came over from St. *Omers* beſides your ſelf?

Mr. *Oates*. As near as I can remember, the Rector of *Liege* was one; Father *Warren*; Sir *Thomas Preſton*; the Rector of *Watton*; one *Francis Williams*; Sir *John Warner* Baronet; one Father

ther *Charges*; one *Pool*, a *Monk*; I think I made the Ninth.

Att. Gen. If the Priſoner at the Bar be minded, he may ask him any Queſtion.

Priſ. I am mighty glad to ſee that Gentleman Sir *Thomas Dolman* in the Court, for I think he was upon my Examination before the Council, and this Man that gives now in Evidence againſt me, there told the King, he never ſaw me before; and he is extreamly well acquainted with me now, and hath a World of Intimacy. Mr. *Oates* at that time gave ſuch an Account of my Concern in this matter, that I had orders to go to *Newgate*, I never ſaw Mr. *Oates* ſince I was born, but at that time.

L. C. J. You ſhall have as fair a Search, and Examination in this matter for your Life as can be, therefore Mr. *Oates* anſwer to what Mr. *Coleman* ſaith.

Mr. *Oates.* My Lord, when Mr. *Coleman* was upon his Examination before the Council-board, he ſaith, I ſaid there that I never ſaw him before in my Life: I then ſaid I would not ſwear that I had ſeen him before in my Life, becauſe my ſight was bad by Candle-light, and Candle-light alters the ſight much, but when I heard him ſpeak I could have ſworn it was he, but it was not then my Buſineſs. I cannot ſee a great way by Candle-light.

L. C. J. The Streſs of the Objection lyeth not upon ſeeing ſo much, but how come you that you laid no more to Mr. *Coleman*'s Charge at that time?

Mr. *Oates.* I did deſign to lay no more to his Charge then, than was matter for Information. For Priſoners may ſupplant Evidence when they know it, and bring Perſons to ſuch Circumſtances, as Time and Place. My Lord, I was not bound to give in more than a general Information againſt Mr. *Coleman*; Mr. *Coleman* did deny he had Correſpondence with Father *Le Cheſe*, at any time, I did then ſay he had given him an account of ſeveral tranſactions. And (my Lord) then was I ſo weak, being up two Nights, and having been taking Priſoners, upon my Salvation, I could ſcarce ſtand upon my Legs.

L. C. J. What was the Information you gave at that time to the Council againſt Mr. *Coleman*.

Mr. *Oates.* The Information I gave at that time (as near as I can remember, but I would not truſt to my memory) was for writing of News-Letters, in which I did then excuſe the Treaſonable Reflections, and called them Baſe Reflections at the Council-board; the King was ſenſible, and ſo was the Council. I was ſo wearied and tyred (being all that Afternoon before the Council, and Sunday Night, and ſitting up Night after Night) that the King was willing to diſcharge me. But if I had been urged I ſhould have made a larger Information.

L. C. J. The thing you accuſed him of was his own Letter.

Priſ. He doth not believe it was my Letter.

L. C. J. You here charge Mr. *Coleman* to be the Man that gave a Guinea to expedite the Buſineſs at *Windſor*, *&c.* at the time when you were Examined at the Council-Table, you gave a particular account of attempting to take away the King's Life at *Windſor*, and raiſing Twenty Thouſand Pounds and all thoſe great Tranſactions; why did you not charge Mr. *Coleman* to be the Man that gave the Guinea to the Meſſenger to expedite the Buſineſs, when the 80 Pounds was ſent? That he found out a way of Tranſmitting 200000 Pounds, to carry on the Deſign? He conſulted the killing the King, and approved of it very well. And of the Inſtructions for 10000 Pounds, and ſaid it was too little for to Poyſon the King. When you were to give an account to the Council of the particular Contrivance of the Murther of the King at *Windſor*, with a Reward, you did mention one Reward, of 10000 Pounds to Dr. *Wakeman*, and would you omit the Guinea to expedite the Meſſenger, and that he ſaid that 10000 Pounds was too little; would you omit all this?

Mr. *Oates.* I being ſo tyred and weak that I was not able to ſtand upon my Legs, and I remember the Council apprehended me to be ſo weak that one of the Lords of the Council ſaid, that if there were any Occaſion further to examine Mr. *Coleman*, that Mr. *Oates* ſhould be ready again, and bid me retire.

L. C. J. You was by when the Council were ready to let Mr. *Coleman* go almoſt at large.

Mr. *Oates.* No; I never apprehended that, for if I did, I ſhould have given a further Account.

L. C. J. What was done to Mr. *Coleman* at that time? was he ſent away Priſoner?

Mr. *Oates.* Yes, at that time to the Meſſengers Houſe, and within two Days after he was ſent to *Newgate*, and his Papers were ſeized.

L. C. J. Why did you not name *Coleman* at that time?

Mr. *Oates.* Becauſe I had ſpent a great deal of time in accuſing other Jeſuits.

Juſt. Wild. What time was there betwixt the firſt time you were at the Council before you told of this matter concerning the King?

Mr. *Oates.* When I was firſt at the Board (which was on *Saturday* Night) I made Information, which began between Six and Seven, and laſted almoſt to Ten. I did then give a general Account of the Affairs to the Council without the King. Then I went and took Priſoners, and before *Sunday* Night, I ſaid, I thought if Mr. *Coleman*'s Papers were ſearched into, they would find matter enough againſt him in thoſe Papers to Hang him: I ſpake thoſe Words, or Words to the like Purpoſe. After that Mr. *Coleman*'s Papers were ſearched, Mr. *Coleman* was not to be found; but he ſurrendred himſelf the next Day. So that on *Sunday* I was commanded to give His Majeſty a general Information, as I had given to the Council on *Saturday*; and the next Day again, I took Priſoners that Night five, and next Night four.

Juſt. Wild. How long was it betwixt the time that you were examined, and ſpoke only as to the Letters, to that time you told to the King and Council or both of them, concerning this matter you ſwear now?

Mr. *Oates.* My Lord, I never told it to the King and Council, but I told it to the Houſes of Parliament.

L. C. J. How long was it between the one and the other?

Mr. *Oates.* I cannot tell exactly the time; it was when the Parliament firſt ſate.

L. C. J. How came you (Mr. *Coleman being ſo deſperate a Man as he was, endeavouring the killing of the King*) to omit your *Information* of it to the Council and to the King at both times,

Mr. *Oates.*

Mr. *Oates*. I ſpoke little of the Perſons till the Perſons came Face to Face.

L. C. J. Why did you not accuſe all thoſe Jeſuits by Name?

Mr. *Oates*. We took a Catalogue of their Names, but thoſe I did accuſe poſitively and expreſly we took up.

L. C. J. Did you not accuſe Sir *George Wakeman* by Name, and that he accepted his Reward?

Mr. *Oates*. Yes, then I did accuſe him by Name.

L. C. J. Why did you not accuſe Mr. *Coleman* by Name?

Mr. *Oates*. For want of Memory; being diſturbed and wearied in ſitting up two Nights, I could not give that good Account of Mr. *Coleman* which I did afterwards, when I conſulted my Papers; and when I ſaw Mr. *Coleman* was ſecured, I had no need to give a farther Account.

L. C. J. How long was it between the firſt charging Mr. *Coleman*, and your acquainting the Parliament with it?

Mr. *Oates*. From *Monday* the 30th of *September*, until the Parliament ſate.

L. C. J. Mr. *Coleman*, will you ask him any thing?

Priſ. Pray ask Mr. *Oates*, whether he was not as near to me as this Gentleman is, becauſe he ſpeaks of his Eyes being bad?

Mr. *Oates*. I had the diſadvantage of a Candle upon my Eyes; Mr. *Coleman* ſtood more in the dark.

Priſ. He names ſeveral times that he met with me in this Place and that Place, a third and fourth Place about Buſineſs.

Mr. *Oates*. He was altered much by his Perriwig in ſeveral Meetings, and had ſeveral Perriwigs, and a Perriwig doth diſguiſe a Man very much; but when I heard him ſpeak, then I knew him to be Mr. *Coleman*.

L. C. J. Did you hear him ſpeak? How were the Queſtions asked? Were they thus? Was that the Perſon? Or, how often had you ſeen Mr. *Coleman*?

Mr. *Oates*. When the Queſtion was asked by my Lord Chancellour, Mr. *Coleman*, when were you laſt in *France*? He ſaid at ſuch a time. Did you ſee Father *le Cheſe*? He ſaid he gave him an accidental viſit, My Lord Chancellour asked him whether or no he had a Paſs? He ſaid, no. Then he told him, that was a fault for going out of the Kingdom without a Paſs. Have you a Kinſman whoſe Name is *Playford* at St. *Omers*? He ſaid he had one Ten years old, (who is in truth Sixteen) That Queſtion I deſired might be asked. Then the King bade me go on.

L. C. J. Did the King, or Council, or Lord Chancellour ask you whether you knew Mr. *Coleman*, or no?

Mr. *Oates*. They did not ask me.

L. C. J. Mr. *Oates*, anſwer the Queſtion in ſhort, and without confounding it with length. Were you demanded if you knew Mr. *Coleman*?

Mr. *Oates*. Not to my knowledge.

L. C. J. Did you ever ſee him? or how often?

Priſ. He ſaid, he did not know me.

L. C. J. You ſeemed, when I asked you before, to admit, as if you had been asked this Queſtion, how often you had ſeen him, and gave me no Anſwer, becauſe you were doubtful whether it was the Man, by reaſon of the inconveniency of the Light, and your bad Sight.

Mr. *Oates*. I muſt leave it to the King what Anſwer I made Mr. *Coleman*, he wonders I ſhould give an account of ſo many intimacies, when I ſaid I did not know him at the Council-Table.

Priſ. It is very ſtrange Mr. *Oates* ſhould ſwear now, that he was ſo well acquainted with me, and had been ſo often in my Company, when upon his Accuſation at the Council-Table, he ſaid nothing of me more than the ſending of one Letter, which he thought was my Hand.

Mr. *Oates*. I did not ſay that.

Priſ. And he did ſeem to ſay there, he never ſaw me before in his Life.

L. C. J. Was he asked whether he was acquainted with you? (for thoſe words are to the ſame purpoſe.)

Priſ. I cannot anſwer directly, I do not ſay he was asked if he was acquainted with me, but I ſay this, that he did declare he did not know me.

L. C. J. Can you prove that?

Priſ. I appeal to Sir *Thomas Dolman*, who is now in Court, and was then preſent at the Council-Table.

L. C. J. Sir *Thomas*, you are not upon your Oath, but are to ſpeak on the behalf of the Priſoner: What did he ſay?

Sir *Tho. Dolman*. That he did not well know him.

L. C. J. Did he add, that he did not well know him by the Candle-light? But Mr. *Oates*, when you heard his Voice, you ſaid you knew him; why did you not come then, and ſay you did well know him?

Mr. *Oates*. Becauſe I was not asked.

L. C. J. But, Sir *Thomas*, did he ſay he did not well know him after Mr. *Coleman* ſpake? Was Mr. *Coleman* examined before Mr. *Oates* ſpake?

Sir *Thomas Dolman*. Yes.

L. C. J. Mr. *Oates*, you ſay you were with him at the *Savoy* and *Wild-houſe*, pray, Sir *Thomas*, did he ſay he did not know him, or had ſeen Mr. *Coleman* there?

Sir *Tho. Dolman*. He did not know him as he ſtood there.

L. C. J. Knowing, or not knowing is not the preſent Queſtion; but did he make an Anſwer to the knowing, or not knowing him?

Juſt. Dolbin. Did he ſay he did not well know Mr. *Coleman*, or that he did not well know that Man?

Sir *Thomas Dolman*. He ſaid he had no acquaintance with that Man (to the beſt of my remembrance.)

L. C. J. Sir *Robert Southwell*, you were preſent at Mr. *Oates* his Examination before the Council; in what manner did he accuſe Mr. *Coleman* then?

Sir *Robert Southwell*. The Queſtion is ſo particular, I cannot give the Court ſatisfaction; but other material things then ſaid are now omitted by Mr. *Oates*; for he did declare againſt Sir *George Wakeman*, that Five Thouſand Pounds was added, in all Fifteen Thouſand Pounds, and that Mr. *Coleman* paid Five of the Fifteen to Sir *George* in Hand.

L. C. J. This anſwers much of the Objection upon him. The Court has asked Mr. *Oates* how he ſhould come now to charge you with all theſe Matters of Poyſoning and Killing the King, and yet he mentioned you ſo ſlightly at the Council-Table; but it is ſaid by Sir *Robert Southwell* he did charge you with Five Thouſand Pounds (for poiſoning the King) to be added to the Ten Thouſand Pounds, and he charged you expreſly with it at the Council-Table.

Priſ.

Priſ. The Charge was ſo ſlight againſt me by Mr. *Oates*, that the Council were not of his Opinion: For the firſt Order was to go to *Newgate*, and Sir *Robert Southwell* came with directions to the Meſſenger not to execute the Order. I humbly ask whether it was a reaſonable thing to conceive that the Council ſhould extenuate the Puniſhment, if Mr. *Oates* came with ſuch an amazing Account to the Council.

Sir *Rob. South.* Mr. *Oates* gave ſo large and general an Information to the Council, that it could not eaſily be fixed. Mr. *Coleman* came voluntarily in upon *Monday* Morning. The Warrant was ſent out on *Sunday* Night for Mr. *Coleman* and his Papers: His Papers were found and ſeized, but Mr. *Coleman* was not found at that time, nor all Night, but came on *Monday* Morning voluntarily, and offered himſelf at Sir *Joſeph Williamſon's* Houſe, hearing there was a Warrant againſt him: By reaſon of ſo many Priſoners that were then under Examination, he was not heard till the Afternoon, and then he did with great Indignation and Contempt hear theſe vile things, as thinking himſelf innocent.

Priſ. If I thought my ſelf guilty, I ſhould have charged my ſelf: I hope his Majeſty upon what hath been ſaid, will be ſo far ſatisfied as to diſcharge me.

Sir *Rob. South.* Mr. *Coleman* then made ſo good a diſcourſe for himſelf, that though the Lords had filled up a blank Warrant to ſend him to *Newgate*, that was reſpited, and he was only committed to a Meſſenger. I did ſay to the Meſſenger, be very civil to Mr. *Coleman*, for things are under Examination, but you muſt keep him ſafely. Saith the Meſſenger, pray let me have a ſpecial Warrant, that doth diſpence with the Warrant I had to carry him to *Newgate*, and ſuch a Warrant he had. The King went away on *Tueſday* Morning to *New-market*, and appointed a particular Committee to examine the Papers brought of Mr. *Coleman* and others.

His Papers were found in a Deal Box, and ſeveral of theſe Papers and Declarations ſounded ſo ſtrangely to the Lords, that they were amazed; and preſently they ſigned a Warrant for Mr. *Coleman's* going to *Newgate*.

L. C. J. Did Mr. *Oates* give a round Charge againſt Mr. *Coleman*?

Sir *Rob. South.* He had a great deal to do, he was to repeat in the Afternoon on *Sunday* when the King was preſent, all he had ſaid to the Lords on *Saturday*.

He did ſay of Mr. *Coleman*, that he had correſponded very wickedly and baſely with the *French* King's Confeſſor, and did believe if Mr. *Coleman's* Papers were ſearched, there would be found in them that which would coſt him his Neck. And did declare that the Fifteen thouſand Pounds was accepted for the Murther of the King, and that Five thouſand Pounds was actually paid by Mr. *Coleman* to Sir *George Wakeman*. But Mr. *Oates* at the ſame time did alſo declare that he did not ſee the Money paid, he did not ſee this particular action of Sir *George Wakeman*, becauſe at that time he had the Stone and could not be preſent.

Mr. *Oates*. I was not preſent at that Conſult, where the Fifteen thouſand Pounds was accepted, but I had an account of it from thoſe that were preſent.

L. C. J. It appears plainly by this Teſtimony, that he did charge you Mr. *Coleman* home, that Fifteen thouſand Pounds was to be paid for poyſoning the King; and that it was generally ſaid among them (though he did not ſee it paid) that it came by your hands, *viz.* Five thouſand Pounds of it, which anſwers your objection as if he had not charged you, when you ſee he did charge you home then for being one of the Conſpirators, in having a Hand in paying of Money for poyſoning the King: He charges you now no otherwiſe than in that manner: He doth not charge you now as if there were new things ſtarted, but with the very Conſpiracy of having a hand in paying the Money for murthering the King.

What Conſultation was that you had at the *Savoy*, in the Month of *Auguſt*?

Mr. *Oates*. It was about the buſineſs of the four *Iriſh* Ruffians propoſed to the Conſult.

The end of Mr. Oates's *Examination.*

Mr. *Bedlow.*

Sir *Francis Winnington, Soll. Gen.* We will call him to give an account what he knows of the Priſoners being privy to the Conſpiracy of murthering the King, (particularly to that) Mr. *Bedlow*, pray acquaint my Lord and the Jury what you know, I deſire to know particularly as it concerns Mr. *Coleman*, and nothing but Mr. *Coleman*.

L. C. J. Mr. Attorney pray keep to that Queſtion cloſe.

Att. Gen. I have two ſhort Queſtions to ask him: The firſt is what he hath ſeen or heard touching any Commiſſion to Mr. *Coleman*, what ſay you?

Mr. *Bedlow*. In particular I know not of any Commiſſion directed to Mr. *Coleman*, I do not know any thing of it but what Sir *Henry Tichbourn* told me, that he had a Commiſſion, and he brought a Commiſſion for Mr. *Coleman* and the reſt of the Lords, from the principal Jeſuits at *Rome*, by Order of the Pope.

Att. Gen. A Commiſſion for what?

Mr. *Bedlow*. To be principal Secretary of State: The Title of it I do not know becauſe I did not ſee it, but to be Principal Secretary of State, that was the Effect.

Att. Gen. I deſire to know what diſcourſe you had with Mr. *Coleman* about that Deſign.

Mr. *Bedlow*. If your Lordſhip pleaſe, I ſhall be ſhort in the Narrative.

L. C. J. Make uſe of your Notes to help your Memory, but let not your Teſtimony be merely to read them.

Mr. *Bedlow*. I carried over to Monſieur *Le Cheſe* (the *French* King's Confeſſor) a large Pacquet of Letters, *April* (75) from Mr. *Coleman*, which Letters I ſaw Mr. *Coleman* deliver to Father *Harcourt*, at his Houſe in *Duke-Street*.

Council. And *Harcourt* gave them to you?

Mr. *Bedlow*. Yes; which Letters were directed to be delivered to Monſieur *Le Cheſe*, and I did carry them to *le Cheſe*, and brought him an Anſwer from *le Cheſe*, and other Engliſh Monks at *Paris*? I did not underſtand what was in it, becauſe it was a Language I do not well underſtand, it was about carrying on the Plot; at a Conſultation there were preſent two *French* Abbots and ſeveral *Engliſh* Monks at *Paris*; what I heard

heard them ſay, was about carrying on the Plot to ſubvert the Government of *England*, to deſtroy the King and the Lords of the Council. The King was principally to be deſtroyed, and the Government ſubverted as well as the Proteſtant Religion.

Court. When was this? when you were to receive the Anſwer?

Mr. *Bedlow.* It was upon the Conſultation: There was a Pacquet of Letters from Mr. *Coleman*, they did not know I underſtood *French*, or if they did, they had tryed me ſo long I believe they would have truſted me.

L. C. J. The Letter that *le Cheſe* wrote, to whom was it directed?

Mr. *Bedlow.* It was directed to Mr. *Coleman*, the Pacquet was directed to *Harcourt*, and within that *le Cheſe* wrote an Anſwer and directed it to Mr. *Coleman*, particularly to Mr. *Coleman*.

L. C. J. How do you know?

Mr. *Bedlow.* The Superſcription was this [in *French*] *A Monſieur Coleman*; to Mr. *Coleman*, with other Letters directed to Father *Harcourt*.

L. C. J. He ſaith plainly the Letter was yours, You gave *Harcourt* a Pacquet of Letters to be delivered to *le Cheſe*, *Harcourt* delivered them to him, and he did carry them to *le Cheſe*, and heard them talk about this Plot: That *le Cheſe* wrote a Letter to you (particularly by Name) incloſed in a Letter to *Harcourt*, that Anſwer he brought back.

Recorder. Do you know any thing concerning any Money Mr. *Coleman* ſaid he had received? the Sums, and for what?

Mr. *Bedlow.* It was to carry on the Deſign to ſubvert the Government of *England*, to free *England* from Damnation and Ignorance, and free all Catholicks from hard Tyranny and Oppreſſion of Hereticks.

Att. Gen. What words did you hear Mr. *Coleman* expreſs, what he would do for the Catholick Cauſe?

Mr. *Bedlow. May* 24, or 25, (77) I was at Mr. *Coleman*'s with Mr. *Harcourt*, and received another Pacquet from Mr. *Harcourt*, and he had it from Mr. *Coleman*.

L. C. J. You ſay Mr. *Coleman* did give this Pacquet to *Harcourt*?

Mr. *Bedlow.* Yes, and *Harcourt* delivered it to me to carry it to *Paris* to the *Engliſh* Monks. I was to go by *Doway* to ſee if they were not gone to *Paris* before me.

L. C. J. And what did they ſay when you delivered the Letters to the *Engliſh* Monks.

Mr. *Bedlow.* They told me how much Reward I deſerved from the Pope and the Church, both here and in the World to come. I overtook three, and that Night I went to *Paris* with them; and upon the Conſultation (1677) I believe they ſent the Biſhop of *Tornes* the ſubſtance of thoſe Letters, and not having a final Anſwer what aſſiſtance the Catholick Party in *England* might expect from them, they were reſolved to neglect their Deſign no longer than that Summer, having all things ready to begin in *England*.

Recorder. What did you hear Mr. *Coleman* ſay?

Mr. *Bedlow.* That he would adventure any thing to bring in the Popiſh Religion: After the Conſultation, I delivered the Letters to *le Faire*, and he brought them to *Harcourt*, he delivered the Pacquet of Letters to *Harcourt*, who was not well, but yet went and delivered them to Mr. *Coleman*, and I went as far as Mr. *Coleman*'s Houſe, but did not go in, but ſtayed over the way; but *Harcourt* went in, and after he had ſpoke with Mr. *Coleman*, he gave me a beck to come to him; and I heard Mr. *Coleman* ſay, if he had a hundred Lives, and a Sea of Blood to carry on the Cauſe, he would ſpend it all to further the Cauſe of the Church of *Rome*, and to eſtabliſh the Church of *Rome* in *England*: And if there was an hundred Heretical Kings to be depoſed, he would ſee them all deſtroyed.

L. C. J. Where was this?

Mr. *Bedlow.* At his own Houſe.

L. C. J. Where?

Mr. *Bedlow.* Behind *Weſtminſter* Abby.

L. C. J. In what Room?

Mr. *Bedlow.* At the Foot of the Stair-caſe.

L. C. J. Where were you then?

Mr. *Bedlow.* There, I was called in by *Harcourt*, and was as near to him, as to my Lord *Duras*. (*My Lord being hard by Mr.* Bedlow, *in Court.*)

Priſ. Did I ever ſee you in my Life?

Mr. *Bedlow.* You may ask that Queſtion; but in the Stone-Gallery in *Somerſet-Houſe*, when you came from a Conſult, where were great Perſons, which I am not to Name here; that would make the bottom of your Plot tremble: You ſaw me then.

Att. Gen. We did before acquaint you with ſomething of the ſubſtance of the Letters; we ſhall now acquaint you with ſomething of the manner of finding them. Your Lordſhip hath heard Mr. *Oates* hath been examined before the Council, and there it was ſaid, Mr. *Coleman*'s Papers would make ſuch a diſcovery (if they were looked into) as would be enough to hang him. I remember he ſaid the Lords of the Council were pleaſed to order the Papers to be ſeized; the execution of their Warrant they committed to one *Bradly*, who was a Meſſenger that attended the King and Council; and I deſire he may be called: He did find and ſeize as many Papers as Mr. *Coleman* was pleaſed to leave, and they are thoſe Papers which we now bring before you. The Papers ſeized he had put in a Deal Box, and four or five ſeveral Bags, and brings them to the Council; the Clerks of the Council are here attending the Court: They will tell you theſe Papers now produced were Papers found in thoſe Bags: Mr. *Bradly* will tell you the Papers ſeized in the Bags and Box were brought to them, and they will ſwear they were the Papers and Bags that were brought.

Record. Mr. *Bradly*, give my Lord and the Jury an Account whether you went to Mr. *Coleman*, whether you ſeized his Papers, and what Papers you ſaw, and how you diſpoſed of them after they were ſeiz'd.

Mr. *Bradly.* The 29th of *September* being *Sunday* Evening at Six of the Clock, I received a Warrant from the Council-Board to apprehend Mr. *Coleman*, and to ſeize his Papers, and to bring them to the Council-board: He being not at home, I ſpoke with his Wife, and told her I came to ſearch her Houſe, I had a Warrant ſo to do. She told me I was welcom; I deſir'd her to ſend for her Husband: I found in ſeveral parts of the Houſe a great many Papers; I put them up in ſeveral Bags: I found ſome in a private corner in a Deal Box.

L. C. Juſt. What kind of Corner?

Mr. *Bradly.*

Mr. *Bradly.* In Mr. *Coleman's* Chamber, not in his own Study, but in another place behind the Chimney; the Box was tack'd together with a Nail: I lifted it up, and saw they were Letters, I put it down again as it was, and gave it into the custody of one that was with me, to look to it: Then I came to his own Study where his 'Scritore was, and put up all I could find in several Bags, and Sealed them, and brought them to the Council-Chamber.

Att. Gen. Did you put up any other Papers among them than what you found at Mr. *Coleman's* House?

Mr. *Bradly.* I did not, (upon my Oath) I had them all at Mr. *Coleman's* House.

Att. Gen. Did you bring them all to the Clerks of the Council?

Mr. *Bradly.* Yes, before I came out I tyed them all up, and sealed them with my own Seal, and was constantly with them.

Att. Gen. Now we will give your Lordship an account how these things were received, that were there found. Sir *Robert Southwell*, look upon the large Letter, and tell my Lord and the Jury whether that were among the Papers brought by this Messenger.

Sir *Robert Southwell.* My Lord, I did not see this Letter in several days after the Papers brought me from *Bradly*; when he came in with Three great Bags, and a Box of Letters on *Sunday* Night; said I, which are Mr. *Coleman's* principal Papers? Said he, those that are in the large speckled Cloth Bag; for these we took first in the 'Scritore: These I took, and medled not with the other, I presume other Clerks of the Council can give a particular Account where this Paper was found.

Att. Gen. Sir *Thomas Doleman*, look upon the Letter whether you can remember any thing of it.

Sir *Thomas Doleman.* I remember I found it in a Deal Box among Mr. *Coleman's* Papers, those that *Bradly* brought.

Court. That's plain enough.

Att. Gen. That we may not often prove what we shall often make use of, I would prove it fully once for all, that all these Papers were of his Hand-writing; this we can prove by two sorts of Evidences; his own Confession, and the Witness of Two Persons; one that was his Servant; and th'other a Sub-Secretary, that did write very many things for him. Mr. *Boatman*, look upon these Papers; Tell my Lord and the Jury whose Hand it is: Are you acquainted with Mr. *Coleman's* Hand? What relation had you to him?

Boatman. I was his Gentleman that waited on him in his Chamber Five Years: This is very like his Hand.

L. C. J. Do you believe it is his Hand?

Boatman. I believe it is.

L. C. J. Little proof will serve the turn, because they were taken in his possession.

Att. Gen. I desire to prove it fully; look upon all the Papers, turn all the Leaves, see if they be not all one Hand, and whether you believe all to be Mr. *Coleman's* Hand Writing or not.

Boatman. I believe it to be all his Hand.

L. C. J. Do you know when the last Pacquet of Letters came up, that were sent to Mr. *Coleman*, from beyond the Seas?

Boatman. Two or three days after he was taken Prisoner.

L. C. J. Do you know where they are bestowed? Did you receive Monsieur *le Chese's* Letters for Mr. *Coleman?*

Boatman. Yes.

L. C. J. Did you ever write any for him to *le Chese?*

Boatman. No.

Att. Gen. Inform the Court whether he kept any Book to make Entry of Letters he sent or received?

Boatman. Yes, there was a large Book my Master did enter his Letters in, and his News.

Att. Gen. What is become of that Book?

Boatman. I know not.

Att. Gen. When did you see that Book last upon your Oath?

Boatman. On *Saturday.*

Att. Gen. How long before he was sent to Prison?

Boatman. Two Days, because the next Day was *Sunday*, which he did not make use of it: On *Monday* my Master was in Prison, and I did not mind the Book.

L. C. J. Were there any Entries of Letters in that Book within Two Years last past?

Boatman. I cannot be positive.

Att. Gen. Did he not usually write and receive Letters from beyond Sea? Till that time had he not Negotiation as usually?

Boatman. He had usually News every Post from beyond the Seas.

Pris. There's Letters from the *Hague*, *Brussels*, *France* and *Rome*; they are all with the Council, which were all the Letters I received.

Att. Gen. We have another Witness: *Cattaway*, are you acquainted with Mr. *Coleman's* Hand-Writing? Do you believe it to be his Hand-Writing?

Witness. I believe it is, they are his Hand-Writing.

Att. Gen. It will appear, if there were no other Proof in this Cause, his own Papers are as good as an hundred Witnesses to condemn him; Therefore I desire to prove them fully by his own Confession.

Sir *Phil. Lloyd* a Witness. These are the Papers I received from Sir *Thomas Doleman*; I found them (as he saith) in a Deal Box: Among his Papers I found this Letter. Mr. *Coleman* hath owned this was his Hand-Writing; it's all one Letter.

Att. Gen. 'Tis all the same Hand, and he acknowledged it to be his.

Mr. *Recorder.* I desire Mr. *Astrey* may read it so that the Jury may hear it.

Mr. Astrey *Clerk of the Crown reads the Letter.*

The 29*th* of *September* (1675.) It is subscribed thus; *Your most humble and most obedient Servant*, but no Name.

Mr. *COLEMAN's* Long Letter.

SInce Father St. *German* has been so kind to me, as to recommend me to your Reverence so advantageously, as to encourage you to accept of my Correspondency; I will own to him, that he has done me a Favour without Consulting me, greater than I could have been capable of if he had advised with me; because I could not then have had the Confidence to have permitted him to ask it on my behalf. And I am so sensible of the Honour you are pleased to do me, that though I cannot deserve it; yet to

shew

ſhew at leaſt the ſenſe I have of it, I will deal as freely and openly with you this firſt time, as if I had had the honour of your Acquaintance all my Life; and ſhall make no Apology for ſo doing, but only tell you that I know your Character perfectly well, though I am not ſo happy as to know your Perſon; and that I have an Opportunity of putting this Letter into the hands of Father St. *German*'s Nephew (for whoſe Integrity and Prudence he has undertaken) without any ſort of hazard.

In order then Sir to the plainneſs I profeſs, I will tell you what has formerly paſſed between your Reverence's Predeceſſor, Father *Ferryer* and my ſelf. About three Years ago, when the King my Maſter ſent a Troop of Horſe Guards into his moſt Chriſtian Majeſties Service, under the Command of my Lord *Duraſs*; he ſent with it an Officer called Sir *William Throckmorton*, with whom I had a particular Intimacy, and who had then very newly embrac'd the Catholick Religion: To him did I conſtantly Write, and by him addreſs my ſelf to Father *Ferryer*. The firſt thing of great Importance I preſumed to offer him (not to trouble you with leſſer matters, or what paſſed here before, and immediately after the Fatal Revocation of the King's Declaration for Liberty of Conſcience, (to which we owe all our Miſeries and Hazards,) was in *July*, *Auguſt*, and *September* 1673. when I conſtantly inculcated the great danger Catholick Religion, and his moſt Chriſtian Majeſties Intereſt would be in at our next Seſſions of Parliament, which was then to be in *October* following; at which I plainly foreſaw that the King my Maſter would be forced to ſomething in prejudice to his Allyance with *France*, which I ſaw ſo evidently and particularly that we ſhould make Peace with *Holland*, that I urg'd all the Arguments I could, which to me were Demonſtrations, to convince your Court of that miſchief; and preſs'd all I could to perſuade his moſt Chriſtian Majeſty to uſe his utmoſt endeavour to prevent that Seſſion of our Parliament, and propoſed Expedients how to do it: But I was anſwered ſo often and ſo poſitively, that his moſt Chriſtian Majeſty was ſo well aſſured by his Embaſſador here, our Embaſſador there, the Lord *Arlington*, and even the King himſelf; that he had no ſuch apprehenſions at all, but was fully ſatisfied of the contrary, and lookt upon what I offered as a very zealous Miſtake, that I was forced to give over arguing, though not believing as I did; but confidently appealed to time and ſucceſs to prove who took their meaſures righteſt. When it happened what I foreſaw came to paſs, the good Father was a little ſurprized, to ſee all the great Men miſtaken, and a little one in the right; and was pleaſed by Sir *William Throckmorton* to deſire the continuance of my Correſpondence, which I was mighty willing to comply with, knowing the Intereſt of our King, and in a more particular manner of my more immediate Maſter the Duke, and his moſt Chriſtian Majeſty, to be ſo inſeparably united, that it was impoſſible to divide them, without deſtroying them all: Upon this I ſhewed that our Parliament in the circumſtances it was managed, by the timorous Counſels of our Miniſters, who then governed, would never be uſeful either to *England*, *France*, or Catholick Religion, but that we ſhould as certainly be forced from our Neutrality at their next meeting, as we had been from our Active Alliance with *France* the laſt Year: That a Peace in the Circumſtances we were in, was much more to be deſired then the continuance of the War; and that the Diſſolution of our Parliament would certainly procure a Peace; for that the Confederates did more depend upon the Power they had in our Parliament, than upon any thing elſe in the World; and were more encouraged from them to the continuing of the War; ſo that if they were Diſſolved, their meaſures would be all broken, and they conſequently in a manner neceſſitated to a Peace.

The good Father minding this Diſcourſe ſomewhat more than the Court of *France* thought fit to do my former; urg'd it ſo Home to the King, that his Majeſty was pleaſed to give him Orders to ſignify to his R. H. my Maſter, that his Majeſty was fully ſatisfied of his R. H's. good intention towards him, and that he eſteemed both their Intereſts but as one and the ſame; that my Lord *Arlington* and the Parliament were both to be lookt upon as very unuſeful to their Intereſt: That if his R. H. would endeavour to diſſolve this Parliament, his moſt Chriſtian Majeſty would aſſiſt him with his Power and Purſe, to have a new one as ſhould be for their Purpoſe. This, and a great many more expreſſions of kindneſs and confidence Father *Ferryer* was pleaſed to communicate to Sir *William Throckmorton*, and Commanded him to ſend them to his R. H. and withal to beg his R. H. to propoſe to his moſt Chriſtian Majeſty, what he thought neceſſary for his own concern, and the advantage of Religion, and his Majeſty would certainly do all he could to advance both or either of them. This Sir *William Throckmorton* ſent to me by an Expreſs, who left *Paris* the 2d of *June* 1674. *Stilo novo*: I no ſooner had it, but I communicated it to his R. H. To which his R. H. commanded me to anſwer, as I did on the 29th of the ſame Month: That his R. H. was very ſenſible of his moſt Chriſtian Majeſties Friendſhip, and that he would labour to cultivate it with all the good Offices he was capable of doing for his Majeſty; that he was fully convinced that their Intereſts were both one, that my Lord *Arlington* and the Parliament were not only unuſeful, but very dangerous both to *England* and *France*; That therefore it was neceſſary that they ſhould do all they could to Diſſolve it. And that his R. H's. opinion was, that if his moſt Chriſtian Majeſty would Write his thoughts freely to the King of *England* upon this Subject, and make the ſame Proffer to his Majeſty of his Purſe to Diſſolve this Parliament, which he had made to his R. H. to call another, he did believe it very poſſible for him to ſucceed with the aſſiſtance we ſhould be able to give him here; and that if this Parliament were Diſſolved, there would be no great difficulty of getting a new one, which would be more uſeful: The Conſtitutions of our Parliaments being ſuch, that a new one can never hurt the Crown, nor an old one do it good.

His R. H. being pleaſed to own theſe Propoſitions, which were but only general, I thought it reaſonable to be more particular,

and come closer to the point, that we might go the faster about the work, and come to some before the time was too far spent.

I laid this for my Maxim: The Dissolution of our Parliament will certainly procure a Peace; which Proposition was granted by every body I Conversed withall, even by Monsieur *Rouvigny* himself, with whom I took liberty of discoursing so far, but durst not say any thing of the Intelligence I had with Father *Ferryer*. Next; that a sum of Money certain, would certainly procure a Dissolution; this some doubted, but I am sure I never did; for I knew perfectly well that the King had frequent Disputes with himself at that time, whether he should dissolve or continue them; and he several times declared that the Arguments were so strong on both sides, that he could not tell to which to incline, but was carried at last to the continuance of them by this one Argument: If I try them once more, they may possibly give me Money; if they do, I have gain'd my point: if they do not, I can dissolve them then, and be where I am now; so that I have a possibility at least of getting Money for their Continuance, against nothing on the other side: But if we could have turn'd this Argument, and said; Sir, their Dissolution will certainly procure you Money, when you have only a bare possibility of getting any by their Continuance, and have shewn how far that bare possibility was from being a foundation to build any reasonable hope upon, which I am sure his Majesty was sensible of; and how much 300000 *l. sterl.* certain (which was the sum we propos'd) was better than a bare possibility, (without any reason to hope that that could ever be compassed) of having half so much more (which was the most he design'd to ask) upon some vile dishonourable terms; and a thousand other hazards, which he had great reason to be afraid of: If I say we had power to have argued this, I am most confidently assured we could have compassed it, for Logick in our Court built upon Money, has more powerful Charms, than any other sort of reasoning. But to secure his most Christian Majesty from any hazard, as to that point I propos'd his Majesty should offer that sum upon that condition, and if the condition were not performed, the Money should never be due; if it were, and that a Peace would certainly follow thereupon, (which no body doubted) his Majesty would gain his Ends, and save all the vast Expences of the next Campaign, by which he could not hope to better his Condition, or put himself into more advantagious Circumstances of Treaty than he was then in; but might very probably be in a much worse, considering the mighty opposition he was like to meet with, and the uncertain Chances of War. But admitting that his Majesty could by his great Strength and Conduct maintain himself in as good a Condition to Treat the next year as he was then in, (which was as much as could then reasonably be hoped for) he should have saved by this Proposal, as much as all the men he must needs lose, and all the charges he should be at in a year, would be valued to amount to more then 300000 *l. sterl.* and so much more in case his Condition should decay, as it should be worse than it was when this was made; and the Condition of his R. H. and of the Catholick Religion here (which depends very much upon the success of His most Christian Majesty,) delivered from a great many frights and real hazards. F. *Ferryer* seem'd to be very sensible of the Benefit all parties would gain by this Proposal; But yet it was unfortunately delay'd by an unhappy and tedious fit of sickness, which kept him so long from the King in the *France* Comte, and made him so unable to wait on His Majesty after he did return to *Paris*: But so soon as he could compass it, he was pleased to acquaint his Majesty with it, and wrote to the Duke himself; and did me the Honour to write unto me also on the 15*th* of *September* 1674. and sent his Letter by Sir *William Throckmorton*, who came express upon that Errand; In these Letters he gave his R. H. fresh assurance of his most Christian Majesties friendship, and of his Zeal and Readiness to comply with every thing His R. H. had, or should think fit to propose in favour of *Religion*, or the business of *Money*; And that he had commanded *Monsieur Rouvigny* as to the latter, to Treat and deal with his R. H. and to receive and observe his Orders and Directions, but desired that he might not at all be concerned as to the former, but that his R. H would cause what Proposition he should think fit to be made about Religion, to be offered either to Father *Ferryer*, or Mounsieur *Pompone*.

These Letters came to us about the middle of *September*, and his R. H. expected daily when Monsieur *Rouvigny* should speak to him about the Subject of that Letter; but he took no notice at all of any thing till the 29*th*. of *September*, the evening before the King and Duke went to *Newmarket* for a fortnight, and then only said, that he had Commands from his Master to give his R. H. the most firm assurance of his Friendship imaginable, or something to that purpose, making his R. H. a general Complement, but made no mention of any particular Orders relating to Father *Ferryer*'s Letter. The Duke wondering at this proceeding, and being obliged to stay a good part of *October* at *Newmarket*; and soon after his coming back, hearing of the Death of Father *Ferryer*, he gave over all further prosecuting of the former Project. But I believe I saw Mounsieur *Rouvigny*'s policy all along, who was willing to save his Master's Money, upon assurance that we would do all we could to stave off the Parliament for our own sakes, that we would struggle as hard without money as with it; and we having by that time, upon our own Interest, prevailed to get the Parliament Prorogued to the 13th. of *April*, he thought that Prorogation being to a day so high in the Spring, would put the Confederates so far beyond their Measures, as that it might procure a Peace, and be as useful to *France*, as a Dissolution: upon these Reasons I suppose he went. I had several discourses with him; and did open my self so far to him as to say, I could wish his Master would give us leave to offer to our Master 300000 *l.* for the Dissolution of the Parliament; and shewed him that a Peace would most certainly follow a Dissolution (which he agreed with me in) and that we desir'd not the Money from his Master to excite our wills, or to make us more industrious to use our utmost powers to procure a Dissolution, but to strenghthen our Power and Credit with the King, and to render us more capable to succeed with his Majesty, as most ceriainly we should have done had we been fortified with such an Argument.

To

To this Purpoſe I preſs'd Mounſieur *Pompone* frequently by Sir *William Throckmorton*, who returned hence again into *France* on the 10th of *November*, the day our Parliament ſhould have met, but was Prorogued. Mounſieur *Pompone* (as I was informed by Sir *William*) did ſeem to approve the thing; but yet had Two Objections againſt it: Firſt, That the Sum we propoſed, was Great; and could be very ill ſpared in the circumſtances his *Moſt Chriſtian Majeſty* was in. To which we Anſwer'd, That if by his Expending that Sum, he could procure a Diſſolution of our Parliament, and thereby a Peace, which every Body agreed would neceſſarily follow; his *Moſt Chriſtian Majeſty* would gain his Ends, and ſave Five or Ten Times a greater Sum, and ſo be a good Huſband by his Expence; and if we did not procure a Diſſolution, he ſhould not be at that Expence at all; for that we Deſired him only to promiſe upon that Conditon, which we were content to be Obliged to perform firſt. The Second Objection was, The Duke did not move, nor appear in it Himſelf. To that we Anſwered, That he did not indeed to Mounſieur *Pompone*, becauſe he had found ſo ill an effect of the Negotiation with Father *Ferryer*, when it came into Mounſieur *Rouvigny*'s hands; but that he had concerned himſelf in it, to Father *Ferryer*.

Yet I continued to proſecute and preſs the Diſſolution of the Parliament, deteſting all Prorogations as only ſo much loſs of time, and a means of ſtrengthning all thoſe who depend upon it in Oppoſition to the *Crown*, the Intereſt of *France* and *Catholick Religion*, in the Opinion they had taken, That our King durſt not part with his Parliament; apprehending that another would be much Worſe. Second, That he could not live long without a Parliament, therefore they muſt ſuddenly Meet; and the longer he kept them off, the greater his Neceſſity would grow; and conſequently their Power to make him do what they liſted, would increaſe accordingly: And therefore, if they could but maintain themſelves a while, the day would certainly come in a ſhort time, in which they ſhould be able to work their Wills. Such Diſcourſes as theſe kept the *Confederates* and our *Male-Contents* in Heart, and made them weather on the War in ſpight of all our Prorogations: Therefore I preſs'd (as I have ſaid) a Diſſolution until *February* laſt, when our *Circumſtances* were ſo totally *Changed*, that we were forced to change our *Counſels* too, and be as much for the Parliament's Sitting, as we were before againſt it.

Our *Change* was thus; Before that time, the Lord *Arlington* was the only Miniſter in Credit, who thought himſelf out of all danger of the Parliament; he having been Accuſed before them and Juſtified, and therefore was Zealous for their ſitting; and to increaſe his Reputation with them, and to become a perfect Favourite, he ſets himſelf all he could, to Perſecute the *Catholick* Religion, and to oppoſe the *French*: To ſhew his Zeal againſt the firſt, he revived ſome old dormant Orders for prohibiting *Roman Catholicks* to appear before the King, and put them in Execution at his firſt coming into his Office of Lord *Chamberlain*: And to make ſure work with the ſecond, as he thought; prevailed with the King to give him and the Earl of *Oſſory*, (who married two Siſters of *Myne Heere Odyke*'s) leave to go over into *Holland* with the ſaid *Heere*, to make a Viſit, as they pretended, to their Relations; But indeed, and in truth, to propoſe the Lady *Mary* (Eldeſt Daughter of his *R. H.*) as a Match for the Prince of *Orange*; not only without the conſent, but againſt the good liking of his *R. H.*: Inſomuch, that the Lord *Arlington*'s Creatures were forced to excuſe him, with a Diſtinction, that the ſaid Lady was not to be looked upon as the Duke's Daughter, but as the King's, and a Child of the State was, and ſo the Duke's conſent not much to be Conſidered in the diſpoſal of her, but only the Intereſt of State. By this he intended to render himſelf the Darling of Parliament and Proteſtants, who look'd upon themſelves as ſecured in their Religion by ſuch an Alliance, and deſigned further to draw us into a Cloſe Conjunction with *Holland*, and the Enemies of *France*. The Lord *Arlington* ſet forth upon this Errand the 10th of *November* 1674. and returned not till the 6th of *January* following; During his abſence, the L. *Treaſurer*, L. *Keeper*, and the Duke of *Lauderdale*, who were the only *Miniſters* of any *conſiderable Credit* with the *King*, and who all pretended to be entirely United to the Duke, declaimed Loudly, and with great Violence, againſt the ſaid Lord, and his Actions in *Holland*; and did hope, in his abſence, to have totally Supplanted him, and to have routed him out of the King's Favour; and after that, thought they might eaſily enough have dealt with the Parliament. But none of them had Courage enough to ſpeak againſt the Parliament, till they could get rid of him; for fear they ſhould not ſucceed, and that the Parliament would Sit in ſpight of them, and come to hear that they had uſed their endeavours againſt it; which would have been ſo Unpardonable a Crime with our *Omnipotent Parliament*, that no Power could have been able to have Saved them from *Puniſhment*: But they finding at his Return, that they could not prevail againſt him, by ſuch Means and Arts as they had then tryed, reſolved upon *New Counſels*; which were to out-run him in his own Courſe; which accordingly they undertook, and became as fierce Apoſtles, and as zealous for *Proteſtant Religion*, and againſt *Popery*, as ever my L. *Arlington* had been before them; and in purſuance thereof, perſuaded the King to iſſue out thoſe ſevere *Orders* and *Proclamations* againſt *Catholicks*, which came out in *February* laſt; by which, they did as much as in them lay, to extripate all *Catholicks*, and *Catholick Religion*, out of the Kingdom; which Counſels, were in my poor opinion ſo Deteſtable, being levelled (as they muſt needs be) ſo directly againſt the *Duke*, by People which he had Advanced, and who had profeſſed ſo much Duty and Service to him, that we were put upon new Thoughts how to ſave his *R. H.* now from the Deceits and Snares of thoſe Men, upon whom we formerly depended. We ſaw well enough, that their deſign was to make themſelves as grateful as they could to the Parliament, if it muſt Sit; they thinking nothing ſo acceptable to them, as the perſecution of *Popery*; and yet they were ſo obnoxious to the Parliament's diſpleaſure in general, that they would have been glad of any Expedient to have kept

it off; though they durſt not engage againſt it openly themſelves, but thought this Device of theirs might ſerve for their purpoſes, hoping the *Duke* would be ſo alarm'd at their proceedings, and by his being left by every Body, that he would be much more afraid of the Parliament than ever, and would uſe his utmoſt Power to prevent its Sitting: which they doubted not but he would endeavour; and they were ready enough to work underhand too for him (for their own ſakes, not his) in order thereunto, but durſt not appear openly; and to encourage the *Duke* the more to endeavour the *Diſſolution* of the Parliament, their Creatures uſed to ſay up and down, That this Rigour againſt the *Catholicks*, was in favour of the *Duke*, and to make a *Diſſolution* of the Parliament more eaſy, (which they knew he covered) by obviating one great *Objection* which was commonly made againſt it, which was, That if the Parliament ſhould be *Diſſolved*, it would be ſaid, That it was done in favour of *Popery*; which Clamour they had prevented beforehand by the Severity they had uſed againſt it.

As ſoon as we ſaw theſe Tricks put upon us, we plainly ſaw what Men we had to deal withal, and what we had to truſt to, if we were wholly at their Mercy: But yet durſt not ſeem ſo diſſatisfied as we really were, but rather magnified the Contrivance, as a Device of great Cunning and Skill: all this we did purely to hold them in a belief, that we would endeavour to Diſſolve the Parliament, and that they might rely upon his *R. H.* for that which we knew they long'd for, and were afraid they might do ſome other way, if they diſcovered that we were reſolved we would not: At length, when we ſaw the Seſſions ſecured, we declared, that we were for the Parliament's meeting; as indeed we were, from the moment we ſaw our ſelves handled by all the King's Miniſters at ſuch a rate that we had Reaſon to believe they would Sacrifice *France*, *Religion*, and his *R. H.* too, to their own Intereſt, if occaſion ſerved; and that they were lead to believe, that that was the only way they had to ſave themſelves at that time: For we ſaw no Expedient fit to ſtop them in their Carreir of perſecution, and thoſe other deſtructive Counſels, but the Parliament; which had ſet it ſelf a long time to diſlike every thing the Miniſters had done, and had appeared violently againſt *Popery*, whilſt the Court ſeemed to favour it; and therefore we were Confident, that the Miniſters having turned their Faces, the Parliament would do ſo too, and ſtill be againſt them; and be as little for Perſecution then, as they had been for *Popery* before. This I undertook to manage for the Duke and the King of *France*'s Intereſt; and aſſured Mounſieur *Rouvigny* (which I am ſure he will teſtify, if occaſion ſerves) that that Seſſions ſhould do neither of them any hurt; for that I was ſure I had Power enough to prevent miſchief, though I durſt not engage for any good they would do; becauſe I had but very few aſſiſtances to carry on the work, and wanted thoſe helps, which others had of making Friends: The *Dutch* and *Spaniard* ſpared no pains or expence of Money to animate as many as they could againſt *France*; Our Lord *Treaſurer*, Lord *Keeper*, all the *Biſhops*, and ſuch as call'd themſelves *Old Cavaliers*, (who were all then as one Man) were not leſs induſtrious againſt *Popery*, and had the Purſe at their Girdle too; which is an Excellent Inſtrument to gain Friends with; and all United againſt the Duke, as Patron both of *France* and *Catholick* Religion. To deal with all this Force, we had no Money, but what came from a few private Hands; and thoſe ſo mean ones too, that I dare venture to ſay, that I ſpent more my particular ſelf out of my own Fortune, and upon my ſingle Credit, than all the whole Body of *Catholicks* in *England* beſides; which was ſo inconſiderable, in compariſon of what our Adverſaries commanded, and we verily believe did beſtow in making their Party, that it is not worth mentioning: Yet notwithſtanding all this, we ſaw that by the help of the Nonconformiſts, as *Presbyterians*, *Independents*, and other *Sects*, (who were as much afraid of Perſecution as our ſelves) and of the Enemies of the Miniſters, and particularly of the *Treaſurer*; who by that time had ſupplanted the Earl of *Arlington*, and was grown ſole Manager of all Affairs himſelf, we ſhould be very able to prevent what they deſigned againſt us, and ſo render the Seſſions ineffectual to their Ends, though we might not be able to compaſs our own; which were, to make ſome briſk ſtep in Favour of his *R. H.* to ſhew the King, that his Majeſties Affairs in Parliament were not Obſtructed, by reaſon of any Averſion they had to his *R. H*'s Perſon, or apprehenſions they had of him, or his Religion; But from Faction and Ambition in ſome, and from a real diſſatisfaction in others, that we have not had ſuch fruits and good Effects of thoſe great ſums of Money which have been formerly given as was expected. If we could then have made but one ſuch ſtep, the King would certainly have reſtored his *R. H.* to all his Commiſſions; upon which he would have been much greater than ever yet he was in his whole Life, or could probably ever have been by any other Courſe in the World, than what he had taken of becoming *Catholick*, &c. And we were ſo very near gaining this Point, that I did humbly beg his *R. H.* to give me leave to put the Parliament upon making an Addreſs to the King, that his Majeſty would be pleaſed to put the Fleet into the hands of his *R. H.* as the only Perſon likely to give a good Account of ſo important a Charge as that was to the Kingdom; And ſhewed his *R. H.* ſuch Reaſons to perſwade him that we could carry it, that he agreed with me in it, that he believed we could. Yet others telling him how great a Damage it would be to him, if he ſhould miſs in ſuch an Undertaking (which for my part I could not then ſee, nor do I yet) he was prevailed upon not to venture, though he was perſwaded he could carry it. I did Communicate this Deſign of mine to Mounſieur *Rouvigny*, who agreed with me, that it would be the greateſt advantage immaginable to his Maſter, to have the *Duke*'s Power and Credit ſo far Advanced as this would certainly do, if we could compaſs it: I ſhewed him all the Difficulty we were like to meet with, and what helps we ſhould have; but that we ſhould want one very materia one, *Money*, to carry on the Work as we ought; and therefore I do Confeſs, I did ſhamefully beg his Maſter's Help, and would willingly have been in everlaſting Diſgrace with all the World

World, if I had not with that assistance of twenty Thousand Pound *Sterling*, (which perhaps is not the tenth part of what was spent on the other side) made it evident to the *Duke*, that he could not have missed it. Mounsieur *Rouvigny* used to tell me, That if he could be sure of succeeding in that Design, his Master would give a very much larger Sum; but that he was not in a Condition to throw away Money upon Uncertainties. I Answered, That nothing of that nature could be so infallibly sure, as not to be subject to some possibilities of Failing; but that I durst venture to undertake to make it evident, that there was as great an assurance of succeeding in it, as any Husbandman can have of a Crop in Harvest, who sows his Ground in its due Season; and yet it would be counted a very imprudent piece of wariness in any body, to scruple the venturing so much Seed in its proper time, because it is possible it may be totally lost, and no benefit of it found in Harvest; He that minds the Winds and the Rains at that rate, shall neither Sow nor Reap. I take our Case to be much the same as it was the last Sessions: If we can advance the *Duke*'s Interest one step forward, we shall put him out of the reach of Chance for ever; For he makes such a Figure already, that Cautious Men do not care to Act against him, nor always without him, because they do not see that he is much outpowered by his Enemies; Yet is he not at such a Pitch, as to be quite out of danger, or free from opposition: But if he could gain any considerable new addition of Power, all would come over to him as to the only steddy Center of our Government, and no Body would contend with him further. Then would *Catholicks* be at Rest, and his *Most Christian Majestie's* Interest secured with us in *England*, beyond all apprehensions whatsoever.

In order to this, we have two great Designs to Attempt this next Sessions. First, that which we were about before, *viz.* To put the Parliament upon making it their humble Request to the King, that the Fleet may be put into his *R. H*'s Care. *Secondly*, to get an Act for general Liberty of Conscience. If we carry these two, or either of them, we shall in effect do what we list afterwards; and truly, we think we do not undertake these great Points very unreasonably, but that we have good Cards for our Game; Not but that we expect great Opposition, and have great reason to beg all the Assistance we can possibly get; and therefore, if his *Most Christian Majesty* would stand by us a little in this *Conjuncture*, and help us with such a sum as 20000 Pound *sterling* (which is no very great matter to venture upon such an undertaking as this) I would be content to be Sacrificed to the utmost Malice of my Enemies, if I did not Succeed. I have proposed This several times to Mounsieur *Rouvigny*, who seemed always of my Opinion; and has often told me, that he has writ into *France* upon this Subject, and has desired me to do the like: But I know not whether he will be as Zealous in that point as a *Catholick* would be; because our prevailing in these things would give the greatest Blow to the *Protestant Religion* here, that ever it received since its Birth; which perhaps he would not be very glad to see; especially when he believes there is another way of doing his Masters Business well enough without it; which is by a *Dissolution* of the Parliament; upon which I know he mightily depends, and Concludes, that if that comes to be *Dissolved*, it will be as much as he needs care for; proceeding perhaps upon the same manner of Discourse which we had this time twelve Months. But with submission to his better Judgment, I do think that our Case is extreamly much altered to what it was, in Relation to a *Dissolution*; for then the Body of our Governing Ministers (all but the Earl of *Arlington*) were entirely United to the *Duke*; and would have Governed his Way, if they had been free from all Fear and Controul, as they had been, if the Parliament had been Removed. But they having since that time Engaged in quite different Counsels, and Embark'd themselves and Interests upon other Bottoms, having declared themselves against *Popery*, *&c.* To Dissolve the Parliament simply, and without any other step made, will be to leave them to Govern what way they list, which we have Reason to suspect will be to the prejudice of *France* and *Catholick Religion*. And their late *Declarations* and *Actions* have Demonstrated to us, that they take that for the most Popular way for themselves, and likeliest to keep them in absolute Power; whereas, if the *Duke* should once get above them (after the Tricks they have plaid with him) they are not sure he will Totally forget the Usage he has had at their hands: Therefore it Imports us now to Advance our Interest a little further, by some such Project as I have Named, before we *Dissolve* the Parliament; Or else perhaps, we shall but Change Masters (a *Parliament* for Ministers) and continue still in the same *Slavery* and *Bondage* as before. But one such step as I have proposed, being well made; we may safely see them *Dissolved*, and not fear the Ministers; but shall be Established, and stand Firm without any Opposition; for every Body will then come over to us, and Worship the Rising Sun.

I have here given you the History of three Years, as short as I could, though I am afraid it will seem very long and troublesome to your *Reverence*, among the multitude of affairs you are concern'd in: I have also shewn you the present State of our Case, which may (by God's Providence, and good Conduct) be made of such advantage to God's Church; that for my part, I can scarce believe my self awake, or the thing real, when I think on a *Prince* in such an age as we live in, converted to such a Degree of Zeal and Piety, as not to regard any thing in the World in comparison of God Almighty's Glory, the Salvation of his own Soul, and the Conversion of our poor Kingdom; which has been a long time oppress, and miserably harrast with *Heresy* and *Schism*. I doubt not but your *Reverence* will consider our Case, and take it to heart, and afford us what help you can; both with the King of Heaven, by your holy Prayers, and with his *Most Christian Majesty*, by that great Credit which you most justly have with him. And if ever his Majesties affairs (or your own) can ever want the service of so inconsiderable a Creature as my self, you shall never find any Body readier to obey your Commands, or faithfuller in the

Execution

Execution of them, to the best of his Power, than

Your most Humble and

Obedient Servant

Att. Gen. That I may make things clear as much as possible; you see, Here's a Letter prepared to be sent, writ with Mr. *Coleman*'s own hand, to Mounsieur *Le Chese*: This Letter bears date the twenty ninth of *September*. We have an Answer to it from *Paris*, *October* twenty third, whereby Mounsieur *Le Chese* owns the receipt of this; And in this answer, is expresst Thanks to Mr. *Coleman* for his long Letter. Sir *Robert*, Pray tell how you came by this Letter.

Sir *Rob. Southwell.* I found this Letter in Mr. *Coleman*'s Canvas Bag; after we had once looked over the Letters, we found it: Sir *Phillip Lloyd* Examined it; And we looked over those Papers very exactly: Because the House of Commons were very much concern'd, and thought those Papers were not throughly Examined, I reviewed them again. This Letter was found on *Sunday* following after the Papers were seized.

Mr. *Att.* Sir *Rob. Southwell*, I pray read the Letter in *French* first to the Court, (Sir *Rob.* having read the Letter in *French*) Mr. *Attorney* desired him to read it in *English*. Sir *Rob.* read it in *English*; The Letter was dated *Paris* twenty third *October* 1675. And subscribed, *Your most humble and obedient servant*, *D C L.* at the bottom.

The LETTER.

From *PARIS*, 23 *October* 1675.

SIR,

THE Letter which you gave your self the trouble to write to me, came to my Hands but the last Night. I read it with great satisfaction; and I assure you, that its length did not make it seem tedious. I should be very glad on my part to assist in seconding your good intentions; I will consider of the Means to effect it; and when I am better informed than I am as yet, I will give you an Account: To the end I may hold Intelligence with you, as you did with my Predecessor. I desire you to believe that I will never fail as to my good will, for the service of your Master, whom I Honour as much as he deserves, and that it is with great truth that I am.

Your most Humble and

most Obedient Servant

D. L. C.

Att. Gen. We made mention of a Declaration: By his long Narrative it plainly appears, that Mr. *Coleman* would have had another Parliament. And the reason why he was pleased to publish a Declaration, was, thereby to shew the Reasons for its Dissolution. Sir *Philip Lloyd*, did you find this Writing among Mr. *Coleman*'s Papers?

Sir *P. L.* I did find it among his Papers.

Att. Gen. Pray read the Declaration.

Clerk of the Crown reads the Declaration.

The Declaration which Mr. Coleman *prepared, thereby shewing his Reasons for the Dissolution of the Parliament.*

WE having taken into our Serious Consideration the heats and animosities which have of late appeared among many of our very Loyal and Loving Subjects of this Kingdom, and the many fears and jealousies which some of them seem to lye under, of having their Liberties and Properties invaded, or their Religion altered; and withal, carefully reflecting upon our own Government since our happy Restauration, and the end and aim of it, which has always been the ease and security of our People in all their Rights, and Advancement of the beauty and splendour of the true Protestant Religion established in the Church of *England*; of both which we have given most signal Testimonies, even to the stripping our Self of many Royal Prerogatives which our Predecessors enjoyed, and were our undoubted due; as the Court of Wards, Purveyances, and other things of great value; and denying to our Self many advantages, which we might reasonably and legally have taken by the Forfeitures made in the times of Rebellion, and the great Revenues due to the Church at our Return, which no particular Person had any right to: Instead of which, we consented to an Act of Oblivion of all those Barbarous usages which our Royal Father and our Self had met withal, much more full and gracious than almost any of our Subjects, who were generally become in some measure or other obnoxious to the Laws, had confidence to ask; and freely renounced all our Title to the Profit which we might have made by the Church-Lands, in favour of our Bishops and other Ecclesiastical Ministers, out of our Zeal to the Glory of our Protestant Church; which Clemency towards all, and some even high Offenders, and zeal for Religion, we have to this day constantly continued to exercise. Considering all this, we cannot but be sensibly afflicted to see, that the frowardness of some few Tumultuous heads should be able to infect our Loyal and Good People with apprehensions destructive of their own, and the general quiet of our Kingdom; and more especially, their perverseness should be powerful enough to distract our very Parliament, and such a Parliament, as has given us such Testimonies of its Loyalty, Wisdom, and Bounty, and to which we have given as many Marks of our Affection and Esteem, so as to make them mis-construe all our endeavours for to preserve our People in ease and prosperity, and against all reason and evidence to represent them to our Subjects as Arguments of fear and disquiet; and under these specious pretences of securing Property and Religion, to demand unreasonable things, manifestly destructive of what they would be thought to aim at; and from our frequent Condescentions, out of our meer Grace, to grant them what we conceived might give them satisfaction, though to the actual prejudice of our Royal Prerogative, to make them presume to propose to advance such extravagancies into Laws, as they themselves have formerly declared detestable;

deteſtable; of which we cannot forbear to give our truly Loyal Subjects ſome inſtances, to undeceive our innocent and well-minded People, who have many of them of late been too eaſily miſled, by the factious endeavours of ſome turbulent Spirits. For example, we having judged it neceſſary to declare War againſt the States of *Holland*, during a receſs of Parliament, which we could not defer longer, without loſing an advantage which then preſented it ſelf, nor have done ſooner, without expoſing our Honour to a potent Enemy without due preparation, we thought it prudent to unite all our Subjects at home, and did believe a general Indulgence of tender Conſciences the moſt proper expedient to effect it; and therefore did by our Authority in Eccleſiaſticks, which we thought ſufficient to warrant what we did, ſuſpend penal Laws againſt Diſſenters in Religion, upon Conditions expreſſed in our Declaration, out of Reaſon of State, as well as to gratifie our own nature, which always we confeſs abhorr'd rigour, eſpecially in Religion, when tenderneſs might be as uſeful. After we had engaged in the War, we Prorogued our Parliament from *April* to *October*, being confident we ſhould be able by that time to ſhew our People ſuch Succeſs of our Arms, as ſhould make them cheerfully contribute to our charge. At *October* we could have ſhewn them ſucceſs even beyond our own hopes, or what they could poſſibly expect; our Enemies having loſt by that time, near 100 ſtrong Towns and Forts, taken in effect by us, we holding them buſie at Sea, whilſt our Allies poſſeſſed themſelves of their Lands, with little or no reſiſtance; and of which, the great advantage would moſt viſibly have been ours, had not the fewds we now complain of, which have been ſince unhappily ſtarted, and factiouſly improved by ſome few, dis-united our People, diſtracted our Counſels, and render'd our late endeavours vain and fruitleſs; ſo that we had no reaſon to doubt of our Peoples ready and liberal concurrence to our Aſſiſtance in that Conjuncture. Yet our Enemies propoſing to us at that time a Treaty for Peace, which we were always ready to accept upon Honourable Terms; and conſidering with our ſelf, that in caſe that Treaty ſucceeded, a far leſs ſum of Money would ſerve our occaſions, than otherwiſe would be neceſſary: We out of our tender regard to the eaſe of our People. Prorogued our Parliament again to *February*, to attend the ſucceſs of our Treaty, rather than to demand ſo much Money in *October*, as would be fit to carry on the War. But we ſoon finding that our Enemies did not intend us any juſt Satisfaction, ſaw a neceſſity of proſecuting the War, which we deſigned to do moſt vigorouſly; and in order to it, reſolv'd to preſs our Parliament to ſupply us as ſpeedily as may be, to enable us to put our Fleet to Sea early in the Spring, which would after their Meeting grow on apace. And being informed that many Members were dead during the long Receſs, we Iſſued out our Writs for new Elections, that our Houſe of Commons might be full at the firſt opening of the Seſſions, to prevent any delay in our Publick Affairs, or diſlike in our People, as might poſſibly have riſen from the want of ſo great a Number of their Repreſentatives, if any thing of moment ſhould be concluded before it had been ſupplied. Having govern'd our Actions all along with ſuch careful reſpect to the eaſe of our Subjects, we at the Meeting of our Parliament in *February* 1672. expected from them ſome ſuitable expreſſions of their ſenſe of our Favours; but quite contrary, found our Self alarm'd with Clamorous Complaints from ſeveral Cabals againſt all our Proceedings, frighting many of our good Subjects into ſtrange Conceits of what they muſt look for by their Seditious and falſe Conſtructions of what we had ſo Candidly and Sincerely done for their good; and ſurpriſed with a Vote of our Houſe of Commons, againſt our Writs of Elections, which we intended for their ſatisfactions, againſt many Precedents of ours, or without any colour of Law of their ſide, denying our Power to Iſſue out ſuch Writs, Addreſſing to us to Iſſue out others: Which we conſented to do at their Requeſt, chooſing rather to yield to our Subjects in that point, than to be forced to ſubmit to our Enemies in others; hoping that our Parliament being ſenſibly touched with that our extraordinary condeſcention, would go on to conſider the Publick concern of the Kingdom, without any further to do: But we found another uſe made of Our ſo eaſie compliance, which ſerv'd to encourage them to ask more; ſo that ſoon after we found our Declaration for Indulging tender Conſciences Arraigned, Voted Illegal; though We cannot to this day underſtand the conſiſtences of that Vote, with our undoubted Supremacy in all Eccleſiaſticks, Recognized by ſo many Acts of Parliament, and required to be Sworn to, by all our Subjects, and Addreſſes made to us one after another to recal it, which we condeſcended to alſo; from hence they proceeded to Us to weaken Our Self in an Actual War, and to render many of Our Subjects, of whoſe Loyalty and Ability we were well ſatisfied, incapable to ſerve Us, when we wanted Officers and Soldiers, and had reaſon to invite as many Experienced Men as We could to engage in Our Arms, rather than to incapacitate or diſcourage any; yet this alſo We gratified them in, to gain their Aſſiſtance againſt Our Enemies, who grew high by theſe Our Differences, rather than expoſe Our Country to their Power and Fury; hoping that in time Our People would be confounded to ſee Our Conceſſions, and be aſhamed of their Errors in making ſuch Demands. But finding the unfortunate Effects of Our diviſions the following Summer, We found Our Parliament more extravagant at the next meeting than ever, addreſſing to Us to hinder the Conſummation of our Dear Brother's Marriage, contrary to the Law of God, which forbiddeth any to ſeparate any, whom he hath joyned, againſt Our Faith and Honour engag'd in the Solemn Treaty, obſtinately perſiſting in that Addreſs, after We had acquainted them, That the Marriage was then actually ratified, and that We had acted in it by our Ambaſſador; ſo that We were forced to ſeparate them for a while, hoping they would bethink themſelves better at their meeting in *January*. Inſtead of being more moderate or ready to conſider Our wants towards the War; they Voted as they had done before, not to aſſiſt Us ſtill, till their Religion were effectually ſecur'd

ſecur'd againſt Popery, Aggrievances redreſſed, and all obnoxious Men removed from Us; which We had reaſon to take for an abſolute denyal of all Aid; conſidering the indefiniteneſs of what was to proceed, and the Moral impoſſibility of effecting it in their ſenſes: For when will they ſay their Religion is effectually ſecured from Popery, if it were in danger then, by reaſon of the inſolency of Papiſts. When our Houſe of Commons, which is made up of Members from every Corner of Our Kingdom, with Invitations publickly Poſted up to all Men to accuſe them, has not yet in ſo many Years as they have complained of them, been able to charge on ſingle Member of that Communion, with ſo much as a Miſdemeanour. Or what Security could they poſſibly expect againſt that Body of Men, or their Religion, more than We had given them? or how can we hope to live ſo perfectly, that ſtudy and pains may not make a Collection of Grievances, as conſiderable as that which was lately preſented to Us, than which We could not have wiſh'd for a better Vindication of Our Government? or when ſhall We be ſure that all obnoxious Men are removed from Us, when Common fame thinks fit to call them ſo; which is to every Body, without any proof, ſufficient to render any Man obnoxious, who is Popiſhly affected, or any thing elſe that is ill, though they have never ſo often or lately complyed with their own Teſts. and Marks of Diſtinction and Diſcriminations. Finding Our People thus unhappily diſordered, we ſaw it impoſſible to proſecute the War any longer; and therefore did by their Advice make a Peace upon ſuch Conditions as we could get; hoping that being gratified in that Darling Point, they would at leaſt have paid Our Debts, and enabled Us to have Built ſome Ships for the future Security of Our Honour, and their own Properties; but they being tranſported with their ſucceſs in asking, were reſolved to go on ſtill that way, and would needs have Us put upon the removing of Our Judges from thoſe Charges, which they have always hitherto held at the Will and Pleaſure of the Crown, out of our Power to alter the ancient Laws of trying of Peers, and to make it a Premunire in Our Subjects (in a caſe ſuppoſed) not to fight againſt Our Self; nay, ſome had the heart to ask, that the Hereditary Succeſſion of our Crown (which is the Foundation of all Our Laws) ſhould be changed into a ſort of Election, they requiring the Heir to be qualified with certain Conditions, to make him capable of Succeeding, and Out-doing that Popiſh Doctrine, which We have ſo long, and ſo loudly with good reaſon decried, That Hereſie incapacitates Kings to Reign. They would have had, That the Heir of the Crown, marrying a Papiſt, though he continued never ſo Orthodox himſelf, ſhould forfeit his right of Inheritance; not underſtanding this Paradoxical way of ſecuring Religion by deſtroying it, as this would have done that of the Church of *England*, which always taught Obedience to their Natural Kings, as an indiſpenſable Duty in all good Chriſtians, let the Religion or Deportment of their Prince be what it will; and not knowing how ſoon that Impediment, which was ſuppoſed as ſufficient to keep out an Heir, might be thought as fit to remove a Poſſeſſor: And comparing that Bill which would have it a Premunire in a Sheriff not to raiſe the *Poſſe Comitatus*, againſt Our Commiſſion in a Caſe there ſuppoſed, though We Our Self ſhould aſſiſt that Our Commiſſion in Our Perſon: For not being excepted, is implyed with the other made by this very Parliament in the 14th Year of Our Reign, which all Our Subjects, or at leaſt many of them, were obliged to Swear (*viz.* That the Doctrine of taking up Arms by the King's Authority againſt His Perſon, was deteſtable; and We ſoon found that the Deſign was levelled againſt the good Proteſtant Religion of Our good Church, which its Enemies had a mind to Blemiſh, by ſliding in ſlily thoſe damnable Doctrines, by ſuch an Authority as that of Our Parliament, into the Profeſſion of Our Faith or Practices, and ſo expoſe Our whole Religion to the Scorn and Reproach of themſelves, and all the World: We therefore thought it Our duty to be ſo watchful as to prevent the Enemies ſowing ſuch miſchievous Tares as theſe, in the wholſom Field of Our Church of *England*, and to guard the unſpotted Spouſe of Our Bleſſed Lord, from that foul Accuſation, with which ſhe juſtly charges other Churches, of teaching their Children Loyalty, with ſo many Reſerves and Conditions, that they ſhall never want a diſtinction to juſtifie Rebellion; nor a Text of Scripture, as good as Curſe ye *Meroz*, to encourage them o be Traitors: whereas Our truly Reformed Church knows no ſuch Subtilties; but teaches according to the ſimplicity of Chriſtianity, To ſubmit to every Ordinance of Man for God's ſake, according to the natural ſignification of the words, without equivocation or Artificial turns. In order to which, having thought to diſſolve that Body, which We have theſe many Years ſo tenderly Cheriſhed, and which We are ſure conſiſts generally of moſt Dutiful and Loyal Members, We were forc'd to Prorogue Our Parliament till *November* next, hoping thereby to cure thoſe Diſorders, which have been ſown amongſt the Beſt and Loyalleſt Subjects, by a few malicious Incendiaries. But underſtanding ſince, that ſuch who have ſowed that Seditious ſeed, are as induſtriouſly careful to water it by their Cabals, and Emiſſaries, inſtructed on purpoſe to poiſon Our People with diſcourſes in publick places, in hopes of a great Crop of Confuſion, their beloved fruit, the next Seſſions; We have found it abſolutely neceſſary to Diſſolve Our Parliament, though with great reluctancy and violence to Our inclination: But remembring the days of Our Royal Father, and the progreſs of Affairs then, how from a Cry againſt Popery, the People went on to complain of Grievances, and againſt Evil Counſellors, and His Majeſties Prerogative; untill they advanc'd into a formal Rebellion, which brought forth the moſt dire and fatal Effects, that ever were yet heard of amongſt any Men, Chriſtians or others; and withal, finding ſo great a reſemblance between the Proceedings then and now, that they ſeem both Broth of the ſame Brains: And being Confirm'd in that Conceit, by obſerving the Actions of many now, who had a great ſhare in the management of the former Rebellion, and their zeal for Religion, who by their Lives give us too much

much reaſon to ſuſpect they have none at all; We thought it not ſafe to dally too long, as Our Royal Father did, with Submiſſions and Condeſcentions, endeavouring to cure Men infected, without removing them from the Air where they got the Diſeaſe, and in which it ſtill rages and increaſes daily. For fear of meeting with no better ſucceſs than He found, in ſuffering his Parliament to Challenge Power they had nothing to do with, till they had bewitch'd the People into fond deſires of ſuch things as quickly deſtroyed both King and Country, which in Us would be an intollerable Error, having been warn'd ſo lately by the moſt Execrable Murther of Our Royal Father, and the inhumane Uſage, which We Our Self in Our Royal Perſon and Family have ſuffered, and Our Loyal Subjects have endured by ſuch practices; And leaſt this Our great Care of this Our Kingdom's Quiet, and Our own Honour and Safety ſhould, as Our beſt Actions have hitherto been, be wreſted to ſome ſiniſter Senſe, and Arguments be made from it to ſcare Our Good People into any apprehenſions of an Arbitrary Government, either in Church or State; We do hereby ſolemnly declare and faithfully engage Our Royal Word, That We will in no caſe either Eccleſiaſtical or Civil, violate or alter the known Laws of Our Kingdom, or invade any Man's Property or Liberty, without due courſe of Law. But that We will with Our utmoſt Indeavours, preſerve the true Proteſtant Religion, and Redreſs all ſuch things as ſhall indifferently, and without paſſion, be judg'd Grievances by Our next Parliament; which We do by God's bleſſing intend to Call before the end of *February* next. In the mean time, We do ſtrictly Charge and Command all manner of Perſons whatſoever, to forbear to talk ſeditiouſly, ſlightly or irreverently of Our Diſſolving of the Parliament, of this Our Declaration, or of Our Perſon or Government, as they will anſwer it at their perils; We being reſolv'd to proſecute all Offenders in that kind with the utmoſt rigour and ſeverity of the Law. And to the end that ſuch Licentious Perſons, if any ſhall be ſo impudent and obſtinate as to diſobey this Our Royal Command, may be detected, and brought to due Puniſhment, We have Ordered Our Lord Treaſurer to make ſpeedy payment of Twenty Pounds to any Perſon or Perſons, who ſhall diſcover or bring any ſuch ſeditious, ſlight or irreverent Talker before any of Our Principal Secretaries of State.

Record. I would have the Jury ſhould know the Declaration ends, *To one of his Majeſties Principal Secretaries of State*; whereof he hoped to be one.

Att. Gen. This is written in the Name of the King; for Mr. *Coleman* thought himſelf now Secretary of State, and he penns the Declaration for the King to give an Account, why the Parliament was Diſſolved.

Serj. Maynard. The long *Letter*, it appears, was to diſſolve the Parliament; and to make it Cock-ſure, he provides a *Declaration* to ſhew the Reaſon of it: It was done in order to bring in Popery; that may appear by the ſubſequent proof.

Att. Gen. I have other Evidence to offer to your Lordſhip, which is, That Mr. *Coleman* was not only ſo bold as to prepare a *Declaration* for the King, but alſo out of his own further ingenuity, prepares a *Letter* (contrary to the Duke's knowledge) for the Duke, which before ſeveral Lords he confeſſed; and Sir *Philip Floyd* is here ready to juſtifie it.

Sir Phi. Floyd. I did attend a Committee of the Houſe of Lords to *Newgate*, who examined Mr. *Coleman*, and told him of the *Letter* Mr. Attorney mentioneth; he then confeſſed, That it was prepared without the Order and Privity of the Duke; and when he was ſo bold as to ſhew it the Duke, the Duke was very Angry and rejected it.

L. C. J. He hath been a very forward undertaker on the behalf of the Duke.

Mr. Att. Gen. I deſire the *Letter* may be read.

The Copy of the Letter *written to Mounſieur* Le Cheſe, *the* French *King's Confeſſor, which Mr.* Coleman *confeſſed he himſelf wrote and counterfeited in the Duke's Name.*

Clerk of the Crown reads the Letter.

'THE 2d of *June* laſt paſt, his moſt Chriſtian 'Majeſty offered me moſt generouſly his 'Friendſhip, and the uſe of his Purſe to the aſ'ſiſtance againſt the deſigns of my Enemies 'and his; and proteſted unto me, That his 'Intereſt and mine were ſo clearly link'd to'gether, that thoſe that oppoſed the one, 'ſhould be lookt upon as Enemies to the o'ther; and told me moreover his Opinion of 'my Lord *Arlington*, and the Parliament; 'which is, That he is of opinion that neither 'the one nor the other, is in his Intereſt or 'mine: and thereupon he deſired me to make 'ſuch Propoſitions as I ſhould think fit in this 'Conjuncture.

'All was Tranſacted by the means of Father '*Ferrier*, who made uſe of Sir *William Throck'morton*, who is an honeſt Man and of truth, 'who was then at *Paris*, and had held Corre'ſpondence with *Coleman*, one of my Family, 'in whom I have great Confidence.

'I was much ſatisfied to ſee his moſt Chriſti'an Majeſty altogether of my opinion, ſo I 'made him Anſwer the 29th of *June*, by the 'ſame means he made uſe of to write to me, 'that is, by *Coleman*, who addreſt himſelf to 'Father *Ferrier*, (by the forementioned Knight) 'and entirely agreed to his moſt Chriſtian Ma'jeſty, as well to what had reſpect to the 'Union of our Intereſts, as the unuſefulneſs 'of my Lord *Arlington*, and the Parliament, 'in order to the Service of the King my Bro'ther, and his moſt Chriſtian Majeſty; and 'that it was neceſſary to make uſe of our joynt 'and utmoſt Credits, to prevent the Succeſs of 'thoſe evil deſigns, reſolved on by the Lord '*Arlington* and the Parliament, againſt his moſt 'Chriſtian Majeſty and my Self; which of my 'ſide I promiſe really to perform; of which, 'ſince that time, I have given reaſonable 'good proof.

'Moreover I made ſome Propoſals, which I 'thought neceſſary to bring to paſs what We 'were obliged to undertake, aſſuring him, 'That nothing could ſo firmly eſtabliſh Our 'Intereſt with the King my Brother, as that 'very ſame Offer of the help of his Purſe, by 'which means, I had much reaſon to hope 'I ſhould be enabled to perſuade to the Diſ-

'solving of the Parliament, and to make void 'the Designs of my Lord *Arlington*, who works 'inceſſantly to advance the Intereſt of the 'Prince of *Orange* and the *Hollanders*, and to 'leſſen that of the King your Maſter, not-'withſtanding all the Proteſtations he hath 'made to this Hour, to render him ſervice.

'But as that, which was propoſed, was at 'a ſtand by reaſon of the ſickneſs of Father 'Ferrier, ſo our affairs ſucceeded not accor-'ding to our deſigns, only Father *Ferrier* wrote 'to me, the 15th of the laſt Month, That 'he had Communicated thoſe Propoſitions to 'his moſt Chriſtian Majeſty, and that they 'had been very well lik'd of; but as they con-'tained things that had regard to the Ca-'tholick Religion, and to the offer and uſe 'of his Purſe, he gave me to underſtand he did 'not deſire I ſhould treat with M. *Revigny* upon 'the Firſt, but as to the Laſt, and had the ſame 'time acquainted me, that M. *Revigny* had 'order to grant me whatſoever the conjun-'cture of our Affairs did require; and have 'expected the effects of it to this very Hour: 'But nothing being done in it, and ſeeing on 'the other Hand that my Lord *Arlington* and 'ſeveral others endeavoured by a thouſand 'deceits to break the good Intelligence, which 'is between the King my Brother, his 'moſt Chriſtian Majeſty, and my Self, to the 'end they might deceive Us all Three, I have 'thought fit to advertiſe you of all that is paſt, 'and deſire of you your Aſſiſtance and Friend-'ſhip to prevent the Rogueries of thoſe, who 'have no other deſign than to betray the 'Concerns of *France* and *England* alſo, and who 'by their pretended ſervice, are the occaſion 'they ſucceed not.

'As to any thing more, I refer you to Sir *Wil-'liam Throckmorton*, and *Coleman*, whom I have 'Commanded to give an account of the whole 'ſtate of Our Affair, and of the true Con-'dition of *England*, with many others, and 'principally my Lord *Arlington*'s endeavours, 'to repreſent to you quite otherwiſe than it is.

'The Two Firſt I mentioned to you are 'Firm to my Intereſt, ſo that you may treat 'with them without any apprehenſion.

Serj. Maynard, Gentlemen of the Jury, pray obſerve that he takes upon him to prepare a Letter and that in the Duke's Name, but contrary to the Duke's Knowledge or Privacy; for when he had ſo much boldneſs as to tell him of it, the Duke was Angry and rejected it. But in it we may ſee what kind of paſſages there are, he takes very much upon him in this matter. And Mr. *Coleman* muſt keep the Secret too.

Att. Gen. My Lord, I have but one Paper more to read, and I have kept it till the laſt; becauſe if we had proved nothing by Witneſs, or not read any thing but this, This one Letter is ſufficient to maintain the Charge againſt him: It plainly appears to whom it was directed, and at what time. It begins thus, (*I ſent your Reverence a tedious long Letter on our* 29th of September,) I only mention this, to ſhew about what time it was ſent. There are ſome Clauſes in it will ſpeak better than I can; Sir *Tho. Doleman* and Sir *Philip Floyd* ſwear he hath confeſſed and owned it to be his hand writing. I deſire the Letter may be read.

Clerk of the Crown reads the Letter.

SIR.

I Sent your Reverence a tedious long Letter on our 29th of *September*, to inform you of the progreſs of Affairs for theſe 2 or 3 laſt Years; I having now again the opportunity of a very ſure Hand to convey this by, I have ſent you a Cipher, becauſe our Parliament now drawing on, I may poſſibly have occaſion to ſend you ſomething which you may be willing enough to know, and may be neceſſary for us that you ſhould, when we may want the conveniency of a Meſſenger. When any thing occurs of more concern other than which may not be fit to be truſted even to a Cipher alone, I will, to make ſuch a thing more ſecure, write in Lemmon between the Lines of a Letter, which ſhall have nothing in it viſſible, but what I care not who ſees, but dryed by a warm fire, ſhall diſcover what is written; ſo that if the Letter comes to your Hands, and upon drying it, any thing appears more than did before, you may be ſure no Body has ſeen it by the way. I will not trouble you with that way of writing, but upon ſpecial occaſions, and then I will give you a hint to direct you to look for it, by concluding my viſible Letter with ſomething of fire or burning, by which mark you may pleaſe to know, that there is ſomething underneath, and how my Letter is to be uſed to find it out.

We have here a mighty Work upon our Hands, no leſs than the Converſion of three Kingdoms, and by that prehaps the utter ſubduing of a Peſtilent Hereſie, which has domineered over great part of this Northern World a long time; there were never ſuch hopes of ſucceſs ſince the Death of our Queen Mary, *as now in our days.* When God has given us a Prince, who is become (may I ſay a Miracle) zealous of being the Author and Inſtrument of ſo glorious a Work; but the oppoſition we are ſure to meet with, is alſo like to be great: So that it imports us to get all the aid and aſſiſtance we can, for *the Harveſt is great, and the Labourers but few.* That which we rely upon moſt, next to God Almighty's Providence, and the favour of my Maſter the Duke, is the mighty mind of His moſt Chriſtian Majeſty, whoſe generous Soul inclines him to great undertakings, which being managed by your Reverence's exemplary piety and prudence, will certainly make him look upon this as moſt ſuitable to himſelf, and beſt becoming his power and thoughts; ſo that I hope you will pardon me if I be very troubleſom to you upon this occaſion, from whom I expect the greateſt help we can hope for. I muſt confeſs I think His Chriſtian Majeſty's Temporal Intereſt is ſo much attracted to that of his R. H. (which can never be conſiderable, but upon the growth and advancement of the Catholick Religion) that his Miniſters cannot give him better advice, even in a Politick ſenſe, abſtracting from the conſiderations of the next World, that of our Bleſſed Lord, *to ſeek firſt the Kingdom of Heaven, and the Righteouſneſs thereof, that all other Things may be added unto him.* That I know his moſt Chriſtian Majeſty has more powerful motives ſuggeſted to him by his own Devotion, and your Reverence's zeal for God's Glory, to engage him to afford us the beſt help he can in our preſent circumſtances. But

we

we are a little unhappy in this, that we cannot preſs His Majeſty by his preſent Miniſter here upon theſe latter Arguments (which are moſt ſtrong) but only upon the firſt, Mr. *Rouvigny*'s ſenſe and ours differing very much upon them, though we agree perfectly upon the reſt: And indeed, though he be a very able Man as to his Maſter's ſervice in things where Religion is not concerned; yet I believe it were much more happy, (conſidering the poſture he is now in) that his temper were of ſuch a ſort, that we might deal clearly with him throughout, and not be forc'd to ſtop ſhort in a Diſcourſe of conſequence, and leave the moſt material part out, becauſe we know it will ſhock his particular Opinion, and ſo perhaps meet with diſlike and oppoſition, though never ſo neceſſary to the main concern. I am afraid we ſhall find too much reaſon for this Complaint in this next Seſſion of Parliament: For had we had one here from His moſt Chriſtian Majeſty, who had taken the whole Buſineſs to Heart, and who would have repreſented the ſtate of our Caſe truly, as it is, to his Maſter, I do not doubt but His moſt Chriſtian Majeſty would have engaged himſelf further in the affair than at preſent I fear he has done, and by his Approbation have given ſuch Counſels as have been offered to his R. H. by thoſe few Catholicks who have acceſs to him, and who are bent to ſerve him and advance the Catholick Religion with all their might, and might have more credit with his R. H. than I fear they have found, and have aſſiſted them alſo with his Purſe as far as 10000 Crowns, or ſome ſuch ſum (which to him is very inconſiderable, but would have been to them of greater uſe than can be imagined) towards gaining others to help them, or at leaſt not to oppoſe them. If we had been ſo happy as to have had His moſt Chriſtian Majeſty with us to this degree, I would have anſwered with my Life for ſuch ſucceſs this Seſſions, as would have put the Intereſt of the Catholick Religion, his R. H. and His moſt Chriſtian Majeſty out of all danger, for the time to come. But wanting thoſe helps of recommending thoſe neceſſary Counſels, which have been given his R. H. in ſuch manner as to make him think them worth his accepting, and fit to govern himſelf by, and of thoſe advantages, which a little Money well managed, would have gained us. I am afraid we ſhall not be much better at the end of this Seſſions than we are now; I pray God we do not loſe ground. By my next, which will be e're long, I ſhall be able to tell your Reverence more particularly, what we are like to expect. In the mean time I moſt humbly beg your Holy Prayers for all our Undertakings, and that you will be pleaſed to honour me ſo far as to eſteem me what I am entirely, and without any reſerve.

Mon tres Reverend Pere le votre R.

Le plus humble plus obeiſant Serviteur.

[*Several other Letters were read, but becauſe of prolixity they are omitted, theſe being moſt material.*]

Att. Gen. I have done with my Evidence, we need no more proof againſt him.

Priſ. My Lord, I would, if your Lordſhip pleaſe, very fain ask of Mr. *Oates* (becauſe he was pleaſed to ſay he was preſent with me in *May* or *April*) whether he knows the particular days of the Months.

[*Here Mr.* Oates *(who being tired, withdrew to reſt himſelf) was called, and the Priſoner was asked, whether he would ſpeak with* Bedloe, *but he deſired not to ſpeak with him.*]

Mr. *Oates.* The Conſult that was held in *May* New-ſtile, is *April* Old-ſtile, it was within a day or two, or three of the Conſult.

Priſ. Where was the Conſult?

Oates. It was begun at the *White-Horſe* Tavern, then they did adjourn it to ſeveral Clubs and Companies, and you came two or three days after the Conſult to the Provincial's Chamber, we then deſiring to go out of Town.

Priſ. Was you there, and who elſe?

Oates. There was the Provincial, and *Micho*, and *Strange* the Old Provincial, and *Keins* your Companion.

Priſ. What day of *Auguſt* was that at the *Savoy*?

Oates. I cannot Swear the particular day of the Month, I cannot ſo far charge my memory.

The Reſult at the Conſult in *May* was, that *Pickering* and *Groves* ſhould go on in their attempt, to aſſaſſinate the Perſon of His Majeſty by Shooting, or otherwiſe. Mr. *Coleman* knew of this, and ſaid, it was a good deſign.

L. C. J. Who was there? was Mr. *Coleman* with them at the Conſultation?

Oates. No, my Lord, but two or three days after the Conſultation he was at *Wild-Houſe*, and there he expreſſed that he approved of it.

L. C. J. Did he conſent to it?

Oates. He did conſent to it.

Juſt. Wild. Did he uſe no Words about it?

Oates. He did ſhew his Approbation of it. But in thoſe Inſtructions that were brought to *Aſhby*, he did ſay it was a very good propoſition, but he thought the Reward was too little.

L. C. J. Did he uſe any words to declare his aſſent?

Oates. Two things lie couched in the Queſtion, whether your Lordſhip means the Conſult, or the Inſtructions, he did approve of.

L. C. J. How long after the Conſultation was it that he approved of it?

Oates. It was two or three days before he did give his approbation.

Juſt. Wild. What words did he ſay?

Oates. He did expreſs his conſent, but to ſay the very words I cannot tell.

L. C. J. Will you ask him any more?

Priſ. I would know the day in *Auguſt*?

L. C. J. He ſaith he doth not remember the day.

Oates. I believe, I will not be poſitive in it, it was about the 21ſt day of *Auguſt*.

Juſt. Wild. and *Juſt. Jones.* Was it in *Auguſt* Old-ſtile?

Oates. Yes.

Priſ. I can prove I was in *Warwick-ſhire* at that time. That day he gueſſeth, the 21ſt of *Auguſt*, I can make it appear I was Fourſcore Miles off.

L. C. J. You will do well to prove you was there when the Guinea was given. Will you ask him any more?

Prif. No.

L. C. J. You may ſay as you will, but Mr. *Oates* doth charge, that expreſly in *Auguſt* (according to the *Engliſh* Stile) you were at this *Wild-Houſe*, and that he ſaw fourſcore Pounds prepared. You Mr. *Coleman* asked the Queſtion, what preparations were made for the Men going to *Windſor*? It was anſwered, fourſcore Pounds are prepared: And your ſelf gave a Guinea for expedition. It is a hard matter to preſs a Man to tell the perciſe day of the Month, but poſitively he doth ſay it was in *Auguſt*.

Prif. I was Two and Twenty or Three and Twenty days in *Auguſt* in *Warwick-ſhire*.

L. C. J. What have you now more to ſay?

Prif. My Lord, I never ſaw Mr. *Oates* but in the Council-Chamber, I never ſaw him in *Rome*, in other Parts I never ſaw the Face of him, or knew him in my whole Life; nor did I ſee the other till now in Court, as I hope to be ſaved. And then, my Lord, as to their teſtimony, neither of them Swear the ſelf-ſame Fact.

L. C. J. No Man ſhall be guilty, if denial ſhall make him innocent; They ſwear to the Fact of killing the King both of them, and that's enough. If one ſaith you have a Plot to Poyſon, that is killing the King; and the other ſwears a Plot to ſhoot, or ſtab him, that is to the killing of the King alſo: Then there's your own Undertaking, in your Letter, under your Hand.

Prif. For Treaſon (with ſubmiſſion to your Lordſhip) I hope there's none in that, though there are very extravagant Expreſſions in it, I hope ſome Expreſſions explain it, that it was not my deſign to kill the King.

L. C. J. No, your Deſign was for the Converſion of three Kingdoms, and ſubduing of that Hereſie that had reigned ſo long in this Northern part of the World: And for effecting whereof, *there were never more hopes ſince our Queen* Mary's *time till now*, and therefore preſſing the King of *France* to uſe his Power, Aid, and Aſſiſtance, and does this ſignifie nothing?

Prif. Doth Aid and Aſſiſtance ſignifie more than Money? The word *Aid* in French is Power; they are promiſcuous words.

L. C. J. You are Charged to have had a Correſpondency and Agency with Foreign Power to ſubvert our Religion, and bring in Foreign Authority and Power upon us, which muſt be the neceſſary conſequence: How can this be proved plainer than by your Letters, to preſs the *French* King that he would uſe his Power.

Prif. Conſider the Contexture and Connexion of things, whether the whole ſeries be not to make the King and the Duke (as far as I thought in my power) as great as could be.

L. C. J. How well or ill you excuſe the fault, that's not the Queſtion; they relate to the Duke moſt of them, little to the King, You were carrying on ſuch a Deſign, that you intended to put the Duke in the Head of, in ſuch method and ways as the Duke himſelf would not approve, but rejected.

Prif. Do not think I would throw any thing upon the Duke, though I might (in the beginning of it,) poſſibly make uſe of the Duke's Name, it is poſſible (they ſay I did) but can any imagine the People will lay down Money 200000 *l.* or 20000 *l.* with me upon the Duke's Name, and not know whether the Duke be in it; and conſequently no Body will imagine the Duke would ever employ any ſum to this King's prejudice or diſſervice while he lived. I take it for granted (which ſure none in the World will deny) that the Law was ever made immediately ſubject to the King or Duke, and conſequently to the Duke, I cannot think this will ever be expounded by the Law of *England*, or the Jury, to be Treaſon.

L. C. J. What a kind of way and talking is this? You have ſuch a ſwimming way of melting words, that it is a troubleſom thing for a Man to collect matter out of them. You give your ſelf up to be a great Negotiator in the altering of Kingdoms, you would be great with mighty Men for that purpoſe; and your long Diſcourſes and great Abilities might have been ſpared. The thing theſe Letters do ſeem to import, is this, That your Deſign was to bring in Popery into *England*, and to promote the intereſt of the *French* King in this place, for which you hoped to have a Penſion (that's plain) The Duke's Name is often mentioned, that's true; ſometimes it appears it is againſt his will, and ſometimes he might know of it, and be told that the conſequence was not great. Now ſay you theſe Sums of Money and all that was done, it did relate to the King or Duke, and it was to advance their Intereſt, and you thought it was the way to do it. How can this advance them unleſs it were done to do them ſervice; and if they do not conſent to it, and how can this be Treaſon, what kind of ſtuff is this? You do ſeem to be a mighty Agent, might not you for a colour uſe the Duke of *York*'s Name to drive on the Catholick Cauſe, which you was driven to by the Prieſts mightily, and think to get 200000 *l.* advance Money, and a Penſion for your ſelf, and make your ſelf ſomebody for the preſent, and Secretary of State for the future? If you will make any defence for your ſelf, or call in Witneſſes, we will hear them; ſay what you can; for theſe vain inconſequential diſcourſes ſignifie nothing.

Prif. I have Witneſſes to prove I was in *Warwick-ſhire*.

L. C. J. (*to Boatman a Witneſs.*) Where was Mr. *Coleman* in *Auguſt* laſt?

Boatm. In *Warwick-ſhire*.

L. C. J. How long?

Boatm. All *Auguſt*, to my beſt remembrance.

L. C. J. Can you ſay that he was in *Warwick-ſhire* all *Auguſt*? that he was not at *London*?

Boatm. I am not certain what time of the Month he was in *London*.

L. C. J. That he was there in *Auguſt*, may be very true; I do not ask how long he was in *Warwick-ſhire*, but was he no where elſe? (To which the Witneſs could make no poſitive anſwer.)

Prif. I was at the Lord *Denby*'s, and at Mr. *Francis Fiſher*'s; I was there at leaſt twenty days.

L. C. J. Have you any more Witneſſes?

Prif. Anſ. None.

L. C. J. If you have a Mind to ſay any thing more, ſay what you can.

Prif. I can ſay nothing more than what I have ſaid. Poſitively I ſay (and upon my ſalvation)

vation) I never ſaw theſe Witneſſes, *Oates* but once, and *Bedlow* never before.

Sir Francis Winnington, *his Majeſty's Sollicitor General, ſums up the Evidence, as followeth.*

May it pleaſe Your Lordſhip, and you Gentlemen of the Jury,

THE Cauſe before you (I dare adventure to ſay) is a Cauſe of as great a Nature, and includes as great Crimes, as ever came to this Bar.

It is not a Cauſe of a particular Treaſon, but 'tis a Treaſon that runs to the whole; the King, the Government, and the Proteſtant Religion, all are comprehended in it.

The defence the Priſoner has made is ſo very ſhort, and of ſo ſlight a Nature, that I ſhall contract my ſelf very much in what I had to ſay, and only ſtate to the Court, and Jury, the principal things I rely upon.

The firſt Crime laid in the Indictment, is the deſign of killing and deſtroying the Royal Perſon of his Majeſty. The ſecond, the ſubverting of the Government, and in doing that, the deſtruction of the Proteſtant Religion.

And theſe Treaſons have been punctually proved, as well by two Witneſſes, as by Letters under Mr. *Coleman's* own Hand, whereby he correſponded with Mounſieur *Le Cheſe*, the *French* King's Confeſſor, as alſo by the Anſwers which were ſent by Mounſieur *Le Cheſe* to Mr. *Coleman*.

As to the Proofs made by the Witneſſes, the ſubſtance of them is this. Mr. *Oates* ſwears, that in *April* laſt *Old Style*, and *May New Style*, there was a General Conſult or Meeting of the *Jeſuites*, at the *White-Horſe-Tavern* in the *Strand*; and afterwards they divided themſelves into ſeveral Companies, or Clubs; and in thoſe Conſults they conſpired the Death of the King; and contrived how to effect it. The manner of it was thus, (as Mr. *Oates* poſitively ſwears) That *Grove* and *Pickering* were employed to Murther the King; and their Deſign was to Piſtol him in St. *James's* Park. *Grove* was to have Fifteen Hundred Pounds in Money, and *Pickering* (being a Prieſt) was to have Thirty Thouſand Maſſes, which was computed to be of equal value to Fifteen Hundred Pounds, according to the uſual price in the Church of *Rome*. And this Conſpiracy and Contrivance Mr. *Coleman* was privy to, and did well approve of the ſame, as Mr. *Oates* affirmeth upon his Oath. So that here is a plain Treaſon proved upon the Priſoner, by his aſſenting to the Fact to be done, the Law not allowing any Acceſſaries in Treaſon. And this in Law makes the Priſoner as guilty as any of the Aſſaſſinates, who deſigned to kill the King with their own Hands.

If this deſign ſhould fail, Mr. *Oates* ſwears, that the Conſpirators intended a further attempt upon the Royal Perſon of the King, when he ſhould be at *Windſor*; and four *Iriſh* Aſſaſſinates were provided by Doctor *Fogarthy*, whoſe Names he would not tell, and fourſcore Guineas were provided by Father *Harcourt* (a Jeſuit) to maintain the Aſſaſſinates at *Windſor*, till they ſhould have effected their wicked deſign.

While the Conſpiracy was thus in agitation, Mr. *Coleman*, the Priſoner, went to viſit *Harcourt* the *Jeſuit* at his Houſe in Town; but finding him not at home, and being informed that he was at *Wild-houſe*, Mr. *Coleman* went thither and found him there; and Mr. *Coleman* asking what Proviſion *Harcourt* had made for the Gentlemen at *Windſor*; *Harcourt* replyed, that there were fourſcore Guineas, which then lay upon the Table, which were to be ſent to them; and ſaid, that the Perſon who was in the Room was to carry them. To which Mr. *Coleman* replyed, he liked it very well; and gave a Guinea out of his own Pocket to the Meſſenger who was to carry the Money to *Windſor*, to encourage him to expedite the Buſineſs. But in caſe the deſign of killing his Majeſty at *Windſor* ſhould be any ways prevented, then there was a further Conſpiracy, to deſtroy the King by Poiſon. Mr. *Oates* ſwears, that in *July* laſt, *Aſhby* (a *Jeſuit*) brought inſtructions to *London* from *Flanders*, that in caſe *Pickering* and *Grove* could not kill the King at *London*, nor the four *Iriſh* Aſſaſſinates at *Windſor*, then Ten Thouſand Pounds was to be propoſed to Sir *George Wakeman* to Poyſon the King. But it did appear by the Letters that paſſed between *White* the Provincial (here in *London*) and *Aſhby*, that Mr. *Coleman* ſaid, he thought Ten Thouſand Pounds was too little; and therefore thought it neceſſary to offer five Thouſand Pounds more, which afterwards was aſſented to by the *Jeſuites* abroad. And Mr. *Oates* ſwears, he ſaw Letters from the Provincial at *London*, to the *Jeſuites* at St. *Omer*, ſignifying, that Sir *George Wakeman* had accepted of the Propoſition, and received five Thouſand Pounds of the Money. By which Teſtimony, of Mr. *Oates*, it plainly appears, that Mr. *Coleman*, the Priſoner at the Bar, was privy to the Conſpiracy, and aiding and abetting to the wicked and damnable deſign of murdering the King.

The ſecond Witneſs is Mr. *Bedlow*, who ſwears that he was imployed by *Harcourt*, the *Jeſuit*, to carry Pacquets of Letters to Mounſieur *Le Cheſe*, the *French* King's Confeſſor; and further ſays, he was at a Conſult in *France*, where the Plot was diſcourſed on for killing the King; and did bring back an anſwer from *Le Cheſe* to *Harcourt* in *London*, and ſwears particularly, that on the 24th or 25th of *May*, 1677. he was at *Coleman's* Houſe with Father *Harcourt*, and ſome other Perſons, where Mr. *Coleman*, diſcourſing of the great deſign in Hand, ſaid theſe Words following. *That if he had a Sea of Blood, and an hundred Lives, he would loſe them all to carry on the deſign; and if to effect this, it were neceſſary to deſtroy an hundred Heretick Kings, he would do it.* So that here is another poſitive Oath to an Act of Treaſon committed by Mr. *Coleman*, in relation to the murthering the King.

The other part of the Evidence conſiſts of Papers and Letters, which generally relate to prove the latter part of the Indictment; to wit, The Extirpation of the Proteſtant Religion, and introducing of Popery, und the ſubverting of the Government. And this appears by a Letter written by Mr. *Coleman*, dated 29. *Septem.* 75. and ſent to Mounſieur *Le Cheſe*, the *French* King's Confeſſor; wherein he gives him an account of the Tranſactions of ſeveral Years before, and of the Correſpondence between Mr. *Coleman* and Mounſieur *Ferrier*, Predeceſſor to *Le Cheſe*; wherein he does alſo aſſert, that the true way to carry on the Intereſt of *France*, and

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the promoting of the *Popiſh* Religion here in *England*, was to get this Parliament diſſolved; which (ſays he) had been long ſince effected, if three Hundred Thouſand Pounds could have been obtained from the *French* King; and that things yet were in ſuch a poſture, that if he had but Twenty Thouſand Pounds ſent him from *France*, he would be content to be a Sacrifice to the utmoſt malice of his Enemies, if the Proteſtant Religion did not receive ſuch a Blow as it could not ſubſiſt. And the receipt of this Lerter was acknowledged by Mounſieur *Le Cheſe*, in an anſwer which he wrote to Mr. *Coleman*, dated from *Paris October* 23. 75. in which he gives him thanks for his good Service, in order to the promoting the *Popiſh* Religion.

Several other Letters have been produced and read, which were written by Mr. *Coleman* to Mounſieur *Ferrier* and others, and more particularly one Letter dated *Auguſt* 21. 74. written by *Coleman* to the Pope's Internuntio at *Bruſſels*, wherein he ſays the Deſign proſpered ſo well, that he doubted not but in a little time the Buſineſs would be managed, to the utter ruine of the Proteſtant Party.

And by other Letters he writes to the *French* King's Confeſſor that the aſſiſtance of his moſt Chriſtian Majeſty is neceſſary, and deſires Money from the *French* King to carry on the Deſign.

But there is one Letter, without Date, more Bloody than all the reſt, which was written to Mounſieur *Le Cheſe* in ſome ſhort time after the long Letter of *September* 29. 1675. wherein, amongſt many other things, *Coleman* expreſſes himſelf thus. *We have a mighty Work upon our Hands, no leſs than the Converſion of three Kingdoms, and the utter ſubduing of a Peſtilent Hereſie, which hath for ſome time domineer'd over this Northern part of the World; and we never had ſo great hopes of it ſince our Queen* Mary's *days.* And in the Concluſion of the Letter he implores Mounſieur *Le Cheſe* to get all the aid and aſſiſtance he can from *France*, and that next to God Almighty, they did rely upon the mighty mind of his moſt Chriſtian Majeſty, and therefore did hope *Le Cheſe* would procure Money and Aſſiſtance from him.

Now any Man that conſiders the Contents of theſe Letters, muſt needs agree, that the latter part of the Indictment, to wit, the Treaſon of endeavouring the Subverting the Government and the Proteſtant Religion, is fully proved upon Mr. *Coleman*, the Priſoner at the Bar; and that theſe Letters were written by him, and the Anſwers received he does not deny. But all he has to ſay for himſelf, is, that it was to make the King of *England* great; whereas the contrary is moſt manifeſt, becauſe the *Jeſuites* who love Force and Tyranny, always adhere to thoſe Princes that are greateſt in Strength and Power. For it appears in Hiſtory, that when the Houſe of *Auſtria* were in their Greatneſs, and like to arrive to the Univerſal Monarchy in theſe parts of the World, the *Jeſuites* all adhered to that Houſe: But ſince the *French* King hath grown more mighty in Power and Greatneſs, they declined the Intereſt of the *Auſtrian* Family, and do now promote the Counſels of *France*, thinking that now that King will become the Univerſal Monarch.

I ſhall therefore now conclude the Evidence, only obſerving to the Jury, that the ſeveral Treaſons in the Indictment are fully proved. The firſt as to the deſtruction of the Royal Perſon of the King, by two Witneſſes, Mr. *Oates*, and Mr. *Bedlow*; the other part of it, *viz.* the ſubverſion of the Government, and extirpation of the Proteſtant Religion, by the ſeveral Letters which have been before remembred, which have not been denyed by the Priſoner to be his. Therefore I hope, Gentlemen, when you meet with Offenders that are guilty of ſuch ſtupendious Crimes, you will do Juſtice upon them, which will be a great Comfort and Satisfaction to the King and all his good Proteſtant Subjects.

Serj. Pembert. Gentlemen, you hear the Crime is of the higheſt Nature, it's the ſubverſion of three Kingdoms and the ſubduing of that Religion which he defames by the Name of *Peſtilent Hereſie.* It concerns us all to look about us, and all the Kingdom, when there ſhall be a Deſign managed in this manner, to deſtroy our King, and to take away our Religion, and to enſlave us all to the Pope, and make us all truckle to the Prieſts.

It is wonderful it is capable (at this day) of ſo great Evidence, there is *Digitus Dei* in it, or elſe it would be impoſſible ſuch a thing ſhould be made ſo manifeſt: All the reſt that is ſaid in the Indictment are but Circumſtances that declare it: There is a ſtrong Evidence of many matters of Fact in this Deſign, which declare the Intention hatched in his Breaſt for many Years together: Here hath been a Deſign to kill the King, and he doth not only conſent to it, but commend it; what can be ſaid to his giving the Money to him that was to pay the fourſcore pieces of Gold to thoſe *Ruffians* ſent to *Windſor*? and adding 5000 *l.* to the 10000 *l.* for the Doctor that was to poyſon the King? He denies all.

No queſtion but a Man that hath had a Heart to deſign ſuch Contrivances, will have the Face to deny it publickly: It's a thing to be acted in the dark, but there's both Mr *Oates* and Mr. *Bedlow*, plainly prove it upon him that he conſented to the acting the King's death. What's the Senſe of his Letters, but to ſhew his deſign, and to beg the Aſſiſtance of *France* to them in their neceſſities? the whole Current is to deſtroy our Religion. I think you Gentlemen of the Jury have had ſuch Evidence as will ſatisfie any Man.

Priſ. I deny all Mr. *Oates* his Teſtimony, for his ſaying to the Council he did not know me becauſe he could not ſee me, when I was as near as the next Gentleman but one, but knew me when I ſpake, and I ſpoke to almoſt all the matters asked. He accuſeth me of a thing in *Auguſt*, but names not the day: Now if there be one Error in his Teſtimony it weakens all the reſt. I went out of Town the 10th of *Auguſt*, it was the latter end I came home, about the middle of *Bartholomew* Fair, the laſt day of *Auguſt*.

L. C. J. Have you any Witneſs to prove that?

Priſ. I cannot ſay I have a Witneſs.

L. C. J. Then you ſay nothing.

Priſ. People cannot ſpeak to a day, to a thing they neither imagined or thought of.

L. C. J. I ask your Servant, do you know when Mr. *Coleman* went out of Town?

Coleman's Serv. In *Auguſt*, I cannot ſay particularly

ticularly the day.

L. C. J. Do you know when he came home?

Serv. I cannot remember.

Juſt. Wild. Where was you the laſt *Bartholomew day*?

Serv. I was in Town.

Juſt. Wild. Where was your Maſter?

Serv. I do not remember.

L. C. J. You ſay you went out of Town the 10th, and came home the laſt of *Auguſt*; you ſay it is impoſſible that he ſhould ſay right, but yet you do not prove it.

Priſ. I have no more to ſay, but I entered down all my Expences every day in a Book, which Book will ſhew where I was.

L. C. J. Where is your Book?

Priſ. At my *Lodging* in *Vere-Street* by *Covent-Garden*; in a Trunk that came by the Carrier, that will ſhew when they were ſent.

L. C. J. If the Cauſe did turn upon that *matter*, I would be well content to ſit until the Book was brought, but I doubt the Cauſe will not ſtand upon that Foot, but if that were the Caſe it would do you little good.

Obſerve what I ſay to the Jury.

My Lord Chief Juſtice his Speech to the Jury upon his ſumming up of the Evidence.

Gentlemen of the Jury; My Care at this time ſhall be to contract this very long Evidence, and to bring it within a ſhort compaſs, that you may have nothing before you to conſider of, as near as I can, but what is really material to the Acquitting or Condemning of Mr. *Coleman*.

The things he is Accuſed of are of two ſorts; the one is, to ſubvert the Proteſtant Religion and to introduce Popery: the other was to deſtroy and kill the King. The Evidence likewiſe was of two ſorts; The one by Letters of his own hand writing, and the other by Witneſſes *Viva voce*. The former he ſeems to confeſs, the other totally to deny.

For that he confeſſeth, he does not ſeem to inſiſt upon it, that the Letters were not his, he ſeems to admit they were; And he rather makes his Defence by expounding what the meaning of theſe Letters were, than by denying himſelf to be the Author.

I would have you take me right, when I ſay he doth admit; he doth not admit the Conſtruction, that the King's Council here makes upon them; but he admits that theſe Letters were his. He admits it ſo far, that he does not deny them. So that you are to Examine what theſe Letters import in themſelves, and what Conſequences are naturally to be deduced from them

That which is plainly intended, is to bring in the *Roman Catholick*, and to ſubvert the *Proteſtant Religion*. That which is by Conſequence intended, was the Killing the King, as being the moſt likely means to introduce *That*, which as 'tis apparent by his Letters, was deſigned to be brought in.

For the Firſt part of the Evidence. All his Great long Letter that he wrote, was to give the preſent Confeſſor of the *French* King an Account of what had paſſed between him and his predeceſſor; By which Agency, you may ſee that Mr. *Coleman* was In with the former Confeſſor.

And when he comes to give an Account of the three Years Tranſactions to this preſent Confeſſor, and to begin a Correſpondence with him, About what is it? Why, the ſubſtance of the Heads of the long Letter comes to this. It was to bring in the *Catholick* as he call'd it, (that is) the *Romiſh Catholick* Religion, and to eſtabliſh that here; and to advance an Intereſt for the *French* King, be that Intereſt what it will.

It's true his Letters do not expreſs what ſort of Intereſt, neither will I determine: but they ſay it was to promote the *French* King's Intereſt, which Mr. *Coleman* would expound it ſome ſuch ſort, as may conſiſt with the King of *England*'s, and the Duke of *York*'s Intereſt. But this is certain, it was to ſubvert our Religion, as it is now by Law eſtabliſhed. This was the great end thereof, it cannot be denyed: To promote the Intereſt (I ſay) of the *French* King, and to gain to himſelf a Penſion as a reward of his ſervice, is the Contents of his Firſt long Letter, and one or two more concerning that Penſion.

His laſt Letters expound more plainly what was meant by the *French* King's Intereſt. *We are* (ſaith he) *about a great work, no leſs than the Converſion of three Kingdoms, and the total and utter ſubverſion and ſubduing of that peſtilent Hereſie* (*that is the Proteſtant Religion*) *which hath reigned ſo long in this Northern part of the World; and for the doing of which, there never was ſuch great hopes ſince our Queen* Mary's *Days, as at this time.*

Now this plainly ſhews, that our Religion was to be ſubverted, Popery eſtabliſhed, and the three Kingdoms to be converted; that is indeed, to be brought to confuſion.

For I ſay, that when our Religion is to be ſubverted, the Nation is to be ſubverted and deſtroyed, that is moſt apparent: For there could be no hope of ſubverting or deſtroying the Proteſtant Religion, but by a *Subverſion* not *Converſion* of the three Kingdoms.

How was it to be done otherwiſe? Why, I would have brought this Religion in (ſays he) by diſſolving of the Parliament. I would have brought it in by an Edict and Proclamation of Liberty of Conſcience. In theſe ways I would have brought it in.

Mr. *Coleman* knows it is not fit for him to own the introducing of his Religion by the Murder of the King, or by a Foreign Force. The one was too *black* and the other too *bloody*, to be owned. And few people (eſpecially the *Engliſh*) will be brought to ſave their Lives (as he may do his) by confeſſion of ſo bloody and barbarous a thing, as an intention to Kill the King, or of Levying a War; which though it be not a *Particular*, is a *General* Murder. I ſay, it was not convenient for Mr. *Coleman*, when he ſeems to ſpeak ſomething for himſelf, to give ſuch an Account, how he would have done it; Therefore he tells us, he would have done it by the diſſolving of the Parliament and by Toleration of Religion. Now I would very fain know of any Man in the World, whether this was not a very fine and artificial covering of his deſign for the Subverſion of our Religion?

Pray how can any Man think, that the Diſſolving of the Parliament could have ſuch a mighty influence to that purpoſe? It is true, he might imagine it might in ſome ſort contribute towards it: Yet it is ſo doubtful, that he himſelf miſtruſts it. For he is ſometimes for the Diſſolving of the Parliament, and o-

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ther times not, as appears by his own papers: For which we are not beholden to him, ſo much as for any one, more than what were found by accident, and produced to the King and Council. But in truth, why ſhould Mr. *Coleman* believe that another Parliament (if this Parliament were Diſſolved) ſhould comply with Popery? That is to ſay, That there ſhould be great hopes of bringing in of Popery by a new Parliament? Unleſs he can give me a good reaſon for this, I ſhall hold it as inſignificant and as unlikely to have that effect, as his other way by a General Toleration.

And therefore next, Upon what ground does he preſume this? I do aſſure you, that Man does not underſtand the Inclinations of the *Engliſh* people, or knows their Tempers, that thinks, if they were left to themſelves and had their Liberty, they would turn Papiſts.

It's true, there are ſome amongſt us that have ſo little Wit as to turn Fanaticks, but there is hardly any, but have much more wit than to turn Papiſts. Theſe are therefore the Counterfeit pretenſions of Mr. *Coleman*.

Now if not by theſe means, In what way truly did he intend to bring in Popery? Why his own Letters plainly convict him of one ſtep towards it, in endeavouring with Foreign powers to bring in that Religion, and to Subvert ours. And for the other way of doing it, by killing the King; I leave it to you whether there were any more probable way than that indeed to do it.

And could he think, that the *French* King would not have thought himſelf cozened of his Money, if he had not given him hopes that he would uſe the moſt probable Methods that he could, to effect his Deſign?

Therefore there muſt be more in it; for he that was ſo earneſt for that Religion, would not have ſtuck at any Violence to bring it in; he would not have ſtuck at Blood. For we know their Doctrines and their Practices, and we know well, with what zeal the Prieſts puſh them forward to venture their own Lives, and to take away other Mens, that differ from them, to bring in their Religion, and to ſet up themſelves. For indeed in the Kingdoms and Countries where Popery reigns, the Prieſts have Dominion over Mens Conſciences, and power over their Purſes. And they uſe all Arts imaginable of making Proſelites, and take ſpecial Care, that thoſe in their Communion, ſhall know no more than the Prieſts ſhall give them leave to underſtand. And for this Reaſon they prohibit the uſe of all Books without their Licenſe. This blind Obedience begets blind Ignorance, and this is a great ſubtilty of theirs to keep them in it, that they may perfectly ſubmit to them.

What cannot they Command, when they have made others ſlaves in their underſtandings, and that they muſt know no more, than what they give them leave to know? But in *England* it is not ſo, Mr. *Coleman*; and therein you would have found a great diſappointment. For if Liberty of Conſcience had been tollerated here. That the Conſequence of it would have been Popery, I deny.

Nothing is more unlikely, for though in the ſhort Reign of Queen *Mary*, Popery came in for ſome time, which was but for a little time, and then the people were not ſo well grounded in the Proteſtant Religion, nor in the principles of it: But now they are, Inſomuch, that ſcarce a Cobler but is able to baffle any *Roman* Prieſt that ever I ſaw or met with.

And Thanks be to God we have a Preaching Miniſtry, and the free uſe of the Scriptures allowed amongſt us, which they are not permitted to have.

And after this I wonder, that a Man, who hath been bred up in the Proteſtant Religion (as I have Reaſon to believe that you Mr. *Coleman* have been) for (if I am not miſinformed) your Father was a Miniſter in *Suffolk*. For ſuch an one to depart from it, is an Evidence againſt you, to prove the Indictment. I muſt make a Difference between Us, and Thoſe who have been always educated that way, and ſo are under the prepoſſeſſion of their Education, which is a difficult thing to be overcome.

And I do aſſure you, there are but two things, that I know of, can make one do it, Intereſt, or groſs Ignorance.

No Man of underſtanding, but for By-ends, would have left his Religion to be a Papiſt. And for you Mr. *Coleman*, who are a Man of Reaſon and Subtilty, I muſt tell you (to bring this to your ſelf) upon this account, that it could not be Conſcience, I cannot think it to be Conſcience. Your Penſion was your Conſcience, and your Secretaries place your Bait.

For ſuch Men (I ſay) as have been bred up in the Proteſtant Religion, and left it, I can hardly preſume that they do it out of Conſcience, unleſs they do it upon a mighty ſearch, not leaning upon their own underſtanding and abilities, not hearing of one ſide alone.

Conſcience is a tender thing, Conſcience will tremble when it leaves the Religion it has been bred in, and its ſincerity is ſhown by being fearful, leaſt it ſhould be in the wrong. No Man may pretend to Conſcience truly, that takes not all Courſes imaginable to know the *Right*, before he lets his Religion ſlip from him.

Have we ſo ſoon forgot our Reverence to the late King, and the pious advice he left us? A King that was truly A DEFENDER of the FAITH, not only by his Title, but by his Abilities and Writings. A King, who underſtood the Proteſtant Religion ſo well, that he was able to defend it againſt any of the Cardinals of *Rome*. And when he knew it ſo throughly, and died ſo eminently for it, I will leave this Characteriſtical Note, That whoſoever after that, departs from *His* Judgment, had need have a very good one of his own, to bear him out.

I do acknowledge, Many of the Popiſh Prieſts formerly, were learned Men, and may be ſo ſtill, beyond the Seas: but I could never yet meet with any here, that had other Learning or Ability but Artificial only, to delude *weak* Women, and *weaker* Men.

They have indeed, ways of Converſion, and Conviction, by Enlightning our Underſtandings with a Faggot, and by the powerful and irreſiſtable Arguments of a Dagger: But there are ſuch wicked Solceciſms in their Religion, that

that they ſeem to have left them neither *Natural Senſe*, nor *Natural Conſcience*. Not *Natural Senſe* by their Abſurdity, in ſo an unreaſonable a belief, as of the Wine turned into Blood: Not *Natural Conſcience*, by their Cruelty, who make the Proteſtants Blood as Wine, and theſe Prieſts thirſt after it.

Tantum Religio potuit ſuadere malorum?

Mr. *Coleman*, in one of his Letters, ſpeaks of rooting out *our Religion, and our Party*; And he is in the Right, for they can never root out the Proteſtant Religion, but they muſt kill the Proteſtants. But let him and them know, if ever they ſhall endeavour to bring Popery in, by deſtroying of the King, they ſhall find, that the Papiſts will thereby bring deſtruction upon themſelves, ſo that not a Man of them would eſcape.

Ne Catulus quidem relinquendus.

Our Execution ſhall be as quick as their Gunpowder, but more effectual. And ſo, Gentlemen, I ſhall leave it to you, to conſider, what his Letters prove him guilty of directly, and what by Conſequence; What he plainly would have done, and then, how he would have done it; And whether you think his *Fiery Zeal* had ſo much *Cold Blood* in it, as to ſpare any others?

For the other part of the Evidence, which is by the Teſtimony of the preſent Witneſſes, You have heard them. ——I will not detain you longer now the day is going out.

Mr. *J. Jones*. You muſt find the Priſoner Guilty, or bring in two Perſons Perjured.

L. C. J. Gentlemen, If your Conſultation ſhall be long, then you muſt lye by it all Night, and We'll take your Verdict to Morrow Morning. If it will not be long, I am content to ſtay a while.

Jury. My Lord, we ſhall be ſhort.

J. Wyld. We do not ſpeak to you to make more haſte, or leſs, but to take a full Conſultation, and your own time; There is the Death of a Man at the Stake, and make not too much haſte, We do not ſpeak it on that Account.

The Jury went from the Bar, and returned.

Court. Are you all agreed of your Verdict?

Jury. Yes.

Court. Who ſhall ſpeak for you?

Jury. The Foreman.

Court. *Edward Coleman*, hold up thy Hand.

Court. Is *Edward Coleman* Guilty of the High Treaſon, whereof he ſtands Indicted, or not Guilty?

Jury. Guilty, my Lord.

Court. What Goods, Chattels, *&c.*

Priſoner. You were pleaſed to ſay to the Jury, that they muſt either bring me in Guilty, or two Perſons Perjured: I am a Dying Man, and upon my Death, and expectation of Salvation, declare, That I never ſaw theſe two Gentlemen, excepting Mr. *Oates*, but once in all my Life, and that was at the Council Table.

L. C. J. Mr. *Coleman*, Your own Papers are enough to condemn you.

Court. Capt. *Richardſon*, You muſt bring Mr. *Coleman* hither again to morrow Morning to receive his Sentence.

The Day following, being November *the* 28*th. Mr.* Coleman *was brought to the Bar, to receive his Sentence, and the Court proceeded thereupon, as followeth.*

L. C. J. ASk him what he can ſay for himſelf; Make Silence Cryer.

Court. *Edward Coleman*, Hold up thy Hand, Thou haſt been Indicted of High Treaſon, thou haſt thereunto Pleaded, Not Guilty; thou haſt put thy Self upon God and thy Country, which Country, hath found thee Guilty; What canſt thou ſay for thy Self, wherefore Judgment of Death ſhould not be given againſt thee, and an Execution Awarded according to Law?

Mr. *Coleman*. May it pleaſe you, my Lord, I have this to ſay for my ſelf; As for my Papers, I humbly Hope, (ſetting aſide oral Teſtimony) that I ſhould not have been found guilty of any Crime in them, but what the Act of Grace would have pardoned, and I hope, I ſhall have the benefit of that: The Evidence againſt me, namely Oral I do humbly beg, that you would be pleaſed, to give me a little time to ſhew you, how impoſſible it is, that thoſe Teſtimonies ſhould be true; For that Teſtimony of Mr. *Oates* in *Auguſt*, my Man, that is now either in the Court or Hall, hath gotten a Book that is able to make it appear, that I was out of Town from the 15th of *Auguſt* to the 31ſt of *Auguſt* late at Night.

L. C. J. That will not do, Mr. *Coleman*.

Coleman. I do humbly offer this, for this Reaſon; becauſe Mr. *Oates*, in all his other Evidences, was ſo punctual, as to diſtinguiſh between Old Stile and New, he never miſt the Month, hardly the Week, and often times put the very Day; for his Teſtimony that he gave againſt me, was, that it was the 21ſt of *Auguſt*.

L. C. J. He thought ſo, but he was not poſitive, but only as to the Month.

Coleman. He was certain it was the latter end of *Auguſt*, and that about *Bartholomewtide*.

L. C. J. He conceived ſo, he thought ſo.

Coleman. Now if I was always out of Town from the 15th Day of *Auguſt*, to the 31ſt late at Night, it is then impoſſible, My Lord, That ſhould be a true Teſtimony, your Lordſhip was pleaſed to obſerve, that it would much enervate any Man's Teſtimony, if to the whole he could be proved falſe in any one thing; I have further in this matter to ſay, beſides my Man's Teſtimony, the King hath ſince I have been ſeized on, ſeized on my Papers and my Book of Accounts, where I uſed punctually to ſet down where I ſpent my Money; and if it doth not appear by that Book that I was all thoſe Days and Times, and ſeveral other Days in *Auguſt*, to be out of Town, I deſire no favour. You cannot ſuppoſe my Lord, nor the World believe, that I prepared that Book for this purpoſe in this matter; and I can make it appear by others, if I had time; but I only offer this to your Lordſhip, that ſeeing Mr. *Oates* did name ſo many Particulars and Circumſtances, it's very ſtrange, that he ſhould fail in a particular of ſuch Importance as about killing the King; and no Man living of common ſenſe would think or believe that I ſhould ſpeak about ſuch a thing in Company that I did not well know, and this to be done frequently and oftentimes as he aſſerts it when *Oates* ſeem'd to the King and Council (and

I believe the King himſelf remembers it) when I was examined, that he did not know me, that he knew nothing of me, ſo that here is two things againſt this Witneſs that can hardly happen again.

My Circumſtances are extraordinary, and it is a great providence, and I think your Lordſhip and the whole World will look upon it as ſuch, if for any Crimes that are in my Papers, if there be any Mercy to be ſhowed me by the King's Gracious Act of Pardon, I humbly beg that I may have it.

L. C. J. None.

Col. If none I do humbly ſubmit; but I do humbly hope with ſubmiſſion, that thoſe Papers would not have been found Treaſonable Papers.

L. C. J. Thoſe Letters of yours, Mr. *Coleman*, were ſince the Act of Pardon, your Papers bear date 1674, 1675. and there hath been no Act ſince. But as for what you ſay concerning Mr. *Oates*, you ſay it in vain now, Mr. *Coleman*, for the Jury hath given in their Verdict, and it is not now to be ſaid, for after that Rate we ſhall have no End of any Man's Tryal; but for your ſatisfaction, Mr. *Coleman*, to the beſt of my remembrance, Mr. *Oates* was poſitive only as to the Month of *Auguſt*, he thought it might be about the 21ſt Day, or about *Bartholomew* Fair time; but he was abſolute in nothing but the Month.

Coleman. He was punctual in all his other Evidences, but in this he was not, and when I was examined at the Council Table, he ſaid he knew little of me.

L. C. J. He charged you poſitively for having held Conſpiracy to poyſon the King; and that there was Ten Thouſand Pounds to be paid for it, and afterwards there was Five Thouſand Pound more to be added; and he poſitively charges you to be the Perſon that amongſt all the Conſpirators was reputed to pay the Five Thouſand Pound.

Col. He ſaid it after ſuch a faſhion.

L. C. J. He ſaid it after ſuch a faſhion that Sir *Robert Southwell* and Sir *Thomas Doleman* ſatisfied us that he did the thing, and that plainly to his underſtanding; and what ſay you he ſaid?

Col. That he did not know me.

L. C. J. Neither of them ſay ſo, that he ſaid he did not know you, they deny it.

Col. He ſaid ſo upon my death.

L. C. J. 'Tis in vain to diſpute it further, their muſt be an End.

Cryer, make *O yes*, Our Sovereign Lord the King doth ſtraightly Charge and Command all Perſons to keep ſilence while Judgment is given upon the Priſoner Convict, upon pain of Impriſonment.

L. C. J. You are found guilty Mr. *Coleman* of High Treaſon, and the Crimes are ſeveral that you are found Guilty of. You are found Guilty of Conſpiring the Death of the King; you are likewiſe found Guilty of endeavouring to ſubvert the Proteſtant Religion as it is by Law Eſtabliſhed, and to bring in Popery, and this by the aid and aſſiſtance of Foreign Powers. And I would not have you, Mr. *Coleman*, in your laſt apprehenſion of things, to go out of the World with a miſtake if I could help it, That is, I would not have you think, that though you only ſeem to diſavow the matter of the Death of the King, that therefore you ſhould think your ſelf an Innocent Man. You are not Innocent I am ſure, for it is apparent by that which cannot deceive, that you are guilty of Contriving and Conſpiring the Deſtruction of the Proteſtant Religion, and to bring in Popery, and that by the aid and aſſiſtance of Foreign Powers, and this no Man can free you in the leaſt from. And know, that if it ſhould be true, that you would diſavow, that you had not an actual hand in the Contrivance of the King's Death (which two Witneſſes have ſworn poſitively againſt you): Yet he that will ſubvert the Proteſtant Religion here, and bring in conſequently a Foreign Authority, does an Act in derogation of the Crown, and in Diminution of the King's Title and Sovereign Power; and endeavours to bring a Foreign Dominion both over our Conſciences and Eſtates. And if any Man ſhall endeavour to ſubvert our Religion to bring in that, though he did not actually contrive to do it by the Death of the King, or it may be not by the Death of any one Man, yet whatſoever follows upon that contrivance, he is guilty of; Inſomuch, it is greatly to be fear'd, that though you meant only to bring it in by the way of Diſſolving of Parliaments, or by Liberty of Conſcience, and ſuch kind of innocent ways as you thought, yet if ſo be thoſe means ſhould not have proved Effectual, and worſe ſhould have been taken (though by others of your Confederates) for to go through with the work, as we have great reaſon to believe there would, you are guilty of all that Blood that would have followed. But ſtill you ſay you did not deſign that thing; but to tell you, he that doth a ſinful and unlawful Act, muſt anſwer, and is liable both to God and Man for all the Conſequences that attend it, therefore I ſay you ought not to think your ſelf innocent. 'Tis poſſible you may be penitent, and nothing remains but that. And as I think in your Church you allow of a thing called Attrition, if you cannot with our Church, have Contrition, which is a ſorrow proceeding from Love, Pray make uſe of Attrition, which is a ſorrow ariſing from Fear. For you may aſſure your ſelf, there are but a few Moments betwixt you and a vaſt Eternity, where will be no dallying, no arts to be uſed, therefore think on all the good you can do in this little ſpace of time that is left you, all is little enough to wipe off (beſides your private and ſecret offences) even your publick ones. I do know that Confeſſion is very much owned in your Church, and you do well in it; but as your offence is publick, ſo ſhould your Confeſſion be; and it will do you more ſervice then all your Auricular Confeſſions. Were I in your caſe, there ſhould be nothing at the bottom of my heart that I would not diſcloſe; Perchance you may be deluded with the fond hopes of having your Sentence reſpited. Truſt not to it, Mr. *Coleman*, you may be flatter'd to ſtop your Mouth, till they have ſtopt your Breath, and I doubt you will find that to be the event. I think it becomes you as a Man, and as a Chriſtian, to do all that is now in your power, ſince you cannot be white, to make your ſelf as clean as you can, and to fit your ſelf for another World, where you will ſee how vain all reſolutions of obſtinacy of concealment, and all that ſort of bravery which perhaps may be inſtill'd by ſome Men, will prove. They will not then ſerve to leſſen, but they will add to your fault. It concerns Us no

farther

farther than for your own good, and do as God ſhall direct you, for the truth is, there are perſwaſions and inducements in your Church to ſuch kind of Reſolutions and ſuch kind of Actions, which you are led into by falſe Principles and falſe Doctrines (and ſo you will find when you come once to experiment it, as ſhortly you will) that hardly the Religion of a Turk would own. But when Chriſtians by any violent bloody Act attempt to propagate Religion, they abuſe both their Diſciples and Religion too, and change that way that Chriſt Himſelf taught us to follow him by. 'Twas not by Blood or Violence; by no ſingle Man's undertaking to diſturb and to alter Governments; To make hurly burlies, and all the miſchiefs that attend ſuch things as theſe are.

For a Church to perſwade Men even to the Committing of the higheſt Violences, under a pretence of doing God good ſervice, looks not (in my Opinion) like Religion, but Deſign; like an Engine, not a Holy Inſtitution; Artificial as a Clock, which follows not the Sun but the Setter; goes not according to the Bible but the Prieſt, whoſe Interpretations ſerve their particular ends, and thoſe private advantages which True Religion would ſcorn, and Natural Religion it ſelf would not endure. I have, Mr. *Coleman*, ſaid thus much to you as you are a Chriſtian, and as I am one, and I do it out of great Charity and Compaſſion, and with great ſenſe and ſorrow that you ſhould be miſlead to theſe great offences under pretence of Religion. But ſeeing you have but a little time, I would have you make uſe of it to your beſt advantage; for I tell you, that though Death may be talkt of at a diſtance in a brave Heroick way, yet when a Man once comes to the Minute, Death is a very ſerious thing; then you will conſider how trifling all Plots and Contrivances are, and to how little purpoſe is all your Concealments. I only offer theſe things to your thoughts, and perhaps they may better go down at ſuch a time as this is than at another; and if they have no effect upon you, I hope they will have ſome as to my own particular, in that I have done my good will. I do remember you once more, that in this matter you be not deluded with any fantaſtick hopes and expectations of a Pardon, for the Truth is, Mr. *Coleman*, you will be deceived; therefore ſet your heart at Reſt, for we are at this time in ſuch diſorders, and the People ſo continually Alarm'd either with ſecret Murthers, or ſome Outrages and Violences that are this day on foot, that though the King, who is full of Mercy almoſt to a fault, yet if he ſhould be inclined that way, I verily believe both Houſes would interpoſe between that and you. I ſpeak this to ſhake off all vain hopes from you; for I tell you I verily believe they would not you ſhould have any Twigg to hold by to deceive you; ſo that now you may look upon it, there is nothing will ſave you, for you will aſſuredly dye as now you live, and that very ſuddenly. In which I having diſcharged my Conſcience to you as a Chriſtian, I will now proceed to pronounce Sentence againſt you, and do my duty as a Judge.

You ſhall return to Priſon, from thence to be drawn to the place of Execution, where you ſhall be hanged by the Neck, and be cut down alive, your Bowels burnt before your Face, and your Quarters ſever'd, and your Body diſpoſed of as the King thinks fit; and ſo the Lord have mercy upon your Soul.

Coleman. My Lord, I humbly thank your Lordſhip, and I do admire your Charity, that you would be pleaſed to give me this admirable Counſel, and I will follow it as well as I can, and I beg your Lordſhip to hear me what I am going to ſay, your Lordſhip moſt Chriſtian like, hath obſerved wiſely, that Confeſſion is extreamly neceſſary to a dying Man, and I do ſo too; but that Confeſſion your Lordſhip I ſuppoſe means, is of a guilty evil Conſcience in any of theſe points that I am condemn'd for, *Of maliciouſly contriving*, &c. if I thought I had any ſuch guilt, I ſhould aſſuredly think my ſelf damn'd now I am going out of the World by concealing them, in ſpite of all Pardons or Indulgencies, or any act that the Pope or the Church of *Rome* could do for me, as I believe any one Article of Faith. Therefore pray hear the words of a dying Man, I have made a Reſolution, I thank God, not to tell a lie, no not a ſingle lie, not to ſave my Life. I hope God will not ſo far leave me as to let me do it; and I do renounce all manner of mercy that God can ſhew me, if I have not told the Houſe of Commons, or offer'd it to the Houſe of Commons, all that I know in my whole Heart toward this buſineſs; and I never in all my Life either made any propoſition, or received any Propoſition, or knew or heard directly or indirectly of any propoſition towards the ſupplanting or invading the King's Life, Crown or Dignity, or to make any Invaſion or Diſturbance to introduce any New Government, or to bring in Popery by any Violence or Force in the World; if I have, my Lord, been miſtaken in my method, as I will not ſay but I might have been; for if two Men differ, one muſt be miſtaken; therefore poſſibly I might be of an Opinion, that Popery might come in if Liberty of Conſcience had been granted, and perhaps all Chriſtians are bound to wiſh all People of that Religion that they profeſs themſelves; if they are in earneſt: I will not diſpute thoſe ills that your Lordſhip may imagine to be in the Church of *Rome*; if I thought there was any in them I would be ſure to be none of it. I have no deſign, my Lord, at all in Religion but to be Saved; and I had no manner of invitation to invite me to the Church of *Rome*, no not one, but to be Saved; if I am out of the way, I am out of the way, as to the next World as well as this; I have nothing but a ſincere Conſcience, and I deſire to follow it as I ought. I do confeſs I am guilty of many Crimes, and I am afraid all of us are guilty in ſome meaſure, of ſome failings and infirmities; but in matters of this Nature that I now ſtand condemn'd for, though I do not at all complain of the Court; for I do confeſs I have had all the fair play imaginable; and I have nothing at all to ſay againſt it; but I ſay as to any one act of mine, ſo far as acts require Intention to make them acts, as all humane Acts do, I am as Innocent of any Crime that I now ſtand charg'd as guilty of, as when I was firſt born.

L. C. J. That is not poſſible.

Coleman. With ſubmiſſion, I do not ſay Innocent as to any Crime in going againſt any Act of Parliament, then it is a Crime to hear Maſs, or to do any Act that they prohibit; but for Intending and Endeavouring to bring in that Religion

ligion by the Aid and Assistance of the King of *France*, I never intended nor meant by that Aid and Assistance, any Force in the World, but such Aids and Assistances as might procure us Liberty of Conscience. My Lord, if in what I have said no body believes me, I must be content; if any do believe me, then I have wip'd off those scandalous Thoughts and abominable Crimes, that, *&c.* and then I have paid a little Debt to Truth.

L. C. J. *One word more and I have done, I am sorry Mr.* Coleman, *that I have not Charity enough to belive the words of a dying Man; for I will tell you what sticks with me very much, I cannot be perswaded, and no body can, but that your Correspondence and Negotiations did continue longer than the Letters that we have found, that is after* 1678. *Now if you had come and shown us your Books and Letters, which would have spoke for themselves, I should have thought then that you had dealt plainly and sincerely, and it would have been a mighty Motive to have believed the rest; for certainly your Correspondence held even to the time of your apprehension, and you have not discovered so much as one Paper, but what was found unknown to you, and against your will.*

Coleman. Upon the words of a dying Man, and upon the expectation I have of Salvation, I tell your Lordship, that there is not a Book nor Paper in the World, that I have laid aside voluntarily.

L. C. J. *No, perhaps you have burnt them.*

Coleman. Not, by the Living God.

L. C. J. *I hope Mr.* Coleman *you will not say no manner of way.*

Coleman. For my Correspondence these two last years past, I have given an account of every Letter; but those that were common Letters, and those Books that were in my House, what became of them I know not; they were common Letters that I use to write every Day, a Common Journal what past at Home and Abroad, my Men they writ on out of that Book.

L. C. J. *What became of those Letters?*

Coleman. I had no Letters about this business, but what I have declared to the House of Commons, That is, Letters from St. *Germans*, which I owned to the House of Commons; and I had no methodical Correspondence, and I never valued them nor regarded them, but as they came, I destroyed them.

L. C. J. *I remember the last Letter that is given in Evidence against you, discovers what mighty hopes there was, that the time was now come wherein that pestilent Heresie, that hath domineer'd in this Northern part of the World, should be Extirpated; and that there never was greater hopes of it since* OUR *Queen* Maries *Reign. Pray Mr.* Coleman, *was that the concluding Letter in this affair?*

Coleman. Give me leave to say it upon my dying, I have not one Letter, *&c.*

L. C. J. *What though you burnt your Letters, you may recollect the Contents.*

Coleman. I had none since.

L. C. J. *Between God and your Conscience be it, I have other apprehensions; and you deserve your Sentence upon you for your offences, that visibly appear out of your own Papers, that you have not, and cannot deny.*

Coleman. I am satisfied. But seeing my time is but short, may I not be permitted to have some immediate Friends, and my poor Wife to have her freedom to speak with me, and stay with me that little time that I have, that I might speak something to her in order to her living and my dying.

L. C. J. *You say well, and it is a hard Case to deny it; but I tell you what hardens my Heart, the Insolencies of your Party, (the Roman Catholicks I mean) that they every Day offer, which is indeed a proof of their Plot, that they are so bold and Impudent, and such secret Murders Committed by them, as would harden any Mans heart to do the common favours of Justice and Charity, that to Mankind is usually done: They are so bold and insolent, that I think it is not to be endured in a Protestant Kingdom; but for my own particular, I think it is a very hard thing for to deny a Man the company of his Wife, and his Friends, so it be done with Caution and Prudence; Remember that the Plot is on foot, and I do not know what Arts the Priests have, and what Tricks they use; and therefore have a care that no Papers nor any such thing, be sent from him.*

Coleman. I do not design it I am sure.

L. C. J. *But for the Company of his Wife and his near Friends, or any thing in that kind, that may be for his Eternal good, and as much for his present satisfaction that he can receive now in the condition that he is in, let him have it, but do it with Care and Caution.*

Capt. *Richardson.* What, for them to be private alone?

L. C. J. *His Wife, only she, God forbid else. Nor shall you not be deny'd any Protestant Minister.*

Coleman. But shall not my Cousin *Coleman* have Liberty to come to me.

L. C. J. *Yes, with Mr.* Richardson.

Coleman. Or his Servant; Because it is a great Trouble for him to attend always.

L. C. J. *If it be his Servant, or any he shall appoint, 'tis all one, Mr.* Richardson, *use him as Reasonably as may be, considering the Condition he is in.*

Court. Have a care of your Prisoner.

The TRIAL *of* WILLIAM STAYLEY, *Goldſmith*; *For Treaſonable Words*, November 21. 1678.

MR. STAYLEY being accuſed of High Treaſon, was on the 20*th* Day of *November* 1678. brought from *Newgate*, and arraigned at the King's-Bench Barr, and the next Day was brought to the ſame Place to receive his Trial; where being come, and the Jury Impanelled, the Court told the Priſoner, that if he would Challenge any of the Jury, he muſt ſpeak unto them as they came to the Book to be ſworn, and before they were ſworn; the Priſoner Challenging none, the Jury were ſworn, *viz.*

JURY.

Sir *Philip Matthews*.
Sir *Reginald Foſter*.
Sir *John Kirke*.
Sir *John Cutler*.
Sir *Richard Blake*.
John Biſield, Eſq;
Simon Middleton, Eſq;
Thomas Croſs, Eſq;
Henry Johnſon, Eſq;
Charles Umfrevil, Eſq;
Thomas Egglesfield, Eſq;
William Bohee, Eſq;

The Indictment Read.

You ſtand Indicted by the Name of William Stayley, *&c.*

Cryer. If any can give Evidence on the behalf of our Sovereign Lord the King, againſt *William Stayley*, let him come forth and he ſhall be heard.

Sir *Creſſwell Levings.* The Priſoner ſtands Indicted as not having the fear of God before his Eyes, being led by the Inſtigation of the Devil, not minding his Allegiance, but Traiterouſly endeavouring the Death and Deſtruction of our Sovereign Lord the King, he did on *November* the 14th, in the Thirtieth Year of the King, falſly, wickedly, and Traiterouſly Compaſs, Imagine, Deviſe and Invent the Killing the King; that he did Maliciouſly contrive (I ſay) the Death of our Lord, the King of *England*.

To this he hath pleaded *Not Guilty*. You are to Try whether he be guilty or not.

King's Serjeant, Maynard. The Offence is as great as can be, and will be proved as clear as can be. Call the Witneſſes to prove the Offence.

Sir *William Jones Att. Gen.* It would be fitting before we enter upon the Evidence, to give ſome account, why (among ſo many Offenders, ſome of them of greater quality than *William Stayley*) we choſe firſt to bring this Man to Tryal. It is not unknown to any Man that lives in *England*, what Diſcoveries there have been of horrid and damnable Deſigns againſt the King's Perſon, and the Proteſtant Religion. There are a ſort of Men in the World, that endeavour what they can to cry down this Diſcovery, as that it was altogether Suppoſititious, and a Fable. It is true, ſome are ſo charitable as to think the *Roman Catholicks* in *England* do promote the *Roman Catholick* Religion, but the Deſign againſt the King's Perſon is a Fiction. But they ſhall do well to take warning by the Trial of this Man, and Impriſonment of ſo many Offenders, as that even ſince this Diſcovery made, ſome have had this Treaſonable mind, and Trayterous attempt againſt the King, and ſaid thoſe words for which in the Indictment he is charged with. This Priſoner by Religion is a *Roman Catholick*, he calls himſelf ſo; in plain *Engliſh* he is a *Papiſt*; and finding that ſince this Plot was diſcovered, his Trading decay'd (being one that dealt in Monies) he was one of their Party, he grew inraged their Money was called ſo faſt for, being in the company of one *Fromante*, a Foreigner, at a *Cook*'s Shop, and were conſidering of matters of Trade, this Man was complaining his Money was ſo faſt called in for. Taking notice of the diſcovery of the Plot, (being a very great well-wiſher to it) entred into a great Paſſion, and ſpake theſe words of the King: *That he was the greateſt Heretick in the World, that he was a great Rogue*; for his part, holding up his Hand, clapt it then upon his Heart, and ſaid *I will with this Hand kill him.* Theſe words were heard by the Gentlemen that were preſent, ſpoken in *French*.

William Caſters, a Witneſs.

Att. Gen. Acquaint the Court and Jury what you know of any words ſpoken by the Priſoner about killing the King.

Witneſs. So far as I know or can give an account, it was about Eleven of the Clock in the Day, on the Fourteenth Day of this Month; he call'd for a Pot of Ale and a ſlice of Roſt Beef, which when it was called for, his Landlord ſaid it ſhould be brought him; there was another *Frenchman* with *Stayley*, a Stranger to me: they diſcourſed together in *French*, and *Stayley* then ſaid 'twice over, *The King was a grand Heretick*, making this Demonſtration, with his Hand upon his Breaſt, and ſtampt five or ſix times with his Foot in great Fury. The old Man *Fromante*, his Friend, ſaid, *That the King of* England *was a Tormenter of the People of God*, and he anſwered again in a great Fury, *He is a great Heretick, and the greateſt Rogue in the World; there's the Heart, and here's the Hand that would kill him, and the King and Parliament think all is over, but the Rogues are miſtaken.*

Sir. *William Scroggs, L. C. J.* Did you know *Stayley*?

Witneſs. No my Lord, I had never ſeen him before.

L. C. J. What did you do upon this?

Witneſs. I did not know what to do, being ignorant of the Laws of the Country, I thought it was a great matter, and being ſenſible that *Stayley* was gone out, I cauſed one to attend him, and came to his Father's Shop, and look-

ed

ed up and down, and the next Day I apprehended him.

L. C. J. Are you ſure (looking upon the Priſoner) that was the Man?

Witneſs. Yes.

L. C. J. Did you ſee him when he ſpake the words?

Witneſs. Yes, I ſaw him; there was no more diſtance betwixt the two Doors, but juſt as far as that Gentleman and me; his Face was ſtrait towards us.

L. C. J. Were you in the ſame Room?

Witneſs. No, but juſt over againſt it; the Doors were open.

L. C. J. How near were you to him?

Witneſs. Seven or Eight Foot from the Place where I was and where he was. He was ſtanding at one Door, and I at the other. In *French* the words were ſpoken, he making a demonſtration, ſtamping with his Foot, *I would kill him my ſelf*, (which the Priſoner would have evaded by ſaying, the words ſignifie *I would kill my ſelf.*) The Priſoner farther ſaid, that the King and Parliament thought all was over, but the Rogues were beguiled and deceived.

Alexander Southerland, Witneſs.

Mr. *Southerland*, Tell what you heard the Priſoner at the Bar ſay, were you there?

Witneſs. Yes.

L. C. J. Which was neareſt to him, he or you?

Witneſs. He was neareſt to him, and I juſt by the Gentleman. He ſaid afterwards when a word or two paſt betwixt them, *the Rogues are deceived, they think the Buſineſs is done, but they are deceived.* The old Man ſaid, *that the King of* England *was a Tormenter of the People of God*; the Priſoner anſwered, *the King of* England *is the greateſt Heretick, and the greateſt Rogue in the World, and the King and Parliament thinks their buſineſs is done, but the Rogues are miſtaken.*

Priſoner. I ſaid (replyed the Priſoner) I would kill my ſelf.

L. C. J. Would you kill your ſelf becauſe you ſaid the King was a Heretick? You acknowledge your ſelf to be a *Roman Catholick.*

Priſ. And in that Faith I intend to dye.

Att. Gen. Here the Priſoner doth not deny but he ſaid, *the King of* England *was a great Heretick*; and can we imagine him to be in ſuch a Paſſion that he would *kill himſelf*? Whether that be a natural Concluſion from the Premiſes, I muſt ſubmit to---

L. C. J. Did you ſee Mr. *Stayley* perfectly, was the Door open?

Witneſs. I ſaw him perfectly.

L. C. J. Did you know him before.

Wit. I never ſaw his Face before.

L. C. J. Did you write the words preſently?

Wit. I writ them down preſently, as God ſhall be my witneſs.

L. C. J. Look upon the writing, is it your Hand?

Wit. It is; and it was written the 14th of *November*, 1678. About Eleven a Clock they came to the *Black Lyon* in *King-ſtreet*, and call'd for a Quart of Ale and a ſlice of Roſt Beef, and it was anſwered, it ſhould preſently be had. *William Stayley* ſaid, having ſtruck on his Breaſt, and ſtamping with his Foot five or ſix times, *I my ſelf would do it.*

L. C. J. Did you write all that is in the Paper at that time?

Wit. I writ the words in *French* as I heard them from him, then formed it as to the Perſon and time afterwards when I was gone.

L. C. J. Who told you it was *Stayley* the Goldſmith?

Wit. We asked the Man of the Houſe; and we found he went to his Father's Houſe in *Covent Garden*; we asked his Father's Name, and his Name; and that's the very Man.

L. C. J. He confeſſeth he was in this place at that time with the old Man. He acknowledged that he ſpoke ſome words, but denied he ſpake thoſe: That he was the Man, he doth not deny.

Att. Gen. The third Man is a Gentleman that doth not underſtand the *French* Tongue, he was in the Company of theſe two Men at that time; we do not call him to prove the words, becauſe he doth not underſtand the Language.

L. C. J. There is no miſtake of the Perſon, the Priſoner doth not deny he was there. Call the third Perſon to know what he hath to ſay.

Philip Garret, third Witneſs

Wit. All that I can ſay is this; My Captain *William Caſtars* came to me in a great Paſſion, and ſaid, I cannot ſuffer this, I will run upon him, I cannot be quiet.

L. C. J. What are thoſe words he charged upon him?

Wit. That he would kill the King himſelf: It is impoſſible to ſuffer it, I will run out for a Conſtable preſently, this cannot be ſuffered. I went to enquire for his Name; the anſwer was he was a Goldſmith, and that his Name was *Stayley.* That's the very Man (looking upon him) I ſaw there, and heard him ſpeak.

L. C. J. What were the firſt words?

Wit. [The *French* words were ſpoken twice, in *Engliſh* thus] *The King is a grand Heretick* [French again] *Here's the Hand, here's the Heart, I would kill him my ſelf.*

L. C. J. What can you ſay to this?

Priſoner. My Lord, the matter of Fact happened thus: This Gentleman, Mr. *Southerland*, comes over to me in the Morning when I was in the Shop, and ſaid, Sir, I would have a red Button like this, I ſaid I had none of that nature, you had better go to the Exchange. I would have one of a true Stone; You muſt (I reply'd) go to the Jewellers, I have none of theſe. Upon that I diſmiſs'd him; he went over, and preſently comes, in a quarter of an Hour after, and tells me, that an Honourable Perſon would ſpeak with me: I went over; this Gentleman makes a great many Ceremonies to me, and reads me this Paper; he tells me, you ſee what the Gentleman reads, I would adviſe you to look to it, then taking me aſide by the Window. I ſaid, I do not underſtand you, I am innocent, you muſt not put any bubble upon me; with that the Captain runs out in a fury, and fetcheth a Conſtable, and carrieth me to the *Gate-houſe.* I was in my Shop the Day before, which very Day I did intend to go out with a Friend into the Country, and prepared my ſelf accordingly; and Mr. *Fromante*, the old Man that was the Friend of mine, comes, ſaying to me, the Conſtable would have ſomething, I know not what it is, come and aſſiſt me;

me; I went to the place, the Conſtable told me, that I was to appear by Ten of the Clock; with that comes the old Man out. I owed him a little Money, I went and paid him the Money which I owed him. I came back, and ſate down by the Window out of ſight, the old Man ſat at the right Hand, ſo we ſat and diſcourſed as innocently, as I thought, and (before God) as ever I ſpake in my Life.

L. C. J. What diſcourſe had you?

Priſ. Our chief diſcourſe was about the Materials of our buſineſs, and it was about the King of *France* his Uſurpation over his Subjects, and the happineſs of our little People, the Commonalty of *England*, that was indeed uſually our our diſcourſe when we met together.

L. C. J. Did you ſay you would kill the King of *France*? and that he was a great Heretick? Do you believe the King of *France* is an Heretick?

Priſoner. I know not what his Opinion is, that's to his own Conſcience.

L. C. J. Did you name the word *Heretick*?

Priſoner. Not to my knowledge, upon my Soul, not of the King of *England*; we might have diſcourſed of the happineſs and of the difference of their Governments. I have been thought a Perſon of ſome Intelligence, and of ſome Underſtanding in the World, and not to expoſe my ſelf to ſpeak in a publick large Room, the Door being open, with ſo high a Voice that theſe Gentlemen being in the next Room ſhould hear me in *French*, and in a Street where almoſt all are *French-men*, to ſpeak theſe blaſphemous Words, Words that I abhor. I have been a great admirer of my Prince.

Court. Read the Statute of *Decimo tertio*, &c.

L. C. J. Speak the words in *Engliſh* about killing the King, ſpeak them all.

Witneſs. That the Priſoner's Companion did ſay, *The King was a Tormentor and Perſecutor of the People of God.* The Priſoners words were again, *The King of* England *is the greateſt Heretick, and the greateſt Rogue in the world; here's the Heart, and there's the Hand that would kill him; I my ſelf.*

Priſ. Here's the Hand, and here's the Heart which would kill my ſelf: Not would kill Him my ſelf.

L. C. J. What Jeſuit taught you this Trick? It is like one of them, it is the Art and Intereſt of a Jeſuit ſo to do.

The Statute read.

L. C. J. Have you any thing more to ſay for your ſelf than what you have already ſaid?

Court. Sir *John Kirk*, do you underſtand *French*?

One of the Jury. I do, my Lord; the words have been interpreted all right.

L. C. J. Let me ask you one Queſtion; When you ſaid the King was a *great Heretick and a Rogue, and here's the Heart, and here's the Arm that would kill him my ſelf*; was it not the King you would kill?

Priſoner. I have this to ſay in Juſtification of my ſelf, and Allegiance to my Prince and King, that I never thought, nor imagined or contrived any way, but have been a true Subject to the King upon all occaſions; I am ſorry it proves ſo, God's will be done, my Soul depends upon it; I am a dying Man by the Statute, never with Intention, or any thought or ill will, ſpake any word about this matter.

L. C. J. Out of the abundance of the Heart the Mouth ſpeaks, the Statute hath been read, which hath made it criminal.

Call a Witneſs for the Priſoner.

Witneſs for the Priſoner. One *Anſelm* Spake.

They came to my Houſe, where I live at the *Croſs-keys* in *Covent Garden*, about Eight a Clock in the Morning, theſe two Gentlemen, the Day they took him away, was the Day after theſe words were ſpoke, and he was kept Priſoner from Eight till Eleven of the Clock without any Conſtable, they had five Bottles of Wine, and beſpake Meat, but they did not ſtay to eat the Meat.

L. C. J. How came you to ſtay ſo long?

Wit. I was two Hours in looking for a Conſtable, they would not come with me, without a Warrant from a Juſtice of Peace

L. C. J. Who told you you had beſt take it up?

Priſ. The middlemoſt Man, the firſt Witneſs.

Wit. We were about three long Hours, I ſent out this Gentleman for a Conſtable, in the mean time the Priſoner's Father ſent his Maid for him to come Home, I told him he ſhould not go, if he deſired to eat we would eat there. I ſent to *White-Hall* and deſired a Guard, the Officer of the Guard told the Meſſenger it was a Conſtables part.

Court. Call another Witneſs for the Priſoner.

Witneſs for the Priſoner.

I have heard him often declare as much Loyalty to his Prince as any Perſon. One Day we fell into a diſcourſe of theſe affairs the buſineſs of the Jeſuits, which are a People he did as much condemn as any; for in *Padua* he ſaw ſo many cheats, that he forſook the Jeſuitical Religion, and if he knew any of the Perſons concerned in this Plot, he would be the Executioner himſelf, and whoever comes to Reign afterwards, they ſhall never enjoy ſo much Peace as now; and I heard him often ſay he would loſe his Blood for the King, and heard him ſpeak as Loyally as I ever heard any Man ſpeak in my Life.

L. C. J. That is when he ſpoke to a Proteſtant.

Court. Have you any thing elſe to ſay for your ſelf, or have you any more Witneſſes, that you would have examined on your behalf?

Priſoner. No.

Lord Chief Juſtice's Speech.

'THE Statute hath been read, which was made ſince the King came in, for the preſervation of his Perſon, and during his Life: The Parliament thought it reaſonable, even to make deſperate words to be Treaſon, although there was no other thing but words, that is, ſuch words, as if the thing had been done would be Treaſon, the ſpeaking it is Treaſon. When we come to obſerve the manner of this ſpeaking, methinks there is no great difficulty to ſatisfie the Jury that they were ſpoke adviſedly and maliciouſly. They were in a Publick Houſe, and by accident heard: They concealed them not a Moment, and not from the Man that did not underſtand *French*. To hear a Man ſay in a great Paſſion, that his

'King

'King was a Heretick, and the greateſt Rogue 'in the World, and that he would kill him, to 'write down the words preſently, they ſlept 'not upon it, they found out who he was, the 'next Day they came to attach him; they kept 'him, for what? till they could get a Conſta-'ble. So that here is nothing doubtful either 'in the Circumſtance or Subſtance of his Caſe: 'So that you cannot have a plainer proof in the 'World than there is in this. For my own part, 'when it is in the Caſe of a Man's Life, I 'would not have any Compliance with the ru-'mors or diſorder of times that ſhould be an E-'vidence againſt him, but would have a Ver-'dict depend upon the Witneſſes that ſwear the 'Fact down right upon him. You and we all 'are ſenſible of the great difficulties and hazards 'that is now both againſt the King's Perſon, 'and againſt all Proteſtants, and our Religion 'too, which will hardly maintain it ſelf, when 'they have deſtroyed the Men; but let 'em 'know, that many Thouſands will loſe their 'Religion with their Lives, for we will not be 'Papiſt's, let the Jeſuits preſs what they will '(who are the foundations of all this Miſchief) 'in making Proſelites, by telling them, do what 'wickedneſs you will it's no ſin, but we can 'ſave you, and if you omit what we Command, 'we can damn you. This they will not own 'when it comes to be an objection and penal 'upon them, but they will never get the Pope 'of *Rome* to declare he hath not a power to Ex-'communicate what he calls a heretick King, 'and if he does, that the Subject is not diſcharg-'ed from his Obedience, they would do great 'ſervice to their Papiſt Friends, if they could 'obtain ſuch an Edict. They Print, Preach, 'Diſpute, and Maintain otherwiſe, and there-'by lead People to their own deſtruction and 'the deſtructions of others. Excuſe me if I am 'a little warm, when perils are ſo many, their 'Murthers ſo ſecret, that we cannot diſcover 'the Murther of that Gentleman, whom we all 'knew ſo well, when things are tranſacted ſo 'cloſely, and our King in ſo great danger, and 'Religion at ſtake. Tis better to be warm here 'than in *Smithfield*. But that the Man might 'have juſtice done him, he hath had his Wit-'neſſes, and might have had this old Man, if 'he had named him to Mr. *Richardſon*: and to 'ſhew what fair play he has had, Mr. Attorny 'tells you the old Man hath been examined up-'on Oath, and offers him the Copy of his Exa-'mination to uſe, but he thinks not fit to uſe it 'for his defence, therefore nothing is ſmother-'ed. The Offence you have heard in words 'plain enough, unleſs the ſenſe is perverted by 'Jeſuitical cunning and equivocation, the beſt 'part of their learning and honeſty. They 'ſwear it expreſly, *That the King was a Heretick, 'and the greateſt Rogue in the World, and here's the 'Heart and Hand, that he would kill him himſelf*; 'and hath and can have no other ſignification. 'The Statute ſaith *Adviſedly* and *Malicioufly*. The 'manner of ſpeaking, and the words ſpoke, 'prove both. When a Papiſt once hath made a 'Man a Heretick, there is no ſcruple to mur-'ther him. Whoever is not of their Perſuaſion 'are Hereticks, and whoever are Hereticks 'may be murthered, if the Pope commands it, 'for which they may become Saints in Heaven; 'this is that they have practiſed. If there had 'been nothing of this in this Kingdom, or other 'parts of the World, it would be a hard thing 'to impoſe it upon them, but they ought not 'to complain, when ſo many inſtances are a-'gainſt them. Therefore diſcharge your Con-'ſciences as you ought to do; if guilty let him 'take the reward of his Crime, and you ſhall 'do well to begin with this Man, for perchance 'it may be a terrour to the reſt. Unleſs they 'think they can be ſaved by dying in the Ro-'man Faith, tho' with ſuch pernicious and trai-'terous words and deſigns as theſe are; let ſuch 'go to Heaven by themſelves, I hope, I ſhall 'never go to that Heaven, where Men are made 'Saints for killing Kings.

William Stayley, hold up your hand.

Court. Is *William Stayley* guilty of the High Treaſon whereof he hath been Indicted?

Jury. Guilty.

Court. What Goods, Chattels, Lands or Te-nements?

Priſ. None.

L. C. J. Now you may die a Roman Catho-lick, and when you come to die, I doubt you will be found a Prieſt too.

K. Coun. I pray Judgment according to the Verdict.

Court. You have been indicted of High Trea-ſon, you have put your ſelf upon your Country, which Country have found you guilty, what have you to ſay for your ſelf, wherefore the Court ſhould not proceed to Judgment againſt you?

Priſ. I have nothing to ſay.

L. C. J. I pronounce Judgment upon you. You are here found guilty by the Jury of High Treaſon, for ſaying you would kill the King, with other irreverent words; but the matter which makes you a Traitor is proved upon you by moſt apparent Evidence. The matter, man-ner, and all the circumſtances of it make it plain, you may harden your Heart as much as you will, and lift up your eyes, but you ſeem inſtead of being ſorrowful, to be obſtinate, between God and your Conſcience be it, I have nothing to do with it, my duty is to pronounce Judgment upon you according to Law, which is this,

The SENTENCE.

You ſhall return to the Priſon, from thence ſhall be drawn to the place of Execution, where you ſhall be hang-ed by the Neck, cut down alive, your Quarters ſhall be ſevered and be diſpoſed of as the King ſhall think fit, and your Bowels burnt, and ſo the Lord have mercy upon your Soul.

The TRIALS *of* William Ireland, Thomas Pickering, *and* John Grove; December *the* 17*th* 1678.

ON *Tueſday* the Seventeenth day of *December*, One Thouſand Six Hundred Seventy and Eight, *Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove* were brought from his Majeſty's Gaol of *Newgate*, to the Seſſions-houſe at Juſtice-Hall in the *Old-Baily*, being there Indicted for High Treaſon, for contriving and conſpiring to *Murder the King*, to receive their Trial; and the Court proceeded thereupon as followeth.

The Court being Set, Proclamation was made for Attendance, Thus,

Clerk of Crown, *Cryer* make Proclamation.

Cryer, O yes, O yes, O yes, All manner of Perſons that have any thing to do at this General Seſſions of the Peace, Seſſions of Oyer and Terminer holden for the City of *London*, and Gaol Delivery of *Newgate*, holden for the City of *London* and County of *Middleſex*, draw near and give your Attendance, for now the Court will proceed to the Pleas of the Crown for the ſame City and County. God Save the King.

Clerk of Crown, *Cryer* make Proclamation.

Cryer, O yes, All manner of Perſons are commanded to keep Silence upon pain of Impriſonment. Peace about the Court.

Clerk of Crown, *Cryer* make Proclamation.

Cryer, O yes, You Good Men of the County of *Middleſex* that are Summoned to appear here this Day, to Enquire between our Sovereign Lord the King, and the Priſoners that are and ſhall be at the Bar. Anſwer to your Names as you ſhall be called every one at the firſt Call and ſave your Iſſues.

The Jurors being called and the Defaulters recorded, the Clerk of the Crown called for the Priſoners to the Bar, *viz. Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, and Arraigned them thus,

Clerk of Crown, *Thomas White* alias *Whitebread*, hold up thy hand. Which he did.

William Ireland, hold up thy hand. Which he did.

John Fenwick, hold up thy hand. Which he did.

Thomas Pickering, hold up thy hand. Which he did.

John Grove, hold up thy hand. Which he did.

You ſtand Indicted by the Names of *Thomas White* alias *Whitebread*, late of the Pariſh of St. *Giles* in the Fields in the County of *Middleſex*, Clerk: *William Ireland*, late of the ſame Pariſh and County, Clerk: *John Fenwick*, late of the ſame Pariſh and County, Clerk: *Thomas Pickering*, late of the ſame Pariſh and County, Clerk: and *John Grove*, late of the ſame Pariſh and County, Gent. For that you Five as falſe Traitors, *&c.* againſt the Peace of our Sovereign Lord the King, his Crown and Dignity, and againſt the Form of the Statute in that Caſe made and provided. How ſaiſt thou *Thomas White* alias *Whitebread*, art thou Guilty of this High Treaſon whereof thou ſtandeſt Indicted or not Guilty?

Whitebread, Not Guilty.

Clerk of Crown, *Culprit* how wilt thou be Tryed?

Whitebread, By God and my Country.

Clerk of Crown, God ſend thee a good deliverance. How ſayſt thou *William Ireland*, art thou Guilty of the ſame High Treaſon or not Guilty?

Ireland, Not Guilty.

Clerk of Crown, *Culprit* how wilt thou be Tryed?

Ireland, By God and my Country.

Clerkof Crown, God ſend thee a good Deliverance. How ſaiſt thou *John Fenwick*, art thou Guilty of the ſame High Treaſon or not Guilty?

Fenwick, Not Guilty.

Cl. of Cr. Culp. how wilt thou be Tryed?

Fenwick, By God and my Country.

Cl. of Cr. God ſend thee a good Deliverance. How ſaiſt thou *Thomas Pickering* art thou Guilty of the ſame High Treaſon or not Guilty.

Pickering, Not Guilty.

Cl. of Cr. Culp. how wilt thou be Tryed?

Pickering, By God and my Country.

Cl. of Cr. God ſend thee a good Deliverance. How ſaiſt thou *John Grove*, art thou Guilty of the ſame High Treaſon or not Guilty?

Grove, Not Guilty.

Cl. of Cr. Culp. how wilt thou be Tryed?

Grove, By God and my Country.

Cl. of Cr. God ſend thee a good Deliverance. You the Priſoners at the Bar, thoſe Men that you ſhall hear called and do Perſonally appear, are to paſs between our Sovereign Lord the King and you, upon Trial of your ſeveral Lives and Deaths; if therefore you or any of you will Challenge them or any of them, your time is to ſpeak unto them as they come to the Book to be Sworn, before they be Sworn. Sir *Philip Matthews* to the Book.

Sir *Philip Matthews*, I deſire Sir *William Roberts* may be called firſt. Which was granted.

Cl. of Cr. Sir *William Roberts* to the Book. Look upon the Priſoners, You ſhall well and truly Try and true Deliverance make between our Sovereign Lord the King, and the Priſoners at the Bar, whom you ſhall have in your charge according to your Evidence. So help you God.

The ſame Oath was adminiſtred to the reſt, the Priſoners challenging none, and their Names in order were thus,

JURY.

Sir *William Roberts*, Bart.	*John Byfield*, Eſquire.
Sir *Philip Matthews*, Bart.	*Thomas Egglesfield*, Eſq;
Sir *Charles Lee*, Knight.	*Thomas Johnſon*, Eſq;
Edward Wilford, Eſq;	*John Pulford*, Eſq;
John Foſter, Eſq;	*Thomas Earnesby*, Eſq;
Joſhua Galliard, Eſq;	*Richard Wheler*, Gent.

Cl. of Cr. Cryer count theſe. Sir *William Roberts*.

Cryer, One, *&c.*

Cl. of Cr. Richard Wheeler.

Cryer, Twelve, Good Men and True, ſtand together and hear your Evidence.

Cl. of Cr. Cryer make Proclamation.

Cryer, O yes, If any one can inform my Lords the King's Juſtices, the King's Serjeant, the King's Attorney, or this Inqueſt now to be taken, between our Sovereign Lord the King and the Priſoners at the Bar, let them come forth and they ſhall be heard, for now the Priſoners ſtand at the Bar upon their Deliverance: and all others that are Bound by Recognizance to give Evidence againſt any of the Priſoners at the Bar, let them come forth and give their Evidence, or elſe they forfeit their Recognizance. And all Jury-men of *Middleſex* that have been Summoned and have appeared and are not Sworn, may depart the Court and take their eaſe.

Cl. of Cr. Make Proclamation of ſilence.

Cryer, O yes, All manner of Perſons are commanded to keep ſilence upon pain of Impriſonment.

Cl. of Cr. Thomas White alias *Whitebread*, hold up thy hand: Which he did, and ſo of the reſt. You that are Sworn look upon the Priſoners and hearken to their Cauſe:

You ſhall underſtand, that they ſtand Indicted by the Names of *Thomas White*, otherwiſe *Whitebread*, late of the Pariſh of St. *Giles in the Fields*, in the County of *Middleſex*, Clerk; *William Ireland*, late of the ſame Pariſh in the County aforeſaid, Clerk; *John Fenwick*, late of the ſame Pariſh in the County aforeſaid, Clerk; *Thomas Pickering*, late of the ſame Pariſh in the County aforeſaid, Clerk; and *John Grove*, late of the ſame Pariſh in the County aforeſaid, Gentleman: For that they as falſe Traitors of the moſt Illuſtrious, Serene, and moſt Excellent Prince, our Sovereign Lord *Charles* the II. by the Grace of God of *England*, *Scotland*, *France*, and *Ireland* King Defender of the Faith, *&c.* their ſupreme and natural Lord, not having the Fear of God in their hearts, nor the duty of their Allegeance any ways weighing, but being moved and ſeduced by the inſtigation of the Devil, the cordial Love, and true, due, and natural Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King, towards our ſaid Sovereign Lord the King, ſhould and of right ought to bear, altogether withdrawing, and endeavouring, and with their whole ſtrength intending, the peace and common tranquillity of this Kingdom of *England* to diſturb, and the true Worſhip of God within this Kingdom of *England* uſed, and by Law eſtabliſhed to overthrow, and to move, ſtir up, and procure Rebellion within this Kingdom of *England*, and the cordial Love, and true and due Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King, toward our ſaid Sovereign Lord the King ſhould and of right ought to bear, wholly to withdraw, vanquiſh, and extinguiſh, and our ſaid Sovereign Lord the King to Death and final Deſtruction to bring and put the four and twentieth Day of *April*, in the Year of the Reign of our ſaid Sovereign L. *Charles* the II. by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King Defender of the Faith, *&c.* the thirtieth, at the Pariſh of St. *Giles in the Fields* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, maliciouſly, deceitfully, adviſedly, and traitorouſly, they did propoſe, compaſs, imagine, and intend, to ſtir up, move, and procure Sedition and Rebellion within this Kingdom of *England*, and to procure and cauſe a miſerable ſlaughter among the Subjects of our ſaid Sovereign Lord the King, and wholly to deprive, depoſe, throw down, and diſinherit our ſaid Sovereign Lord the King from his Royal State, Title, Power and Government of this his Kingdom of *England*, and him our ſaid Sovereign Lord the King to put to Death, and utterly to deſtroy, and the Government of this Kingdom of *England*, and the ſincere Religion and Worſhip of God in the ſame Kingdom, rightly and by the laws of the ſame Kingdom eſtabliſhed, for their will and pleaſure to change and alter, and wholly to ſubvert and deſtroy the ſtate of the whole Kingdom, being in all parts thereof well inſtituted and ordered, and to levy War againſt our ſaid Sovereign Lord the King within this his Realm of *England*. And to fulfil and bring to paſs theſe their moſt wicked Treaſons and Traitorous deſigns and purpoſes aforeſaid, they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, and other falſe Traitors unknown, the ſaid four and twentieth Day of *April*, in the ſaid thirtieth Year of the Reign of our ſaid Lord the King, with force and arms, *&c.* at the Pariſh of St. *Giles in the Fields* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, maliciouſly, deceitfully, adviſedly, deviliſhly, and traitorouſly did aſſemble, unite, and gather themſelves together, and then and there falſly, maliciouſly, deceitfully, adviſedly, deviliſhly, and traitorouſly they did conſult and agree to put and bring our ſaid Sovereign Lord the King to Death and final Deſtruction, and to alter and change the Religion rightly and by the Laws of the ſame Kingdom eſtabliſhed, to the ſuperſtition of the *Church of Rome*; and the ſooner to bring to paſs and accompliſh the ſame, their moſt wicked Treaſons and Traitorous imaginations and purpoſes aforeſaid, they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, *John Grove*, and other falſe Traitors of our ſaid Sovereign Lord the King unknown, afterwards (to wit) the ſaid four and twentieth Day of *April*, in the ſaid thirtieth Year of the Reign of our ſaid Sovereign Lord the King, at the ſaid Pariſh of St. *Giles in the Fields*, in the County of *Middleſex* aforeſaid, falſly, deceitfully, adviſedly, maliciouſly, deviliſhly, and traitorouſly they did conſult and agree that they the ſaid *Thomas Pickering* and *John Grove* ſhould kill and murther our ſaid Sovereign Lord the King: And that they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, and other falſe Traitors unknow, ſhould therefore ſay, celebrate, and perform a certain number of Maſſes, (then and there agreed on among them) for the good of the Soul of the ſaid *Thomas Pickering*, and ſhould therefore pay to the ſaid *John Grove* a certain ſum of Money, (then and there alſo agreed on among them:) And further, that the ſaid *Thomas Pickering* and *John Grove* upon the agree-

greement aforeſaid, then and there falſly, deceitfully, adviſedly, malicioufly, devilliſhly, and traitorouſly did undertake, and to the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, and other falſe Traitors of our ſaid Sovereign Lord the King unknown, then and there falſly, deceitfully, adviſedly, malicioufly, devilliſhly, and traitorouſly they did then and there promiſe, that they the ſaid *Thomas Pickering* and *John Grove* our ſaid Sovereign Lord the King would kill and murder: And further, that they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, and other falſe Traitors of our ſaid Sovereign Lord the King unknown, afterwards (to wit) the ſaid four and twentieth Day of *April*, in the ſaid thirtieth Year of the Reign of our ſaid Sovereign Lord the King, at the ſaid pariſh of St. *Giles in the Fields* in the County of *Middleſex* aforeſaid, falſly, deceitfully, adviſedly, malicioufly, devilliſhly, and traitorouſly, did ſeverally plight their Faith every one to other of them, and did then and there ſwear and promiſe upon the Sacrament, to conceal and not to divulge their ſaid moſt wicked Treaſons, and traitorous compaſſings, conſultations, and purpoſes aforeſaid, ſo among them had, traitorouſly to kill and murther our ſaid Sovereign Lord the King, and to introduce the *Roman Religion*, to be uſed within this Kingdom of *England*, and to alter and change the true *Reformed Religion*, rightly and by the laws of this Kingdom of *England*, in this ſame Kingdom of *England* eſtabliſhed: And further, that they the ſaid *Thomas Pickering* and *John Grove*, in execution of their ſaid traitorous Agreement, afterwards (to wit) the ſame 24th Day of *April*, in the ſaid 30th Year of the Reign of our ſaid Sovereign Lord the King, and divers other Days and Times afterwards at the ſaid pariſh of St. *Giles in the Fields*, in the ſaid County of *Middleſex*, falſly, deceitfully, adviſedly, malicioufly, devilliſhly, and traitorouſly they did prepare and obtain to themſelvs, and had and did keep Muſquets, Piſtols, Swords, Daggers, and other offenſive and cruel weapons and inſtruments, to kill and murther our ſaid Sovereign Lord the King: And that they the ſaid *Thomas Pickering* and *John Grove* afterwards, to wit the ſaid four and twentieth Day of *April*, in the ſaid thirtieth Year of the Reign of our ſaid Sovereign Lord the King, and divers days and times afterwards with force and Arms, *&c.* at the ſaid pariſh of St. *Giles* in the Fields in the County of *Middleſex* aforeſaid, and in other places within the ſaid County of *Middleſex*, falſly, deceitfully, adviſedly, malicioufly, and traitorouſly, did lie in wait, and endeavour to kill and murther our ſaid Sovereign Lord the King; and further, that they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, and other falſe Traitors unknown, afterwards (to wit) the ſaid 24th day of *April* in the ſaid thirtieth Year of the Reign of our ſaid Sovereign Lord the King, at the ſaid pariſh of St. *Giles* in the Fields, in the County of *Middleſex* aforeſaid, falſly, deceitfully, adviſedly, malicioufly, devilliſhly, and traitorouſly, did prepare, perſuade, excite, abet, comfort, and counſel four other Perſons unknown, and Subjects of our ſaid Sovereign Lord the King, traitorouſly to kill and murther our ſaid Sovereign Lord the King, againſt the duty of their allegiance, againſt the peace of our ſaid Sovereign Lord the King, his Crown and Dignity, and againſt the form of the Statute in that behalf made and provided.

Upon this Indictment they have been arraigned, and thereunto have ſeverally pleaded, *Not Guilty*, and for their Trial have put themſelves upon God and their Country, which Country you are.

Your charge therefore is to inquire, whether they or any of them be guilty of the High Treaſon, whereof they ſtand indicted, or not guilty. If you find them or any of them guilty, you are to enquire what Goods or Chattels, Lands or Tenements, thoſe you find guilty had at the time of the High Treaſon committed, or at any time ſince. If you find them, or any of them not guilty, you are to inquire whether they did flie for it, if you find, that they or any of them fled for it, you are to enquire of their Goods and Chattels, as if you had found them guilty. If you find them or any of them not guilty, nor that they, nor any of them fled for it, ſay ſo, and no more, and hear your Evidence.

Make Proclamation of ſilence, on both ſides.
Which was done.

Then Sir *Creſwell Levings*, one of the King's Learned Counſel in the Law, opened the Indictment, thus,

Sir *Creſ. Levings*. May it pleaſe your Lordſhip, and you Gentlemen of the Jury. Theſe Priſoners at the Bar, *Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove* do all ſtand indicted of High Treaſon; for that whereas they, as falſe Traitors, meaning and deſigning to diſturb the Peace of the Kingdom, to levy War within the Kingdom, to make miſerable ſlaughter amongſt the King's Subjects, to ſubvert the Religion eſtabliſhed by the Law of the Land, to introduce the Superſtition of the Church of *Rome*, and to bring to death and final deſtruction, and to murder and aſſaſſinate our Sovereign Lord the King, they did, to effect theſe things, the four and twentieth of *April* laſt aſſemble themſelves together with many other falſe Traitors, yet unknown, in the Pariſh of St. *Giles* in the Fields in the County of *Middleſex*, and there, being ſo aſſembled, the better to effect theſe deſigns did make agreements and conſpire together; firſt, that *Pickering* and *Grove* ſhould kill the King, and that *White* and the reſt of the Perſons that ſtand indicted, with many other Traitors, ſhould ſay a great number of Maſſes for the Soul of the ſaid *Pickering*, I think thirty thouſand, and they did further agree there that *Grove* ſhould have a great ſum of Money, and upon this Agreement *Grove* and *Pickering* did undertake and promiſe they would do this Fact, and did then and there take the Sacrament and an Oath to one another upon the Sacrament, that they would conceal theſe their Treaſons, that they might the better effect them; and that in purſuance of this, *Grove* and *Pickering* did divers times lie in wait to murder the King, and did provide arms to do it; and the Indictment further ſets forth, that *White*, and *Ireland*, and *Fenwick*, and many other Traitors yet unknown, did procure four other Perſons yet alſo unknown, for to kill the King, againſt the peace of our Sovereign Lord

the King, his Crown and Dignity, and againſt the form of the Statute. Theſe are the heads of thoſe Facts for which they ſtand indicted: They have all pleaded not guilty, if we prove them or any of them guilty of theſe or any of theſe Facts according to the Evidence you ſhall have, we hope you will find it.

Sir *Samuel Baldwin*, one of his Majeſties Serjeants at Law, opened the charge as followeth.

Sir. *Samuel Baldwin.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, the Perſons here before you ſtand indicted for High Treaſon, they are five in number, three of them are *Jeſuits*, one is a *Prieſt*, the fifth is a Layman, Perſons fitly prepared for the work in hand.

Gentlemen, it is not unknown to moſt Perſons, nay to every one amongſt us, that hath the leaſt obſerved the former times, how that ever ſince the Reformation there hath been a deſign carried on to ſubvert the Government, and deſtroy the Proteſtant Religion eſtabliſhed here in *England*; for during all the Reign of Queen *Elizabeth* ſeveral attempts were made by ſeveral *Prieſts* and *Jeſuits*, that came from beyond the Seas, (though the Laws were then ſevere againſt them) to deſtroy the Queen, and alter the Religion eſtabliſhed here in *England*, and ſo introduce Popery and the Superſtition of the Church of *Rome*.

But the Conſpirators from time to time, during all the Queen's Reign, were diſappointed, as *Edmond Campion* and ſeveral other Jeſuits, who came over in that time and were executed, and did ſuffer for their Treaſons according to Law: At length, about the latter end of the Queen's time, a Seminary for the *Engliſh* Jeſuits was founded at *Valledolid* in *Spain*, and you know the Employment ſuch Perſons have.

And ſoon after the Queen's death, in the beginning of the Reign of King *James* ſeveral Perſons came over into *England* from this very Seminary, who together with one *Henry Garnet*, Superior of the Jeſuits then in *England*, and divers other *Engliſh* Papiſts, hatched that helliſh Gunpowder-Plot; whereby what was deſigned you all know, but as it fell out theſe Perſons, as well as thoſe in Queen *Elizabeth*'s time, were likewiſe diſappointed, and for their execrable Treaſons, in the third Year of King *James*, were executed at *Tyburn* and other places.

This is evident by the very Act of Parliament in 3° *Jacobi* in the preamble whereof mention is made that *Creſwell* and *Teſmond* Jeſuits, came from *Valledolid* in *Spain* to execute this Gun-powder-Treaſon with the Popiſh party here in *England*.

And Gentlemen, after this Treaſon, ſo miraculouſly diſcovered, was puniſhed, one would not have thought that any future age would have been guilty of the like Conſpiracy; but it ſo falls out that the Myſtery of Iniquity and Jeſuitiſm ſtill worketh, for there hath of late been a ſort of cruel and bloody minded Perſons, who, in hopes to have better ſucceſs, than they had in former times, during the Reigns of Queen *Elizabeth* and King *James*, have ſet on foot as horrid a Deſign as that of the Gunpowder Treaſon; I can reſemble it to no other Plot, or Deſign, or Treaſon in any other time, and truly it does reſemble that in many particulars: I may ſay, it doth at the leaſt equal it, if not exceed it.

I ſhall mention two or three particulars in which this Plot doth reſemble that.

Firſt, that horrid Deſign was to take away the Life of the then King, to ſubvert the Government, to introduce the Popiſh Religion, and to deſtroy the eſtabliſhed Proteſtant Religion in *England*, and ſo, Gentlemen, we think our proofs will make it out, that in each of theſe particulars this Deſign is the ſame that that was.

Secondly, The great Actors in that Deſign were Prieſts and Jeſuits that came from *Valledolid* in *Spain* and other places beyond the Seas. And the great Actors in this Plot are Prieſts and Jeſuits, that are come from St. *Omers*, and other places beyond the Seas nearer home than *Spain*.

Thirdly, That Plot was chiefly guided and managed by *Henry Garnet* Superior and Provincial of the Jeſuits then in *England*; and the great Actor in this Deſign, is Mr. *Whitebread*, Superior and Provincial of the Jeſuits now in *England*; ſo that I ſay in theſe ſeveral Particulars it does reſemble the *GUNPOWDER PLOT*.

Gentlemen, In this Plot of which the Priſoners now ſtand indicted ſeveral Perſons have ſeveral Parts: Some of theſe Perſons are Employed to keep Correſpondence beyond the Seas, (of which more hath been ſaid in another place, and ſo I ſhall not ſpeak of it here): Others were to procure and prepare Aid and Aſſiſtance here in *England*, who were to be ready when there ſhould be occaſion to Uſe it. But the great part that Theſe Perſons (the Priſoners at the Barr) were to Act in this Conſpiracy, was, *To take away the Life of our Sovereign Lord the KING*, on whoſe Preſervation the ſafety and welfare of Three Nations (and Millions of Men) does depend. Now the Facts for which the Five Priſoners ſtand indicted, I ſhall open thus:

Firſt, They are here Indicted for *Conſpiring the Death of his Sacred Majeſty*: They did Agree to take Away the KING's Life; and entering into ſuch an Agreement, They Hired ſome Perſons amongſt them to do it; and this Agreement was made the 24th of *April* laſt, 1678.

Secondly, There is another Fact they likewiſe ſtand Indicted for: *That they did Endeavour and Contrive to Change and Alter the Religion Eſtabliſhed in the Nation, and introduce Popery in the Room of it*, The Manner how to Effect this, was thus, if my Information be Right; you ſhall hear that from the Evidence. Mr. *Whitebread* being Reſident here in *England*, and Superior of the Jeſuits, did in *February* laſt think fit, (being impowered by Authority from *Rome*) to give Summons to the Jeſuits abroad, at St. *Omers*, and other places beyond the Seas, That they ſhould come over here into *England*, to be ready at *London*, on the Four and Twentieth of *April*, the day laid in the Indictment, and which is the day after St. *George*'s day; and their deſign was (as will appear by the Proof) to Contrive how they may *Take away the Life of the KING*: For if that were once done, they thought, in all other Things, their Deſign would eaſily be Accompliſhed. After the Summons were Out, they were ſo Officious for the Accompliſhing of this Great End, that between Forty and Fifty Jeſuits did appear here at *London* at the time, (for thither they were Summoned) and there the Meeting

ing was appointed to be. At the *White-Horſe Tavern* in the *Strand* they were to Meet firſt; but being ſo great a Number, that they were likely to be taken Notice of, if they came all together, it was ſo Ordered, they ſhould come but a few at a time, and go off in ſmall Numbers; and others ſhould ſucceed them, till the whole Number had been there: And there were Directions given, and a Courſe taken, that there ſhould be ſome Perſon to tell them whither they ſhould go from thence. After they had met there at ſeveral times in the ſame day, they were appointed, and adjourned to be at ſeveral other Places; ſome of them were appointed to be at Mr. *Whitebread*'s Lodging, and that was in *Wildſtreet*, at one Mr. *Sanders*'s Houſe: Others were appointed to go to Mr. *Ireland*'s Lodging, which was in *Ruſſel-Street*, (and this Mr. *Ireland* was Treaſurer of the Society): And others were to meet at Mr. *Fenwick*'s Chamber in *Drury-Lane*; and he was at that time Procurator and Agent for that Society. Others were appointed to meet at *Harcourt*'s Lodging; and others at other Places.

When they came there, they all agreed to the general Deſign of the firſt meeting, which was, *To kill the King*. Then there was a Paper, or ſome Inſtrument to be Subſcribed. This was done, and the Sacrament was taken for the Concealment of it. After that, *Whitebread*, *Ireland*, *Fenwick*, and others, did Agree, that Mr. *Grove* and Mr. *Pickering* ſhould be employed to *Aſſaſſinate the King*. One of them (Mr. *Grove*) being a Lay-Brother, was to have Fifteen Hundred Pound, a great Sum; the other, as a more ſuitable Reward for his pains, was to have Thirty Thouſand Maſſes ſaid for his Soul. Mr. *Whitebread*, Mr. *Ireland*, and Mr. *Fenwick*, were all privy to this Deſign; and this was the Twenty fourth of *April*. In *Auguſt* after (they being appointed to *Kill the King*, but it not taking Effect, either their Hearts miſgave them, or they wanted Opportunity) there was another meeting at the *Savoy*, where the Witneſſes will tell you, four *Iriſh* Perſons were hired for to *Kill the King*. And this was ordered, in caſe the other Deſign took not Effect. There was fourſcore Pounds ſent down to them to *Windſor*, where they were to have done the Fact. After this, other Perſons were appointed to do the Execution, and they were to take the *King* at his Morning Walk at *New-market*.

Theſe Perſons were all diſappointed in their Deſign. But you ſhall hear what was the Agreement, how it was carried on, and what Rewards were given to carry it on. We ſhall acquaint you likewiſe, that for the bottom of this Deſign (when ſo many Jeſuits ſhould come over, when they ſhould have ſo many Conſultations, and when they ſhould reſolve to *Kill the King*) there could be no leſs than the Altering of Religion, and introduction of Popery here in *England*. And that time, at the firſt meeting, they had Ordered, That Mr. *Cary* a Jeſuite, as their Procurator and Agent, ſhould go to *Rome*, to Act their Concerns there. All which things, and more, will be made out to you by Witneſſes Produced. There are likewiſe, ſome other Circumſtances that will be material to confirm thoſe Witneſſes. We ſhall produce to you a Letter written in *February* laſt, about that time that Mr. *Whitebread* ſent over his Summons for the Jeſuits, to appear here. This Letter was written by one Mr. *Peters*, a Jeſuite now in Cuſtody; and 'tis written to one *Tunſtal* a Jeſuite, to give him notice, That he ſhould be in *London* about the twenty firſt of *April*, and be ready on the twenty fourth of *April*; That he knew what the Buſineſs was; but he did Adviſe him, that he ſhould Conceal himſelf, leſt the Plot (by Obſervation) ſhould be diſcover'd. We ſhall likewiſe produce ſeveral other Evidences, to Strengthen and Confirm the Witneſſes: We ſhall firſt call our Witneſſes, and enter upon the Proof.

Mr. *Finch* open'd the Evidence thus:

Mr. *Finch*. May it pleaſe your Lordſhip, and you Gentlemen of the Jury,

Before we call our Witneſſes, I would beg Leave once more to Re-mind you, of what hath already been open'd unto you; The Quality of the Offenders themſelves, and the Nature of the Offence they ſtand Indicted of.

For the Offenders, they are moſt of them, Prieſts and Jeſuits; three of them at the leaſt, are ſo; the other Two, are the Accurſed Inſtruments of this Deſign: For the Offence it ſelf, 'tis High Treaſon.

And though it be High Treaſon by the Statute of Twenty Seven *Eliz.* for Men of that Profeſſion to come into *England*; yet theſe Men are not Indicted upon that Law, nor for that Treaſon: This I take Notice of to you, for the Priſoners ſake, that they ſhould not Fancy to themſelves, they ſuffered *Martyrdom* for their *Religion*, as ſome of them have vainly Imagin'd in their caſe; and for your ſakes too, that as at firſt, it was Treaſon, repeated Acts of Treaſon, in theſe Men; and thoſe proceeding from a Principle of Religion too, that juſtly occaſioned the Making that Law: So here you might obſerve a pregnant Inſtance of it in the Priſoners at the Bar, That whenever they had an Opportunity, as now they thought they had, they have never Failed to put thoſe Principles into Practice.

So now, Gentlemen, As they are not Indicted for being *Prieſts*, I muſt deſire you to lay that quite out of the Caſe, and only conſider, that they ſtand here Accuſed for Treaſon; ſuch Treaſon, as were they Lay-men only, they ought to Die for it; though I cannot but Obſerve, they were the ſooner Traitors for being Prieſts.

The Treaſon therefore they ſtand Indicted of, is of the higheſt Nature: It is a Conſpiracy to *Kill the King*, and that too with Circumſtances ſo Aggravating (if any thing can Aggravate that Offence which is the Higheſt) that nothing leſs than the Total Subverſion of the Government, and utter Deſtruction of the Proteſtant Religion, would ſerve their Turns. And Really, when you Conſider the Root from whence this Treaſon Springs, you will ceaſe Wondring that all this ſhould be Attempted, and rather wonder that it was not done.

Miſchiefs have often miſcarried for want of Wickedneſs enough; the Horror of Conſcience, or elſe the Malice of the Aggreſſor not being equal to the Attempt, has ſometimes prevented the Execution of it. Here is no Room for any thing of this kind: This Treaſon proceeds from a Principle of *Religion*, from a Senſe that it is Lawful; Nay, that they ought to do theſe things; and every neglect here, is lookt on as a piece of Irreligion, a want of Zeal; for which one

one of the Prisoners did Penance, as in the Course of our Evidence we shall prove unto you.

And when we consider too, that this is carried on, not by the fury of two or three busie Men over-zealous in the Cause, but by the deliberate, and steddy Counsels of the whole Order, and that too under the Obligations of Secrecy as high as Christian Religion can lay on them; You have great reason to wonder that it did not succeed. And yet after all this they have not been able to prevail. Not that we can bragg of any humane Policy that did prevent it; No, all that the Wit of Man could do, these Men had done: But 'twas the Providence of God, 'twas his Revelation; That Providence that first enlightned his Church, and has preserv'd it against all opposition heretofore, has once more disappointed their Counsels, and preserved the King and this Nation in the Profession of that True Religion these Men have vainly attempted to destroy.

Gentlemen, I will not open to you the Particulars of our Evidence, that I had rather should come from the Witnesses themselves: I shall only in general tell you what will be the course of it. We shall prove unto you, That there was a Summons for a Consultation to be held by these Men the 24*th* of *April* last, from the Provincial Mr. *Whitebread*; That they had a Caution given them, Not to come too soon, nor appear much about Town, till the Consultation were over, lest occasion should be given to *Suspect the Design*: That accordingly a Consultation was held, as they say, to send *Cary*, their Procurator, to *Rome*; Though we shall prove to you, it was for other purposes: That they adjourned from their General Assembly into lesser Companies; where several Persons did attend them to carry Intelligence of their several Resolutions: That at these several Consults, they did resolve, The King was to be Killed. That *Pickering* and *Grove* should do it; for which the one was to have 30000 Masses said for his Soul: The other was to have 1500 *l.* That in Prosecution of this Design, they made several attempts to execute it; That they lay in Wait for the King several times in St. *James*'s Park and other places; And that once in particular, it had been done by *Pickering*, if it had not pleased God to have prevented it by an Accident unforeseen; The Flint of his Pistol being loose, he durst not then attempt it, though he had an opportunity: For which neglect, we shall prove to you, he underwent the Penance of 20 or 30 strokes. That when these Men had failed, we shall prove to you they hired Four Ruffians to Murder the King at *Windsor*, and after that at *New-Market*. Thus they Way-layd him in all his Privacies and Retirements, wherever they could think it most convenient to execute their Design.

And this we shall prove by two Witnesses; who though they should not speak to the same Consultations, nor the same times; yet they are still two Witnesses in Law. For several Witnesses of several Overt-Acts, are so many Witnesses to the Treason. Because the Treason consists in the intention of the Man, in the Compassing and Imagining the Death of the King. The several Overt-Acts which declare that Intention, are but as so many Evidences of the Treason. We will call our Witnesses, and make out what has been open'd to you.

Cl. of Cr. Mr. *Oates*, Lay your Hand upon the Book. The Evidence you shall give for our Sovereign Lord the King against *Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, the Prisoners at the Bar, shall be the truth, the whole truth, and nothing but the truth. *So help you God.*

Mr. Serj. Baldwyn. Pray, Mr. *Oates*, will you declare to the Court and the Jury, what Design there was for the Killing of His Majesty, and by whom.

Mr. *Oates*, My Lord, In the Month of *December* last, Mr. *Thomas Whitebread* did receive a Patent, from the general of the Jesuits at *Rome* to be Provincial of the Order; after he had received this Patent, he sent Order to one *George Conyers* a Jesuite at St. *Omer*'s to Preach upon St. *Thomas* of *Canterbury*'s Day; and by virtue of this Order, *George Conyers* did Preach against Oaths of Allegiance and Supremacy, and did in his Doctrine call them Anti-Christian and Devillish. My Lord, in the Month of *January*, this Mr. *Whitebread* did send several Letters to St. *Omers*; in which Letters there was contained intimation of his intent to proceed against the King's Person to Assassinate him, which Letters were written to *Richard Ashby*. My Lord, in the Month of *February*, there comes an Order from him as Provincial, for several of the Jesuits to make their appearance at *London*, to be there at a Consult to be held the 24*th* of *April* old Stile.

Sir *William Scroggs L. C. J.* Where was *Whitebread* then?

Mr. *Oates*. He was then in *London*, my Lord, as I suppose by the dating of his Letters. My Lord, from Mr. *Whitebread* after this Summons, we received a second Summons, which came the 5*th* of *April*, New Stile, and upon the Summons there were Nine did appear at *London*, the Rector of *Liege*, Sir *Thomas Preston*, the Rector of *Ghent*, whose name is *Marsh*, the Rector of *Wotton*, whose name is *Williams*, and to one Sir *John Harper*, and two or three more from St. *Omers*; and there was a special Order given us, my Lord, to keep our selves close, least we should be suspected, and so our Design disclosed. My Lord, upon the four and twentieth of *April*, Old Stile, we did appear in the Consult. The Consult was begun at the *White-Horse* Tavern in the *Strand*, and there they met in several Rooms, they came on by degrees, and as the new ones came on, the old ones, those that had been there before them, fell off. And there was one *John Cary* appointed to go Procurator for *Rome*, and he was so appointed by the Suffrages of the three Prisoners at the Bar, *Whitebread*, *Ireland*, and *Fenwick*. It was afterwards adjourned into several Colloquies or little Meetings; one Meeting was at Mrs. *Sanders* House that butts upon *Wild House*, a second was at Mr. *Ireland*'s, a third was at Mr. *Harcourt*'s, a fourth was at Mr. *Grove*'s, and other Meeting or Meetings there were, but I cannot give a good account of them. My Lord, after they had thus met, and debated the state of Religion, and the Life of the King, they drew up this Resolve; it was drawn up by one *Mico*, who was Secretary to the Society, and *Socius* or Companion to the Provincial.

L. C. J. When was that done?

Mr. *Oates*. That Day, my Lord. The Resolve, my

my Lord, was this, as near as I can remember the words. It is resolved, That *Thomas Pickering*, and *John Grove*, shall go on in their Attempt to Assassinate the King (whether they used the word Assassinate, I can't remember, but the meaning was, they should make an attempt upon his Person) and that the Reward of the one, that is *Grove*'s, should be Fifteen Hundred Pounds, and that *Pickering*'s Reward should be Thirty Thousand Masses. My Lord, after this Resolution was Signed by *Whitebread*, it was Signed by *Fenwick* and *Ireland*, and by all the four Clubbs: I saw them Sign it, for I carried the Instrument from one to another.

L. C. J. What was it they Signed?

Mr. *Oates*. The Resolve of the Consult.

L.C.J. What that which was drawn up by *Mico*?

Mr. *Oates*. Yes, my Lord, that which was drawn up by *Mico*.

Whitebread. Doth he say that he saw them Sign it?

Mr. *Oates*. Yes, I did see them Sign it.

Jury. We desire he may be asked, where he saw them sign it.

Mr. *Oates*. Mr. *Whitebread* Signed it at that part of the Consult that was at his Chamber, *Ireland* did Sign it at that part of the Consult that was at his Chamber, *Fenwick* Signed it at that part of the Consult that was at his Chamber.

Whitebread. Were you at all these places?

Mr. *Oates*. I went with it from place to place; but I mention no more now, but only these.

Whitebread. You were not at all these places, and saw them Sign it there, were you?

Mr. *Oates*. Yes, I did see them Sign it at all those places. My Lord, in the Month of *May*, Mr. *Whitebread* came over as Provincial from *England* to St. *Omers* to begin his Provincial Visitation, and with him came *Cary* and his Companion *Mico*. *Cary* left St. *Omers* to begin his Journey to *Rome*; *Whitebread*, after he had given an accompt of what proceedings the Catholicks of *England* had made in order to disturb the Peace of the Kingdom, what Moneys had been gathered, what Suffrages dispers'd, what means had been used, what Noblemen had joyned in this execrable Plot; he did then (my Lord) order me to come for *England*.

L. C. J. Whitebread did?

Mr. *Oates*. Yes, my Lord, *Whitebread* did. And, my Lord, the Business I was to come into *England* for, was to Murder one Dr. *Tongue*, a Dr. in Divinity, who had written a Book called *The Jesuits Morals*; that is to say, Translated them out of *French* into *English*. My Lord, I came over into *England* on the 23*d* of *June*, new Stile, I came out of St. *Omers*, that is, the 13*th* in the Stile of *England*; on the 24*th* new Stile, I took the Packet-Boat at *Calice*; the 25*th* new Stile, I met with Mr. *Fenwick* at *Dover*, he was come down with certain Youths, to send them to St. *Omers*, and had ordered their passage.

My Lord, with Mr. *Fenwick* and some other Persons, we came to *London* in a Coach, and six Miles (as near as I remember it) on this side *Canterbury*, at a place called *Bolton*, our Coach was stopt by the Searchers, and there they did examine a Box that was in the Coach directed for the Honourable *Richard Blundell* Esq; This Box when they open'd it, they found full of Beads, Crucifixes, Images, and other sorts of Trumpery, that I cannot give a good account of; it's he can give the best: Mr. *Fenwick* went by the Name of one *Thompson*, and did Personate one *Thompson*, as Living near the *Fountain Tavern* at *Charing-Cross*; and did order the Searchers to write to him there, as by the name of *Thompson*. When the Box was seiz'd, they being Prohibited Goods, Mr. *Fenwick* did say; that if they had search'd his Pockets, they had found such Letters about him, as might have cost him his Life; but his Letters did escape Searching. We came that night to *Sittenburgh*, and lay there on *Sunday* the 26*th* New Stile, as near as I remember; and I think we stayed there till the Afternoon: We took Coach in the Afternoon and came as far as *Dartford*. On *Monday* morning we came into *London*; and (my Lord) when we came into *London*, and had continued there some days. (I now return to Mr. *Whitebread*.) There came one *Ashby* to Town, he had been sometime Rector of St. *Omers*, and was come to *England* sick of the Gout, and was to go to the *Bath* to be Cured. And he brought Instructions with him from *Whitebread*; and the Instructions contained in them these Particulars: Instructions or Memorials, or what else they called them. First that Ten Thousand Pounds should be proposed to Sir *George Wakeman* for the Killing of the King. Secondly, That care should be taken for the Murder of the Bishop of *Hereford*. Thirdly, That care should be taken for the Murder of Dr. *Stillingfleet*. Fourthly, That though this Proposal was made to Sir *George Wakeman* of 10000 *l.* yet *Pickering* and *Grove* should go on still in their Attempts. (My Lord,) afterwards these were taken and Copied out, and Dispersed to the several Conspirators in the Kingdom, whose Names I cannot call to mind. But *Coleman* made several Copies and Dispersed them about: Then the 10000 *l.* was proposed to Sir *George Wakeman*, but it was refused.

L. C. J. What, it was too little?

Mr. *Oates*. Yes, (my Lord,) it was too little. Then *Whitebread* he Writ from St. *Omers*, that in case 10000 *l.* would not do, Fifteen should be proposed, and after that he had that proposed, he accepted of that.

L. C. J. Were you by when he accepted it?

Mr. *Oates*. No (my Lord,) I was not: But it appeared upon their Entry Books, and it appeared by a Letter from this Gentleman Mr. *Whitebread*, wherein he did shew a great deal of joy for Sir *George Wakeman*'s accepting of the Fifteen Thousand Pounds. (My Lord,) After this was agreed upon, that Sir *George Wakeman* should have Fifteen Thousand Pounds, and Five Thousand of it was payed by *Coleman* or his Order. Thus the State of Affairs stood till *August*. Then one *Fogarthy* who is dead, came to a Consult of the Jesuits with the Benedictins: Now at this Consult the Prisoner at the Bar *Fenwick* was, he was one and *Harcourt* was another. And in this Consult there were Four *Ruffians* recommended to them.

L. C. J. By Whom?

Mr. *Oates*. By *Fogarthy*, they were recommended, but accepted of by these Consultors, and consented to by *Fenwick*. They were sent away, and the next day after, Fourscore Pounds was sent them, the most part of it was Gold, and *Coleman* was there and gave the Messenger a Guinea to expedite his Errand. (My Lord,) In the Month of *August* there came other Letters from *Whitebread*, wherein he did give an Account of what care he had taken of the *Scotch* Business; and he ordered one *Moor* and one *Sanders*

alias

alias *Brown* to go down to *Scotland*, and he did Order the Rector of *London*, then *William Harcourt*, to send them; and he did so send them the 6*th* of *August* in the name of the Provincial.

Whitebread. From whence I pray?

Mr. *Oates*, From *London*, and they went to prosecute and carry on the design which *Fenwick* and *Ireland* had Plotted, of a Rebellion amongst the Disaffected *Scots* against the Governours appointed them by the King, and they sent down Ministers to Preach under the Notion of Presbyterian Ministers, in order to get the Disaffected *Scots* to rise, by insinuating the sad Condition they were likely to be in, by reason of Episcopal Tyrany, (as they termed it.) And that they were resolved to dispose of the King, and they did intend to dispose of the Duke too, in case he did not appear vigorous in promoting the Catholick Religion; (I speak their own words.)

L. C. J. Have you done with your Evidence? What do you know of the Prisoners at the Bar? Name them all.

Mr. *Oates*, There is *Whitebread*, *Ireland*, *Fenwick*, *Pickering*, and *Grove*.

L. C. J. Are you sure *Pickering* and *Grove* accepted of the Terms?

Mr. *Oates*. Yes, (my Lord,) I was there.

L. C. J. Where was it?

Mr. *Oates*. At Mr. *Whitebread*'s Lodgings, at Mrs. *Sanders* House. As for *Grove*, indeed he did attend at that time upon *Fenwick* at his Chamber; but after the Consult was over, he came to *Whitebread*'s Lodgings and did take the Sacrament and the Oaths of Secrecy upon it, and did accept it, and agree to it.

L. C. J. Were you there when he took the Sacrament?

Mr. *Oates*; Yes, (my Lord) I was.

L. C. J. Who gave you the Sacrament?

Mr. *Oates*, It was a Jesuite, that goes by the Name of one *Barton*.

Whitebread, (My Lord) before I forget it, I desire to say this. He says that at such and such Consults in *April* and *May*, he was present and carryed the Resolutions from one to another. There are above a Hundred and an Hundred, that can testify he was all that while at St. *Omers*. Pray tell me when I received the Sacrament?

Mr. *Oates*, At the same time.

Whitebread, What day was that?

Mr. *Oates*, The 24*th* of *April*.

Whitebread, Was I there?

Mr. *Oates*, You were there.

Whitebread, I take God to Witness I was not.

L. C. J. Mr. *Whitebread* you shall have time to make your Answer. But Mr. *Oates*, pray Mr. *Oates*, when was Mr. *Cary* dispatch'd away to *Rome*, and what was his Errand?

Mr. *Oates*, (My Lord,) I'll tell you, he was approved of to go to *Rome* the 24*th* of *April*; in the Month of *May* or *June Whitebread* brings *Cary* over to St. *Omers*, and one *Mico* his Secretary or Companion with him.

L. C. J. When was it?

Mr. *Oates*, In the Month of *May* or *June* he was brought over by the Provincial; Then he went away on his Journey, and at *Paris* received 20 *l.* to bear his Charges.

Mr. *Finch*, What do you know of any Attempts to kill the King at St. *James's Park*?

Mr. *Oates*, I saw *Pickering* and *Grove* several times walking in the Park together with their Screw'd Pistols, which were longer than ordinary Pistols, and shorter than some Carbines. They had Silver Bullets to shoot with, and *Grove* would have had the Bullets to be Champt, for fear that if he should Shoot, if the Bullets were Round, the Wound that might be given might be Cured.

L. C. J. Did *Grove* intend to Champ them?

Mr. *Oates*, He did say so.

L. C. J. Did he shew you the Bullets?

Mr. *Oates*, I did see them.

Grove, When was this?

Mr. *Oates*, I saw the Bullets in the Month of *May* and in the Month of *June*.

Whitebread, Pray where did you see them?

Mr. *Oates*, In *Grove's* possession.

Whitebread, At what time?

Mr. *Oates*, In the Month of *May*.

Whitebread, Then was he actually himself at St. *Omers*. Was it in *May* or *June*?

Mr. *Oates*, The latter end of *May* and *June*. I saw them then twice if not thrice. But *Pickering*'s I saw in *August*.

Sir *Cr. Lewings*, Do you know any thing of *Pickering*'s doing Penance, and for what?

Mr. *Oates*, Yes, (my Lord,) In the Month of *March* last, (for these Persons have followed the King several Years) but he at that time had not lookt to the Flint of his Pistol, but it was loose, and he durst not venture to give Fire. He had a fair opportunity, as *Whitebread* said; and because he mist it through his own negligence, he underwent Penance, and had 20 or 30 Strokes of Discipline, and *Grove* was Chidden for his Carelesness.

L. C. J. That was in *March* last?

Mr. *Oates*, Yes, my Lord.

L. C. J. How do you know that?

Mr. *Oates*, By Letters that I have seen from Mr. *Whitebread*, these I saw and read, and I know *Whitebread*'s hand.

Mr. *Serj. Baldwyn*, What do you know of the *Ruffians* that went down to *Windsor* What success had they?

Mr. *Oates*, I can give no account of that, because in the beginning of *September* this Gentleman that had been in *England* sometime before, was come to *London*, and the Business had taken Air, and one *Beddingfield* had Written to him, that the thing was discovered, and that none but such a one could do it, naming me by a Name that he knew I went by.

Whitebread, When was that Sir?

Mr. *Oates*. In the Month of *September* last. I came to the Provincial's Chamber the third of *September*, when I came I could not speak with him, for he was at Supper; but when he had supp'd I was admitted in, and there he shewed me the Letter that he had received from *Beddingfield*.

Whitbread. Where did you see it?

Mr. *Oates*. You read it to me when you chid me, and beat me, and abused me.

L. Ch. Just. What did he chide you for?

Mr. *Oates*. He did charge me with very high language of being with the King, and with a Minister, and discovering the matter. I was so unfortunate that the Gentelman who was with the King did wear the same colour'd Clothes that I did then wear: And he having given an account that the party wore such Clothes, the suspicion was laid upon me: Now, my Lord, I had not then been with the King,

but

but another Gentleman had been with him from me with the draughts of ſome Papers concerning this buſineſs, which I had drawn up, and I was ready to appear when I ſhould be called to juſtifie them, only I did not think fit to appear immeadiately; And, my Lord, this *Beddingfield* he had gotten into it that it was diſcovered, and writ the Provincial word he thought it was by me; *for*, ſaid he, *he hath been drawn in by ſome of his old acquaintance:* When he had received this Letter, he asked me with what face I could look upon him, ſince I had betrayed them: So, my Lord, I did profeſs a great deal of Innocency, becauſe I had not then been with the King; but he gave me very ill language and abuſed me, and I was afraid of a worſe miſchief from them; for I could not but conclude, that if they dealt ſo cruelly with thoſe that only writ againſt them, I could ſcarce eſcape, of whom they had that jealouſie that I had betrayed them: And, my Lord, though they could not prove that I had diſcovered it, yet upon the bear ſuſpicion I was beaten and affronted, and reviled, and commanded to go beyond Sea again; nay, my Lord, I had my Lodging aſſaulted to have murthered me if they could.

Whitebread. By whom?

Oates. By Mr. *Whitebread*, and ſome of them.

Whitebread, Who beat you?

Mr. *Oates.* Mr. *Whitebread* did.

Mr. Serjeant *Baldwyn.* Was it *Pickering* or *Grove* that had the Flint of his Piſtol looſe?

Mr. *Oates. Pickering.*

Pickering. My Lord, I never ſhot off a Piſtol in all my Life.

L. Ch. Juſt. What ſay you as to the fourſcore Pounds?

Mr. *Oates.* My Lord, I will ſpeak to that, that was given to the four Ruffians that were to kill the King at *Windſor*: Now, my Lord, that Money I ſaw----

L. Ch. Juſt. Where did you ſee it?

Mr. *Oates.* At *Harcourt's* Chamber.

L. Ch. Juſt. Where is that?

Mr. *Oates.* In *Duke-Street*, near the Arch.

L. Ch. Juſt. Who was it given by?

Mr. *Oates. William Harcourt.*

L. Ch. Juſt. Did you ſee the four Fellows?

Mr. *Oates.* No, my Lord, I never did, nor never knew their Names.

L. Ch. Juſt. Who was the Money given to?

Mr. *Oates.* A Meſſenger that was to carry it down to them.

L. Ch. Juſt. Who was that Meſſenger?

Mr. *Oates.* One of theirs that I do not know, and I durſt not be too inquiſitive, my Lord, for fear of being ſuſpected.

L. Ch. Juſt. Who was by when the Money was paid?

Mr. *Oates. Coleman* that is executed; and, my Lord, there was this Mr. *Fenwick* by, that is the Priſoner at the Bar.

Fenwick. When was this?

Mr. *Oates.* In the Month of *Auguſt.*

Fenwick. Where?

Mr. *Oates.* At *Harcourt's* Chamber.

Fenwick. I never ſaw you there in all my Life: Are you ſure I was by when the Money was there?

Mr. *Oates.* Yes, you were.

L. Ch. Juſt. Mr. *Fenwick*, You ſhall have your time by and by to ask him any queſtion: Mr. *Oates*, let me ask you once again; when there was the appointment made for *Grove* and *Pickering* to kill the King, who ſigned it?

Mr. *Oates.* At leaſt forty ſigned it.

L. Ch. Juſt. Did the other three ſign it?

Mr. *Oates.* Yes, my Lord, all of them.

L. Ch. Juſt. Name them.

Oates. There was *Whitebread*, *Fenwick*, and *Ireland.*

L. Ch. Juſt. And you ſay you went from place to place and ſaw it ſigned.

Mr *Oates.* Yes, my Lord, I did.

L. Ch. Juſt. Were you Attendant upon them?

Oates. My Lord, I ever was ſince the Year 1666.

L. Ch. Juſt. At whoſe Lodging did you uſe to attend upon the Conſultation?

Mr. *Oates.* At the Provincial's Chamber, Mr. *Whitebread.*

L. Ch. Juſt. Where was it firſt ſigned?

Mr. *Oates.* At the Provincial's Chamber.

Sir *Cr. Levinz.* Who carried it from Lodging to Lodging?

Mr. *Oates.* I did.

L. Ch. Juſt. When was it?

Mr. *Oates.* The 24*th* of *April.*

Mr Juſtice *Bertue.* You ſay you carried the Reſult from place to place, pray tell us what that Reſult was?

Oates, They knew what it was, for they read it before they ſigned it.

M. Juſt. *Atkins.* But tell us the Contents of it.

Mr. *Oates.* The Contents of that Reſolve was this, (I'll tell you the ſubſtance, though I cannot tell you exactly the words) that *Pickering* and *Grove* ſhould go on in their attempts to aſſaſſinate the Perſon of the King, as near as I can remember it was ſo, that the former ſhould have 30000 Maſſes and the latter 1500 Pounds, and the whole Conſult did conſent to it and ſigned the Agreement that was made with them, and did reſolve upon the King's Death all in one reſolve.

L. C. J. Where was this agreed upon? at the *White-Horſe-Tavern?*

Mr. *Oates.* No, my Lord, after they had agreed at the *White-Horſe*, that Mr. *Cary* ſhould go Procurator to *Rome*, and ſome other ſmall particulars, which I cannot now remember, they did adjourn from the *White-Horſe-Tavern*, and met at ſeveral Chambers, ſome at one place, and ſome at another.

L. C. J. But you ſay *Mico* did draw up the Reſolution, where was that?

Mr. *Oates*, At Mr. *Whitebread's* Chamber, for he was *Socius* and Secretary to the Provincial.

L. C. J. Were *Ireland* and *Fenwick* preſent when *Mico* drew it up?

Mr. *Oates.* No, my Lord, but they were at their own Chambers; after it was drawn up there, and ſigned by Mr. *Whitebread*, and thoſe of the Conſult in his Chamber, it was carried to the ſeveral Conſults.

L. C. J. What all the ſame day?

Mr. *Oates.* Yes, my Lord.

L. C. J. And you went along with it.

Mr. *Oates.* Yes, my Lord, I did.

Mr. Juſtice *Bertue.* I only ask you were all the five Priſoners privy to it? or do you diſtinguiſh of any of them, and which?

Mr. *Oates.* They were all privy to it.

Whitebread. My Lord we can prove ———

L. C. J. You ſhall have time ſufficient to make what defence you can, you ſhall be ſure to have a fair Trial, and be ſtopt of nothing

that you will think fit to say for your selves. Mr. *Oates*, were *Pickering* and *Grove* present?

Mr. *Oates*. Yes, my Lord, *Grove* at *Fenwick*'s Chamber, and *Pickering* at the Provincial's Chamber.

L. C. J. But they were not required to sign this, were they?

Mr. *Oates*. After that the whole Consult had signed it, and Mass was preparing to be said for it, before Mass they did sign and accept of it.

L. C. J. Where did they two do it?

Mr. *Oates*. At the Provincial's Chamber.

L. C. J. What day was it?

Oates. That day, for they met all together at the Provincial's Chamber to receive the Sacrament, and when Mass was going to be said, one said it was too late, for it was after twelve a Clock; but Mr. *Whitebread* said it was not Afternoon till we had din'd; and you know, Mr. *Whitebread*, that Masses have been said at one or two of the Clock in the Afternoon.

Mr. Justice *Atkins*. How many Persons did meet at that Consult?

Mr. *Oates*. My Lord, there were about forty or fifty, and after they had adjourn'd into several lesser Companies, they met altogether at Mr. *Whitebread*'s Chamber.

L. C. J. Where was that, and when?

Mr. *Oates*. That day at *Wild-house*.

L. C. J. Where was it that they gave the Sacrament?

Mr. *Oates*. At a little Chappel at *Wild-house*, Mrs. *Sanders*'s.

L. C. J. Did they accept it before they took the Sacrament?

Mr. *Oates*. Yes, *Pickering* and *Grove* did sign it before they took the Sacrament.

Mr. Justice *Atkins*. You tell us of an Oath of Secresie that was taken, what was that Oath?

Mr. *Oates*. I cannot give an account of the form of the Oath, but it was an Obligation of Secresie.

M Just. *Atk.* Did you see the Oath administred?

Mr. *Oates*. Yes, my Lord, I did.

L. C. J. Who administred it?

Mr. *Oates*. Mr. *Whitebread*, he did give it unto me, and to all the rest that were there, and *Mico* held the Book, it was a Mass Book, but they were words of his own invention I believe, they were not written down.

L. C. J. Cannot you tell what they were?

Mr. *Oates*. No, my Lord, I cannot tell, because I did not see them written down.

L. C. J. If you will ask this Gentleman any thing more you may.

Whetebread. My Lord, I am in a very weak and doubtful condition as to my health, and therefore I should be very loath to speak any thing but what is true: We are to prove a Negative, and I know 'tis much harder to prove a Negative than to assert an Affirmative; 'tis not a very hard thing for a Man to swear any thing if he will venture his Soul for it; but truly, I may boldly say, in the sight of Almighty God before whom I am to appear, there have not been three true words spoken by this Witness.

L. C. J. Do you hear, if you could but satisfie us, that you have no Dispensation to call God to Witness a lye ——

Whitebread. My Lord, I do affirm it with all the Protestations imaginable.

L. C. J. But if you have a Religion that can give a Dispensation for Oaths, Sacraments, Protestations, and Falshoods that are in the World, how can you expect we should believe you?

Whitebread. I know no such thing.

L. Ch. Just. We shall see that presently, before we have done.

Mr. *Oates*. I have one thing more to say, my Lord, that comes into my mind. This *Whitebread* received power from the See of *Rome* to grant out Commissions to Officers Military. And my Lord, here are the Seals of the Office in Court, which he hath sealed some hundreds of Commissions with, which they call Patents.

L. Ch. Just. What were those Commissions for? For an Army?

Mr. *Oates*. Yes, my Lord, for an Army.

Whitebread. When were those Commissions signed?

Mr. *Oates*. My Lord, several of them were signed in the former Provincial's time.

L. Ch. Just. What, I warrant you, you are not Provincial of the Jesuites, are you?

Whitebread. I cannot deny that, my Lord.

L Ch. Just. Then there are more than three words he hath spoken are true.

Mr. Just. *Atkins*. I believe, Mr. *Oates*, that that Army was intended for somethng, pray what was it for?

Mr. *Oates*. My Lord, they were to rise upon the Death of the King, and let the French King in upon us, and they had made it their business to prepare *Ireland* and *Scotland* for the receiving of a foreign Invasion.

L. Ch. Just. Who were those Commissions sealed by?

Mr. *Oates*. My Lord, the Commissions of the Great Officers were sealed with the General's Seal.

L. Ch. Just. Who was that?

Mr. *Oates*. His Name is *Johannes Paulus de Oliva*: His Seal Sealed the Commissions for the Generals, Major-Generals, and great Persons; but those Seals that sealed the several Commissions to several inferior Officers, were in the custody of the Provincial.

L. Ch. Just. Can you name any one Person that he hath sealed a Commission to?

Mr. *Oates*. I can name one: To Sir *John Gage*, which Commission I delivered my self.

L. Ch. Just. What of *Sussex*?

Mr. *Oates*. Yes, of *Sussex*.

Mr. Just. *Atk.* Who did you receive the Commission from?

Mr. *Oates*. My Lord, when he went over, he left a great many blank Patents to be filled up, and he left one ready sealed for a Commission to Sir *John Gage*. This was delivered into my hands when he was absent, but it was signed by him and delivered to me while he was in his Visitation beyond the Seas, but I dare swear it was his hand, as I shall answer it before God and the King.

Mr. Just. *Atk.* Who had it you from?

Mr. *Oates*. From Mr. *Ashby*, but by *Whitebread*'s appointment in his Instructions, which I saw and read.

L. Ch. Just. What was the Commission for?

Mr. *Oates*. To be an Officer in the Army.

L. Ch. Just. Did you see the Instructions left for *Ashby*?

Mr. *Oates*. I did see them and read them, and I did then, as I always did, give it as my judgment, that it was more safe to Poyson the King than to Pistol or stab him.

Mr.

Mr. Juſt. *Bertue.* Was the Commiſſion which you delivered to Sir *John Gage* from *Aſhby* or from *Whitebread*?

Mr. *Oates*, I had it from *Aſhby*, but *Whitebread*, who was then beyond Sea, had ſigned this Commiſſion before he went. My Lord, I have ſomething more yet to ſay, and that is as to Mr. *Grove*, That he did go about with one *Smith* to gather Peter-pence, which was either to carry on the deſign, or to ſend them to *Rome*. I ſaw the Book wherein it was entred, and I heard him ſay that he had been gathering of it.

Grove. Where was this?

Mr. *Oates.* In Cock-pit Ally, where you know I lodged.

Grove. Did I ever ſee you at your Lodging?

Mr. *Oates.* You ſaw me at my own Door

L. C. J. Why don't you know Mr. *Oates*?

Grove, My Lord, I have ſeen him before.

L. C. J. Why this 'tis, ask a Papiſt a queſtion, and you ſhall have a Jeſuitical anſwer.

Mr. *Oates.* I will convince the Court that he does know me by ſome circumſtances. My Lord, in the Month of *December* laſt by the Provincial's Order-----

L. C. J. I would ask him firſt whether he does know you or no. Do you know Mr. *Oates*?

Grove. I have ſeen him before.

L. C. J. Have you been often in his Company?

Grove. No, my Lord.

L. C. J. What do you call often? Have you been in his Company ſeven or eight times? (for we muſt deal ſubtilly with ſuch as you are,) have you been in his Company ten times?

Grove. No.

L. C. J. What ſay you to three times?

Grove. Yes, I believe I have ſeen him twice or thrice.

L. C. J. Where? Did you never ſee him at *Whitebread*'s?

Grove. As I hope to be ſaved and before the Eternal God, I did never.

Mr. *Oates.* I will convince him and the Court, that he does know me, and is well acquainted with me: In the Month of *December* laſt I went to St. *Omers*, I went firſt to the then Provincial's Houſe to take my leave of him, and there I met with Mr. *Grove*, and he appointed to come to my Lodging the next Morning, near the Red Lyon in *Drury Lane* at one *Griſſon*'s Houſe, and he was ſo well acquainted with me then, that he had lent me eight Shillings to hire the Coach.

L. C. J. Did you lend him eight Shillings?

Grove. I did, my Lord, I do not deny it.

L. C. J. How came you to do it, when it ſeems, if you ſay true, he was a ſtranger to you?

Grove. I thought I ſhould have it again.

L. C. J. What, of him?

Grove. Yes.

L. C. J. Did he deſire you to lend him the eight Shillings?

Grove. Yes, he did, my Lord.

Mr. *Oates.* Then there is one time that he confeſſes he ſaw me.

L. C. J. Did you not know him before?

Grove. I had no acquaintance with him, I had ſeen him.

L. C. J. How came you then to lend Money to one you had no more acquaintance with?

Grove. I knew I ſhould go along with him to the Coach, and then I thought I ſhould have it again.

L. C. J. Mr. *Oates*, were you going beyond Sea then?

Mr. *Oates.* Yes, my Lord, I was.

L. C. J. Mr. *Oates*, did you pay him that Money?

Mr. *Oates*, No, my Lord, I did not.

L. C. J. Did you ask him for the Money, and had you it?

Grove. He did not pay it me.

L. C. J. How then were you ſure you ſhould have it?

Grove. He did order me to go to ſuch a one forit.

L. C. J. Who was that?

Grove. Mr. *Fenwick*, I think.

L. C. J. Then Mr. *Oates* was known to you all, he was no ſuch ſtranger to you as you would make us believe.

Mr. *Oates.* Thus he confeſſes three times he had ſeen me, once before he lent me the Money, another time when he lent it, and the third time the next day. And I will put him in mind of another time when he and I were in Company, where one brought us a Note of what was done in the Houſe of Commons turned into Burleſque, for they uſed to turn all that was done at the Council, or at the Parliament, or at the Courts in *Weſtminſter Hall* into Burleſque, and then tranſlated it into French, and ſent it to the French King, for him to laugh at too. But that by the way. Twice more he drank in my Company, at the Red Poſts in *Wild-ſtreet*, and once more when he owned to me that he fired *Southwark*.

L. C. J. Now by the Oath that you have taken, did he own to you that he had fired *Southwark*.

Mr. *Oates.* My Lord, he did tell me that he with three Iriſhmen did fire *Southwark*, and that they had a thouſand Pounds given them for it, whereof he had four hundred Pounds, and the other two hundred Pounds apiece.

L. C. J. Now for Mr. *Fenwick*, do you know Mr. *Oates*?

Fenwick. Yes, my Lord, I do.

L. C. J. Were you well acquainted with him? ſpeak plain.

Mr. *Oates.* He was my Father Confeſſor, my Lord.

L. C. J. Was he ſo? were you his Confeſſor?

Fenw. I believe he never made any Confeſſ in his Life.

L. C. J. Yes, he hath made a very good one now. Were you of his acquaintance Mr. *Fenwick*? ſpeak home and don't mince the matter.

Fenw. My Lord, I have ſeen him.

L. C. J. I wonder what you are made of: Ask a Proteſtant an *Engliſh* one a plain Queſtion, and he will ſcorn to come dallying with an evaſive Anſwer.

Fenw. My Lord, I have been ſeveral times in his company.

L. C. J. Did you pay eight Shillings for him?

Fenw. Yes, I believe I did.

L. C. J. How came you to do it?

Fenw. He was going to St *Omers*.

L. C. J. Why, were you Treaſurer for the Society?

Fenw. No, my Lord, I was not.

L. C. J. You never had your eight Shillings again, had you?

Fenwick. It is upon my Book, my Lord, if I ever had it.

L. C. J. Did Mr. *Oates* ever pay it again?

Fen. No, ſure he was never ſo honeſt.

L. C. J. Who had you it of then?

Fen. I am certain I had it not from him; he did not pay it.

L. C. J. How can you tell you had it then?

Fen. I do ſuppoſe I had it again, but not of Mr. *Oates*.

L. C. J. Had you it of *Ireland*?

Fen. I do not know who I had it of, my Lord, nor certainly whether I had it.

L, C, J, Why did you not ask Mr. *Oates* for it?

Fen, He was not able to pay it.

L. C. J. Why did you then lay it down for him?

Fen. Becauſe I was a Fool.

L. C. J. That muſt be the concluſion always: when you can't evade being prov'd Knaves by anſwering directly, you will rather ſuffer your ſelves to be call'd Fools.

Fen. My Lord, I have done more for him than that comes to; for he came once to me in a miſerable poor Condition, and ſaid, I muſt turn again, and betake my ſelf to the Miniſtry to get Bread, for I have eaten nothing theſe two days: And I then gave him five Shillings to relieve his preſent neceſſity.

Mr. *Oates.* My Lord, I will anſwer to that; I was never in any ſuch ſtraights, I was ordered by the Provincial to be taken care of by the Procurator.

Fen. You brought no ſuch Order to me.

Mr. *Oates.* Yes, Mr. *Fenwick*, you know there was ſuch an Order, and I never received ſo little in my Life as five Shillings from you: I have received 20, and 30, and 40 Shillings at a time, but never ſo little as five.

L. C. J. You are more charitable than you thought for.

Fen. He told me he had not eaten a bit in two days.

Mr. *Oates*, I have indeed gone a whole day without eating, when I have been hurried about your Traſh; but I aſſure you, my Lord, I never wanted for any thing among them.

L, C, J, Perhaps it was Faſting-day.

L, C, Baron. My Lord, their Faſting-days are none of the worſt.

Mr. *Oates*, No, we commonly eat beſt of thoſe days.

L, C, J, Have you any thing to ask him any of you?

Whitebread, My Lord, will you be pleaſed to give me leave to ſpeak for my ſelf.

Juſtice Atkins, It is not your time yet to make your full Defence, but if you will ask him any Queſtions you may.

Whitebread, I crave your mercy, my Lord.

L, C, J, Will you ask him any Queſtions?

Fen, Did not you ſay that you were at my Chamber the 24*th* of *April* with the Reſolve of the Conſult?

Oates, That Reſolve I did then carry to your Chamber.

Fen, Then was he himſelf at St. *Omers*.

L, C, J, The difference of *old Stile* and *new Stile* may perhaps make ſome alteration in that Circumſtance.

Whitebread, But, my Lord, he hath ſworn he was preſent at ſeveral Conſultations in *April* and *May*, but from *November* till *June* he was conſtantly at St. *Omers*.

L, C, J, If you can make it out that he was at St. *Omers* all *April* and *May*, then what he hath ſaid cannot be true.

Ireland, He himſelf hath confeſſed it that he was at St. *Omers*.

L, C, J, If you mean by Confeſſion, what ſtands upon the Evidence he hath given, I'll remember you what that was. He ſays he came to St *Omers*-----

Oates, Will your Lordſhip give me leave to ſatisfie the Court: In the Month of *December* or *November*, I went to St. *Omers*: I remained there all *January*, *February*, *March*, and ſome part of *April*: Then I came over with the Fathers to the Conſult that was appointed the 24*th* of that Month.

Fen, did you go back again?

Oates, Yes.

Fen, When was that?

Mr. *Oates*. In the month of *May*, preſently after the Conſults were over.

Fenw. And we can prove by abundance of Witneſſes that he went not from St. *Omers* all that Month.

L. C. J. You ſhall have what time you will to prove what you can; and if you can prove what you ſay, you were beſt fix it upon him; for he ſaith he was here at the Conſults in *April* and *May*; if you can prove otherwiſe pray do.

Fen. We can bring an Authentick Writing (if there be any ſuch) from St. *Omers*, under the Seal of the College, and teſtified by all in the College that he was there all the while.

L. C. J. Mr. *Fenwick* that will not do; for firſt if it were in any other Caſe beſides this, it would be no Evidence, but I know not what you cannot get from St. *Omers*, or what you will not call Authentick.

Fen. Does your Lordſhip think there is no Juſtice out of *England*?

L. C. J. It is not, nor cannot be Evidence here.

Fen. It ſhall be Signed by the Magiſtrates of the Town.

L. C. J. What there?

Fen. Yes there.

L. C. J. You muſt be tryed by the Laws of *England*, which ſends no Piece of Fact out of the Country to be Tryed.

Fen. But the Evidence of it may be brought hither.

L. C. J. Then you ſhould have brought it. You ſhall have a fair Trial; but we muſt not depart from the Law or the way of Trial, to ſerve your purpoſes. You muſt be Tried according to the Law of the Land.

Juſt. Atkins. Such Evidences as you ſpeak of we would not allow againſt you; and therefore we muſt not allow it for you.

Whitebread. May this Gentleman be put to this, to produce any two Witneſſes that ſee him in Town at that time.

Mr. *Oates*, I'll give ſome Circumſtances and what Tokens I have to prove my being here: Father *Warner*, Sir *Tho. Preſton*, Father *Williams*, and Sir *John Warner*, they came hither with me from St. *Omers*, there was one *Nevil*, &c. I cannot reckon them all.

L. C. J. You have named enough.

Mr. *Oates*, But to convince them, there was a Lad in the Houſe that was got to the end of his Rhetorick; this Lad was Whipt and turned out of the Houſe, and had loſt all his *Money*: Father *Williams* did Re-imburſe this Lad in order to his bringing home, I think the Lad's Name was *Hilſley*, or ſome ſuch Name. And we came up to *London* together.

L C J,

L. C. J. What say you to this Circumstance?

Whitebread, My Lord, he knew that two such came to Town, but he was not with them.

L. C. J. You are now very good at a Negative I see, how can you tell that?

Whitebread, My Lord, he could not come.

L. C. J. How can you tell he could not come.

Whitebread, I can tell it very well, for he had no Order to come, nor did come.

L. C. J. How can you undertake to say that he did not come?

Whitebread, Because he had no order to come.

L. C. J. Is that all your reason? Where were you then?

Whitebread, I was here.

L. C. J. How do you know he was not here?

Whitebread, He had no Orders to come.

L, C, J, Have you any other Circumstance, Mr. *Oates*, to prove that you were here then?

Oates, My Lord, when I came to *London*, I was ordered to keep very close, and I lay at *Grove*'s House; let him deny it if he can, I'll tell you who lay there then.----

Grove, Did you ever lye at my House?

Oates, There lay a Flaxen Hair'd Gentleman, I forgot his name: But I'll tell you who lay there besides; that is *Strange*, that was the late Provincial.

L, C, J, Did *Strange*, ever lye at your House?

Grove, Yes, my Lord, he did.

L, C, J, Did he lye there in *April* or *May*?

Grove, No, he did not in either of them.

L, C, J, You will make that appear.

Grove, Yes, that I can by all the House.

L, C, J, Have you any more Questions to ask him? If you have, do: If you can prove this upon him, that he was absent, and not in *England* in *April* or *May*, you have made a great Defence for your selves, and it shall be remembred for your advantage when it comes to your turn: In the mean time, if you have no more to say to him, call another Witness. Let Mr. *Oates* sit down again, and have some Refreshment.

Mr. *Serj. Baldwin*. We will now call Mr. *Bedlow*, my Lord.

Then Mr. Bedlow *was sworn.*

Mr. Serj. *Baldwin*. Mr. *Bedlow*, Pray do you tell my Lord and the Jury, what you know of any design of killing the King, and by whom.

Mr. *Bedlow*. My Lord, I have been five Years almost employed by the Society of *Jesuits* and the English *Monks* in *Paris* to cary and bring Letters between them from *England* and to *England*, for the promoting of a Design tending to the subversion of the Government, and the extirpating of the Protestant Religion, to that degree (which was always concluded on in all their Consults wherein I was) that they would not leave any Member of any Heretick in *England*, that should survive to tell in the Kingdon hereafter, that there ever was any such Religion in *England* as the Protestant Religion-----

Here Whitebread *would have interrupted him.*

My Lord, I am so well satisfied in their denials, that I cannot but believe they who can give a Dispensation, and have received the Sacrament to kill a King and destroy a whole Kingdom, do not scruple to give a Dispensation for a little Lye to promote such a Design, for so much as this expiates any Lye or greater Crime.

Sir *Cr. Levines*, Pray, Sir, will you be pleased to tell your whole knowledge concerning the Prisoners at the Bar.

Mr. *Bedlow*, The first Letter I carried was from Mr. *Harcourt*, at his House next door to the Arch in *Duke-street*. He hath been Procurator for the *Jesuits* about six Years. He employed me first, and sent for me over, for I was then Lieutenant in *Flanders*, and coming home to receive my Pay that was due to me----

L, C, J, How long is it ago?

M. *Bedlow*, *Michaelmas* last was four Years; when I came to *Dunkirk* I went to visit the *English* Nunnery there, and the Lady Abbess finding me very plyable and inclinable, made very much of me, and I did adhere to her. She kept me six Weeks in the Convent, and afterwards when I went away, recommended me to Sir *John Warner*, as an Instrument fit to be employed in the carrying of Letters, or doing any thing that would promote the design against *England*. He kept me at St. *Omers* a Fortnight, and after sent me to Father *Harcourt* to be instructed in my employment: It was then Winter, the next Spring he sends me into *England* with divers Letters, where by Mr. *Harcourt* I was employed to carry several Letters to *Morton* and *Doway*, and other places: That Summer I was sent into *England* without an Answer: But afterwards in (76,) which was the next Summer, I was to carry another Pacquet of Letters to the *Monks* at *Paris*, who sent it to other English *Monks* in *France*-----

L, C, J, Who sent that Pacquet of Letters in 76?

Bedlow, I had it from Mr. *Harcourt*, and it was written by *Harcourt*, *Pritchard* and *Cary*.

L, C, J, To whom?

Bedlow, To the English *Monks* in *France*, and in it there was a Letter to *Le Chese*. Upon the receipt of these Letters at *Paris Le Chese* had a Consultation with the *Monks* and a French Bishop or two about them: I did not then speak French enough to understand what it was they said, but it was interpreted to me by Mr. *Stapleton* an English *Monk*, who told me, that it was a Letter from my Lord *Bellasis* and others of the Catholick Religion, English Gentlemen that were Contrivers of the Plot here, to satisfie them in what state things stood in *England* as to Popery, I was sent back again with a Pacquet of Letters directed to Mr. *Vaughan* of *Courtfield* in *Monmouthshire*.

L, C, J, From whom was that?

Bedlow, From the English *Monks* at *Paris*. From that Consultation I went to *Ponthois*, I there receiv'd other Letters to carry into *England*, I had a course to open their Letters, and read what was in them; and in those Letters was contained, That the Prayers of that House were for the prosperity of that Design, and they would not fail to be at the Consultation at of *Warwick-shire Gentlemen*, I fell sick at *Monmouth*, and Mr. *Vaughan* sent to me a *Jesuit* to Confess me; but I was well before he came, and so was not Confess'd by him. I now come to the later times.

L, C, J, You must speak it over to the Jury, that they and the Prisoners may hear you

Bedlow, The 25*th* of *May* 77, which was last Year, I was sent over with another Pacquet of Letters. I had no Letters of consequence forward, and therefore

therefore did not call then at *Wotten*, but I called upon the Lady Abbeſs at *Dunkirk*, and I went thence to *Bruges* and to *Ghent*, where I had ſome Letters for the Engliſh Nuns, which I delivered to them. When I came to *Doway*, I found there that the *Monks* were gone, that was *Sheldon*, *Stapleton*, and *Latham*, but the Letters were directed to *Paris*, and therefore I made haſte, and at *Cambray* I overtook them. And the Letters were to give an account of the Conſultation held in the Gallery at *Somerſet-Houſe*: All tending to the deſtruction of the Proteſtant Religion, and killing the King, but I do not think fit to declare here who were the Perſons that were preſent at that Conſultation. At *Cambray* they were very joyful that there was ſo good a proceeding in *England*. At *Paris* when the Letters were ſhewed, there was a Letter written in a Language which I did not underſtand, but, as I was told, in that Letter they were charged in *Paris* by my Lord *Bellaſis*, that they did not proceed according to their promiſe to them in *England*; but, ſaid *Stapleton*, to me, My Lord *Bellaſis* nor the Society in *England* need not to write thus to Us, for we are not ſo backward, but that we can lend Men, and Money, and Arms too, and will upon occaſion. From thence they ſent me to *Spain* with a Letter to an Iriſh Father: I did overtake him at *Sa Mora*. From thence I went with another Letter to the Rector of a College of Iriſh *Jeſuits* in *Salamanca*. By their contrivance I was ſent to St. *Iago* in *Spain*, where was another College of Iriſh *Jeſuites*: there I ſtayed till I had an Anſwer to Sir *William Godolphin*; and when I had the Anſwer to that Letter, I went for the Letter from the Rector at *Salamanca*. The *Jeſuites* there told me, they would take care to ſend their own Anſwer another way: And when they had made me that promiſe, I came away for *England*, and landed at *Milford Haven*: All this reaches to none of theſe perſons in particular: But what I now ſhall ſay ſhall be about them, only it was neceſſary I ſhould ſpeak of what I have ſaid,

L. C. J. The meaning of all this is only to ſhew the Jury and ſatisfie them, that he was an Agent for theſe Men, and hath been employed by them for five Years together, and he names you the praticular places whither he hath been ſent, to to ſhew you the Reaſons of his Knowledge in this matter, and upon what account he comes to be informed of this Deſign.

Bedlow, Having receiv'd the News of that Country, I did there take Water, and landed again at *Penſans*, and when I came to *London* I gave the Letter to *Harcourt*: what was in that Pacquet I cannot particularly tell, for I was not ſo inquiſitive as to look into the Contents of it, but I know it was tending (as all the reſt did) to the carrying on of this Plot: Afterwards I was employed by *Harcourt* and *Coleman* to go to ſome parts of *England* to communicate the Letters to ſome of the Popiſh party.

L. C. J. Now turn to the Jury.

Bedlow, The Summer was paſt in the doing of that: In the beginning of *Auguſt* laſt there was a Conſultation and a cloſe one at *Harcourt*'s Chamber, ſo as that they did not permit me to know any thing of it, I went out of Town for a Fortnight, and when I returned, I underſtood there had been ſuch a meeting, I charged them with their Privacy in it, and asked what was the private deſign of that Conſultation; they ſaid it was ſomething I ſhould know in time: That it did not ſignifie much at preſent, but in time I ſhould know it: But then I underſtood by *Pritchard*, who was more my Confident than any of the reſt: That it was a Deſign to kill the King: That *Pickering* and *Grove* had undertaken it a great while, and that they had been endeavouring a long while to bring it to paſs

Fenwick, Where was this Meeting, and when?

Bedlow, Laſt *Auguſt* at *Harcourt*'s Chamber

Fenwick, Who were preſent there?

Bedlow, Be pleaſed to give me leave to go on, I'll tell you by and by: Then I underſtood, as I ſaid, that it was to kill the King, but that *Pickering* and *Grove* failing of it, they had hired four Ruffians that were to go to *Windſor*, and to do it there, and that if I would come the next day, I ſhould hear from *Coleman* the effect: When I came there I found *Coleman* was gone, but *Pritchard* ſaid there were ſome ſent to *Windſor*, and that *Coleman* was going after them, and that he had given a Meſſenger a Guinea that was to carry the Money to them. And he would preſently be after them, for fear they ſhould want Opportunity to effect their Deſign. Then I diſcours'd them, why they kept their Deſign ſo long hid from me? They ſaid, It was a Reſolve of the Society, and and an Order of my Lord *Bellaſis*, that none ſhould know it but the Society, and thoſe that were Actors in it. I ſeem'd ſatisfy'd with that Anſwer at preſent. About the latter End of *Auguſt*, or the Beginning of *September*, (but I believe, it was the latter End of *Auguſt*) I came to *Harcourt*'s Chamber, and there was *Ireland*, and *Pritchard*, and *Pickering*, and *Grove*.

L. C. J. What Part of *Auguſt* was it?

Bedlow, The latter End.

L. C. J. Do you ſay it Poſitively, That it was the latter End of *Auguſt*?

Bedlow, My Lord, It was in *Auguſt*; I do not ſwear Poſitively to a Day.

L. C. J. But you ſay, It was in *Auguſt*.

Ireland, And that we were there preſent?

Bedlow, You were there, and *Grove*, and *Pickering*.

Ireland, Did you ever ſee me before?

Bedlow, You were preſent there, and *Grove*, and *Pickering*, and *Pritchard*, and *Fogarthy*, and *Harcourt*, and *I*.

L. C. J. What did you Talk of there?

Bedlow, That the *Ruffians* miſſing of Killing the *KING* at *Windſor*, *Pickering* and *Grove* ſhould go on, and that *Conyers* ſhould be joyned with them; and that was to Aſſaſſinate the *KING* in His Morning-Walks at *New-Market*: And they had taken it ſo ſtrongly upon them, that they were very eager upon it: And *Grove* was more forward than the Reſt: And ſaid, Since it could not be done Clandeſtinely, it ſhould be attempted Openly. And that thoſe that do Fall, had the Glory to dye in a Good Cauſe. But (ſaid he) if it be diſcovered, the Diſcovery can never come to that Heighth, but their Party would be ſtrong enough to bring it to paſs.

L. C. J. And you ſwear, *Ireland* was there?

Bedlow, He was there, my Lord.

L. C. J. And heard all this?

Bedlow, Yes, my Lord; and ſo did *Grove*, and *Pickering*, and the Reſt.

Ireland, My Lord, I never ſaw him before in my Life.

L. C. J. What was the Reward that you were to have for your pains in this Buſineſs?

Bedlow,

Bedlow, My Lord, The Reward that I was to have (as it was told me by *Harcourt*) was very conſiderable: I belong'd to one particular Part of the Society. There are others; and I preſume, they each kept their particular Meſſengers.

L. C. J. What was *Grove* to have?

Bedlow, *Grove* was to have Fifteen Hundred Pound, if he Eſcaped, and to be a continual Favorite, and Reſpected as a great Perſon, by all the Church.

L. C. J What was *Pickering* to have?

Bedlow, He was to have ſo many *Maſſes*, I cannot preſume to tell the Number; but they were to be as many, as at Twelve Pence a *Maſs* ſhould come to that Money: Theſe *Maſſes* were to be Communicated to all the *Jeſuites* beyond the Seas, that when he had done it, he might be ſent away immediately.

L, C, J, What can you ſay of anyof the Reſt?

Bedlow, My Lord, I do not Charge any more but them Three.

L, C, J, What ſay you to *Whitebread*?

Bedlow, They have ſaid, that he was very Active in the *Plot*; but I know it not.

L. C. J. That is not any Evidence againſt him. What can you ſay, as to *Fenwick*?

Bedlow, No more than I have ſaid, as to Mr. *Whitebread*: I only know him by Sight.

L. C. J. Then he Charges only theſe Three upon Oath, *Ireland*, *Pickering*, and *Grove*.

Ireland, Do you know Sir *John Warner*?

Bedlow, I know Father *Warner* at St. *Omers*, and Sir *John Warner* at *Wotton* by St. *Omers*.

Ireland, He named Sir *John Warner* to be at *Paris*.

Bedlow, It was *Sheldon*, I ſpoke of (my Lord) at *Paris*.

Ireland, At leaſt, you are certain, that I was preſent at that Conſultation?

Bedlow, Yes; I am certain, you were there.

Ireland, Can you produce any Witneſs, that you ever ſpoke to me before in your Life.

Mr. Serj *Baldwyn*. Do you know any thing of Mr. *Whitebread*'s being preſent at any of the Conſults?

Bedlow, I do know, that *Whitebread*, and *Fenwick* both, have been ſeveral times at Conſultations; but I do not know what the Particular Reſolves of thoſe Conſultations were.

L, C, J, Did you ever hear them ſpeak any thing in Particular?

Bedlow, No, I have never heard them ſpeak any thing in Particular.

L, C, J, Where have you ſeen *Fenwick*?

Bedlow, I have ſeen *Fenwick* at *Harcourt*'s Chamber, and I have often heard him talk'd of; and it hath been told me, That nothing was done, without *Fenwick*.

Whitebread, Are you ſure you know us?

Bedlow, I do not ſay, You are the Man that employed me: You are the Man I was leaſt acquainted with, of all the Society; but I have ſeen you there.

Ireland, Can you bring any one, that can Teſtifie it?

L, C, J, He muſt then have brought one of your ſelves; and it may be, he cannot produce any ſuch one.

Ireland, Nor no one elſe, except ſuch a *Knight* of the *Poſt*, as Mr. *Oates*.

L, C, J, You muſt be Corrected for that, Mr. *Ireland*: You ſhall not come here to Abuſe the *KING*'s *Evidence*. Nothing appears to us, that Reflects upon Mr. *Oates*'s Teſtimoney; and we muſt not ſuffer any ſuch ſort of Language.

Mr. Juſt. *Atk.* Take off his Credit as much as you can by Proof, but you muſt not Abuſe him by ill Language.

Mr. *Finch*, Can you tell the *Court* and the *Jury*, when it was, that by Agreement *Grove* ſhould have the Fifteen Hundred Pound?

Bedlow, He was to have it put into a Friend's Hands.

L. C. J. Do you know that Friend's Name?

Bedlow, No, my Lord, I do not.

Mr. *Finch*, Do you know, when that was to be delivered out to him?

Bedlow, As to the particular Time of their Agreement, I do not know it.

Mr *Finch*. But this he ſays, That when the Agreement was made, he was to have Fifteen Hundred Pound.

L. C. J. And he ſays this, That *Ireland* was in *Auguſt* laſt, with *Pickering* and *Grove*, and others, at a Conſult; where he was alſo.

Ireland, But what if I prove I was not in *London* all *Auguſt* laſt, from the Beginning to the End?

L. C. J. You heard them talk of this Matter in *Auguſt*, at *Harcourt*'s Chamber, you ſay: What, did they talk of it, as a Matter they had agreed?

Bedlow, My Lord, they brought it in, as being baulked in their Deſign of Killing the *KING* at *Windſor*; and becauſe that had not taken the Effect they intended it, they ſhould have *Conyers* joyned to them, to do it at *New-Market*.

Mr. *Finch*, Did they tell you when, and where the Agreement was made?

L. C. J. No, he ſpeaks not of that; but they talk'd of the Failure at *Windſor*: And therefore they did conclude, that *Conyers* ſhould be joyned to them, to do it at *New-Market*.

Bedlow, Yes, my Lord.

L. C. J. Have you any more to ſay?

Bedlow, My Lord, I would only ſay this; If I had any to prove what I ſay, they muſt be Parties as well as theſe Perſons.

Ireland, My Lord, I will prove, That I was not in Town in *Auguſt* all the Month, by twenty Witneſſes: I'll bring thoſe that ſaw me in *Staffordſhire*, and ſpoke with me all *Auguſt*.

L. C. J. Have you any more to ask him?

Whitebread, No.

Serj. *Baldwin*, Swear Mr. *James Bedlow*. And he was ſworn.

Ireland, He does ſay, That he was Familiar with me, and ſeveral other Perſons here; and therefore, I deſire he may ſpecify the Place, and the Company.

William Bedlow, I do not ſay, there was a Familiarity; for I was a Stranger to that Part of the Society.

L. C. J. You muſt take him right, Mr. *Ireland*; he hath not ſaid, that he was of your Familiar Acquaintance.

Bedlow, I have ſeen you often, Sir.

Ireland, Where?

Bedlow. At *Mounſieur Le Faire*'s.

Ireland, Where was that?

Bedlow, At *Somerſet-Houſe*.

Ireland, Was their any one preſent beſides?

Bedlow, Yes, ſeveral other *Prieſts* and *Jeſuites* of *Somerſet-Houſe*.

Ireland, Name one.

Bedlow, Seignior *Perrare*.

Ireland, You ſay, you ſaw me and *Perrare* toge-

ther

ther at *Somerset-House*. I suppose, if Seignior *Perrare* may be brought hither-----

Bedlow, My Lord, *Perrare* is a *Priest* in Orders; and without doubt, is in this Business.

L. C. J. If he did see you, he must see you in such Company as you keep, they were Priests and *Jesuites*, and of your own Religion; and we know very well what Answers we are like to be put off with by Men of your own Persuasion at this time of day.

Ireland, My Lord if no body's Oath can be taken that is of another Persuasion than the Church of *England*, it is hard.

L. C. J. Pray mind, you do not object ingenuously: for you say, This Witness swears he saw me in such Company, why does he not produce them to testifie it? Why? He does not come prepared to produce them; if he should, we know well how you are concerned one for another at this time; and we can hardly expect they should make true Answers. But notwithstanding, if you will produce this Father *Perrare*, (he cannot be sworn because 'tis against the Law, but) his Testimony shall be heard, and let it go as far as it can.

Bedlow, If your Lordship pleases, my Lord, I would convince him that he does know me. Have you not been, Sir, at *Somerset-House*?

Ireland, Yes, I have.

Bedlow, Do you know *le Fair* and *Perrare*?

Ireland, Yes, but I never saw you in their Company in *Somerset-House* in my Life, above once or twice.

Bedlow, Yes you have twice at *le Fair's*.

L. C. J. Where is that *le Fair*? you would do well to produce him?

Bedlow, My Lord, he is gone away, and is one against whom the King's Proclamation is out.

L. C. J. You keep such Company as run away, and then you require him to produce them, whom the King's Proclamation cannot bring in.

Ireland, I keep none but honest Company.

Bedlow, If your Lordship pleases, I have one thing more that is very material to speak; at the same time that there was a discourse about these Three Gentlemen's being to destroy the King at *New-Market*, at the same time there was a discourse of a design to kill several Noble Persons, and the particular parts assigned to every one. *Knight* was to kill the Earl of *Shaftesbury*, *Pritchard* the Duke of *Buckingham*, *Oneile* the Earl of *Ossory*, *Obrian* the Duke of *Ormond*.

L. C. J. Well, will you have any more of this?

Mr. *Finch*, You say, you saw Mr. *Ireland* say Mass, where did you see him?

Bedlow, Not Mr. *Ireland*, but Mr. *Fenwick*, I have seen him say Mass, and at *Wild-House*.

Oates, My Lord, I did omit a Consult wherein there was a design laid of taking away the Duke of *Ormond*'s Life, and of a Rebellion that was to be raised in *Ireland*.

My Lord, in the Month of *January* last, there came Letters from Arch-Bishop *Talbot* to *London*, which Letters were perused by *Fenwick*, and *Ireland*, and *Whitebread*, and when they were perused, they were sent and communicated to the Fathers at St. *Omers*. The Contents of those Letters were thus, That the Catholicks had a fair prospect of effecting their Designs in the Kingdom of *Ireland*. And this Letter was inclosed in a Letter signed by *Whitebread*, *Ireland*, *Fenwick*, and others (I name no Man's Name that is not here.)

L. C. J. You saw the Letter?

Oates, Yes, I did see it, and read it, wherein they did give thanks unto God, that he was pleased to prosper their designs so fairly in *Ireland*; and withal they did say, That they would not leave a stone unturned, to root out that abominable Heresy out of that Kingdom. Now what that abominable Heresy was, I have nothing but a Conjecture.

L. C. J. We all know what that is well enough, there needs no Proof of that.

Oates, In the Month of *August*, *Fenwick*, a little before he went to St. *Omers*, on the One and Twentieth of *August*, (as I think it was) that Week that *Bartholomew-Fair* begun on (as I take it) he was then going to fetch home the Provincial, and to carry some Students with him, and he went unto St. *Omers* the *Monday* following; but then there was a Consult, and at that Consult *Fenwick* did consent to the contrivance of the Death of the Duke of *Ormond*, and for the Rebellion that was to be raised in *Ireland* after his Death. And he did approve of the Four *Jesuites* that were to kill my Lord of *Ormond*, and did consent to send *Fogarthy* down to the Arch-Bishop of *Dublin*, in case the Four good Fathers did not hit the business. Mr. *Whitebread*, my Lord, did consent when he came over as appears by their Entry-Books. For there came a Letter from him Dated as from St. *Omers*, but I concluded it did not come from thence, because it paid but Two-pence.

Whitebread, Who was it that writ that Letter?

Oates, My Lord, this Letter was Dated as the latter part of *August*, and Dated as from St. *Omers*, but the Post mark upon it was but Two-pence, to be paid for it; so that I do conclude thence Mr. *Whitebread* was then at Esquire *Leigh*'s house in But in that Letter he did like the Proposal that was made about killing the Duke of *Ormond* in that Consult, and the Letter was signed with his own hand.

L. C. J. I would gladly see that Letter.

Oates, If I could see it, I could know it.

L. C. J. You have not that Letter?

Oates, No, but they kept a Book wherein they Registred all their Resolutions, and there it was entred.

L. C. J. You upon your Oath say, That he as Superiour of them did keep a Book, wherein they Registred all their Consults.

Oates, Yes, my Lord.

L. C. J. You would do well to shew us your Book, Mr. *Whitebread*.

Whitebread, We never kept any.

Oates, The Consult did, for tho' the Superiour have an absolute power over the subject, yet they never do any thing of Consequence without the Consult. And this Book was kept by the Superiour, and never opened but at the Consult, and therein all the Passages were Registred.

L. C. J. Produce your Book, and we shall see whether you cannot catch Mr. *Oates* in something or other.

Bedlow, My Lord, that Book I have seen, and therein all their Consults are Registred.

L. C. J. Was there Books kept by them?

Bedlow, Yes, my Lord, all the Consults did keep Books, and Mr. *Langhorne* was the Person that Registred all into one.

L. C. J. If a Hundred Witnesses swear it, they will deny it. Well, will you have any more?

Mr. S. *Baldwin*. My Lord, we will now call Mr. *James Bedlow*, this Gentleman's Brother to shew

ſhew you, That theſe ſort of Perſons did reſort to him frequently.

L. C. J. Are you ſworn Sir?

J. Bedlow, Yes, my Lord, I am.

L. C. J. Then let me ask you one ſhort Queſtion. Do you know Mr. *Ireland*?

J. Bedlow, No.

L. C. J. Do you know *Pickering* or *Grove*?

J. Bedlow, I have heard of them.

L. C. J. Did your Brother know any thing of them?

J. Bedlow, As for the Conſpiracy of killing the King, I know nothing of it; but about his knowledge of Prieſts and *Jeſuits*, and the Converſe he had beyond Sea, that I can ſpeak to. And I have very often heard theſe mens names named.

L. C. J. In what nature did he talk of them?

J. Bedlow, I know nothing of the Plot, and as for any deſign I knew not what my Brother knew, but I have heard him talk of them.

L. C. J. How did he talk of them?

J. Bedlow, He mentioned them as his Acquaintance, the *Jeſuits* there did ask him Queſtions about them.

L. C. J. And did it appear to you they were of his Acquaintance.

J. Bedlow, But I underſtood nothing of the Plot or Deſign, by the Oath I have taken.

L. C. J. But did he ſpeak as if he knew any of them?

J. Bedlow, For any certain knowledge that my Brother had of them I cannot ſpeak, but I have often heard him talk of them as people I thought he knew.

Mr. *Finch*, Do you know, that when he came over from beyond Sea, that his Lodging was frequented by any, and by whom?

J. Bedlow, Yes, there were many Prieſts and *Jeſuits* came to him.

Mr. *Finch*, Did your Brother receive any Money from them?

J. Bedlow, Yes, my Lord, I have fetch'd many ſcore of Pounds for my Brother from them.

L. C. J. The Uſe, Gentlemen, that the King's Council make of this Evidence, is only to ſhew, That his Brother Mr. *Bedlow* was converſant in their affairs, in that he hath received many a ſcore of Pounds in the managing of their buſineſs.

Sir *Cr. Levinz*, Pray, from whom had your Brother that Money?

J. Bedlow, I have proved that from the Goldſmiths themſelves that paid it, before the Duke of *Monmouth*, my Lord Chancellor, and Lord Treaſurer.

Mr. *Finch*, Have you received any conſiderable ſum at a time?

J. Bedlow, Yes, I have.

Mr. *Finch*, How much?

J. Bedlow, Fifty or Threeſcore Pounds at a time.

Finch, Of whom?

J. Bedlow, Of Prieſts and Jeſuits.

Finch, For whom?

J. Bedlow, For my Brother.

L. C. J. Will you have any more Evidence?

Mr. Serj. *Baldwyn*, Yes my Lord, The next Evidence we produce, is concerning a Letter; there was a Letter written by one Mr. *Peter*, that is now a Priſoner, to one *Tonſtall* a Jeſuit; and this Letter does mention, That there was a meeting appointed by order of *Whitebread* to be at *London*.

L. C. J. What is that to them, and how come you by it?

Serj. *Baldwyn*, *Peters* is now in Priſon for things of this nature; and you have heard of one *Harcourt*, and out of his Study this Letter was taken.

W. Bedlow, My Lord, may I not have liberty to withdraw? my head akes ſo extreamly, I cannot endure it.

L. C. J. Mr. *Bedlow*, you may ſit down, but we can't part with you yet.

Ireland, I deſire my Lord, that his Brother may be asked, how long he had known me.

L. C. J. Can you recollect by the diſcourſes you have heard, how long he might have known *Ireland*?

J Bedlow, No my Lord, it was out of my way.

L. C. J. But he did talk of *Ireland*?

J. Bedlow, Yes, my Lord, he did.

Ireland, As being where, in what place?

J. Bedlow, I cannot tell.

Ireland, He named one place Three Years ago, it was at *Paris*.

L. C. J. But he does not ſay that you were there, but that you were familiarly talk'd of there; ſo that the meaning is, they were acquainted with you: And this is only brought to ſhew, that it is not a new-taken-up thing by *Bedlow*, though you ſeemed never to have known any ſuch Man; yet he ſwears, ſaith he, I have heard ſuch Perſons talkt of as my Brother's acquaintance.

Ireland, If his Brother had talkt of me three years ago, why then he muſt have known me three years ago.

L. C. J. I'll ask him that queſtion: How long is it ſince you knew him?

W. Bedlow, I have known him but ſince *Auguſt* this ſame laſt Summer; but, my Lord, I talkt five, and four years ago of ſeveral Engliſh Monks and Jeſuits that were then at *Rome*, that I never knew in my Life.

L. C. J. His anſwer then is this, ſaith his Brother, I have heard him talk of them three years ago; I then asked *Bedlow*, how long he had known them? ſaith he, I did not know them three years ago, though I did talk of them three years ago; for we have talkt of many that we never ſaw in our Lives: So it ſeems he had occaſion to make uſe of your names frequently, and join them with thoſe of ſome he knew better: But he never knew you till *Auguſt* laſt; but he did diſcourſe of you three years ago, as known for ſuch ſort of Perſons.

Ireland, He muſt hear ſome-body ſpeak of us, as being in ſome place or another.

W. Bedlow, I will ſatisfie you in that, We talk of ſome now in *England*, that are to be ſent a year hence.

L. C. J. If you can produce but *Harcourt* and *le Faire*, they will do you great ſervice now.

W. Bedlow, My Lord, as for example, Father *Pritchard* is Confeſſor to ſuch a Gentleman in *England* now this year; a year hence we muſt ſend ſuch a one hither, and he muſt go back. And we may talk of that Perſon as in *England*, two Years before.

L. C. J. You need not trouble your ſelves about that. Mr. *Ireland*, you ſhall have a fair Trial, but you will not have cunning or art enough to deceive the Jury, nor will Mr. *Whitebread* have Learning enough to baffle the Court.

Then Mr. W. Bedlow *and his Brother withdrew.*

Serj. *Baldwin*, My Lord, The next Evidence that we ſhall give, as I ſaid, is a Letter from one *Peters* to one *Tonſtal*, and this we will bring home to Mr. *Whitebread*, for it is an invitation to be at the Conſult held in *London* the 24*th* of *April*; and it was written about that very time, to wit, the 3*d* of *April*. It was written from *London*, and it mentions, that Mr *Whitebread* did fix the meeting at that time. We'll tell you how we came by the Letter, Mr. *Harcourt* who is one of the principal perſons here, and at whoſe Houſe was the meeting you heard of, he himſelf is fled away, when they came to look after him upon the diſcovery that was made: And Mr. *Bradley*, who was the Meſſenger to ſeize upon him, did according to direction ſearch his Study, and did there find this Letter, which we conceive, my Lord, to be very good Evidence; this *Harcourt* being a party, and one at whoſe Houſe the laſt meeting was, and others was. We do conceive a Letter from one of that party, bearing date about the ſame time, concerning Mr. *Whitebread*'s Summons, who was Maſter of the Company, is very good Evidence againſt them.

L C J, If you had found it in Mr. *Whitebread*'s cuſtody, you ſay ſomething.

Juſt. *Berttie*, My Brother puts it ſo: We find a Letter directed to Mr. *Whitebread*, let the matter of it be what it will, it is found among *Harcourt*'s Papers.

Serj. *Baldwin*, No my Lord, we find a Letter from one Mr. *Peter's* now a Priſoner directed to Mr. *Tonſtall* concerning the Conſult ſummoned by *Whitebread*, and this we find in *Harcourt*'s poſſeſſion.

L C J, I can't underſtand how this may affect Mr. *Whitebread*.

Mr. *Finch*, Pray my Lord, if your Lordſhip pleaſe, this is the uſe we make of this Letter; we do not produce it as another Evidence of this deſign, but to fortify that part of the Evidence which hath already been given, That there was a Conſult ſummoned at that time, and to be held with all the privacy that could be, to prevent diſcovery. And this is the paper, that we find in the Cuſtody of *Harcourt*, one of the Conſpirators who is fled for it.

L C J, Look you, Mr. *Finch*, if you uſe it not againſt any particular perſon, but as an Evidence in general that there was a Plot amongſt them, you ſay right enough; but it cannot be Evidence againſt any one particular perſon of the Priſoners at the Bar.

Mr. *Finch*, My Lord it can affect no particular perſon; but we only uſe it in the general, and We pray it may be read.

L C J, Gentlemen of the Jury, before you hear the Letter read, I would ſay this to you. Let them have fair play, whatſoever they mete unto others, we will ſhew them Juſtice. They ſhall have as fair play upon their Trials as any perſons whatſoever. The thing that is offered to be given in evidence, is a Letter written by one *Peters* a Priſoner for this Plot, and directed to one *Tonſtall* a *Jeſuit*, and this is found in *Harcourt*'s Chamber, a Prieſt that is fled, and one whom the King hath Commanded to render himſelf by His Proclamation; but he does not. Now in that Letter there is a diſcourſe of a Deſign and Plot on foot. This cannot be evidence to charge any one particular perſon of theſe; but only to ſatisfy you and all the world, that thoſe Letters and Papers that are found amongſt their own Prieſts, do fortify the Teſtimony of Mr. *Oates*, that there is a general Plot: 'tis not applied to any particular perſon.

Oates, The day before the Conſult met, Mr. *Whitebread* did ask Mr *Peters* whether he had ſummoned the Conſult according to his direction. Mr. *Peters* told him yes, he had writ into *Warwickſhire* and *Worceſterſhire*.

Whitebread, When was this?

Oates, The day before the Conſult met.

Whitebread, Did you hear me ask Mr. *Peters*?

Oates, Yes, I did hear you; and I did hear him ſay he had done it. Now my Lord this Letter that is found in *Harcourt*'s Study ſhews, that Mr. *Whitebread* had directed Mr. *Peters* in this Conſult.

Serj. *Baldwyn*, Pray ſwear Sir *Tho. Doleman* to ſhew how he came by it. Which was done.

Serj. *Baldwyn*, Sir *Tho. Doleman*, What do you know of this Letter?

Sir *Tho. Doleman*, This Letter in my hand was taken amongſt *Harcourt*'s papers, in a great Bag of papers; and ſearching them I did find this Letter amongſt the reſt.

Then the Letter was ſhewn to Mr. *Oates*.

L. C. J. Is that Mr. *Peters*'s hand?

Oates, Yes, my Lord, it is.

L C J, Were you acquainted with his hand?

Oates, Yes, my Lord, I have often read it in Letters.

L C J, Do you know *Tonſtall*?

Oates, My Lord, I do not know him by that name; If I did ſee him perhaps I might: I knew Men better by their Faces.

Sir *Cr. Levinz*, Pray read it.

Cl. of the *Cr.* This is Dated *February* 23. (77,) And ſuperſcribed thus (Theſe for his Honoured Friend Mr. *William Tonſtall* at *Burton.*)

Honoured dear Sir,

I *Have but time to convey theſe following particulars to you.* First, *I am to give you notice, that it hath ſeem'd fitting to our Maſter Conſult, Prov. &c. to fix the* 21*ſt day of* April *next* Stylo veteri, *for the meeting at* London *of our Congregation, on which day all thoſe that have a ſuffrage are to be preſent there, that they may be ready to give a beginning to the ſame on the* 24*th, which is the next day after St.* George's-day. *You are warned to have,* jus ſuffragrii, *and therefore if your occaſions ſhould not permit you to be preſent, you are to ſignifie as much, to the end others in their ranks be ordered to ſupply your abſence: Every one is minded alſo, not to haſten to* London *long before the time appointed, nor to appear much about the Town till the meeting be over, leſt occaſion ſhould be given to ſuſpect the deſign. Finally, Secrecy, as to the time and place, is much recommended to all thoſe that receive Summons, as it will appear of its own nature neceſſary.*

L C J, So it was very neceſſary indeed.

Cl. of *Cr.* There is more of it, my Lord.

Tertio pro Domino ſolono diſco.

Benefact. Prov. Lunienſis.

I am ſtraitned for time, that I can only aſſure you, I ſhall be much glad of obliging you any ways, Sir,

Your Servant

Edward Petre.

Pray, my Service where due, &c.

L C J. You know nothing of this Letter. Mr. *Whitebread*?

Whitebread, No, my Lord, nothing at all.

L C J, Nor you Mr. *Ireland*?

Ire-

Ireland, 'Tis none of my Lettet, my Lord.

L C J, Did you never hear of it before?

Ireland, Not that I know of in particular.

L C J, Well, have you done with the Evidence for the King?

Serj. *Baldwin*, Pray Sir *Tho Doleman*, will you tell my Lord, Did Mr. *Oates* give in this Testimony of the Consult, to be the 24*th* of *April* before this Letter was found.

Sir *Tho Doleman*, Mr. *Oates* gave in his information about this matter, to the King and Council, four or five days before we found this Letter.

Serj. *Baldwin*, You were speaking of the Seals that were made use of to Sign Commissions, have you them in the Court?

Oates, Yes, my Lord, they are in the Court, and they were taken out of the Provincial's Chamber.

Whitebread, I confess they had the Seals out of my Chamber; but the taking of them was more than they had power to do.

Then the Seals were shewn to the Court and the Jury.

Mr. *Finch*, It hath been told you already, Gentlemen, what use these Seals were put unto; to Seal Commissions to raise an Army. And we have now done with our Evidence for the King, till we hear what the Prisoners say.

L C J, Before you come to make your defence, I will do that which I think in justice and honesty, and according to the duty of my Place and my Oath I ought to do; That is to say something to the Jury, before the Prisoners make their own defence. Here are Five that stand indicted of High-Treason: I must tell you this, That as to three of them, that is to say, *Ireland*, *Pickering* and *Grove*, both Mr. *Oates* and Mr. *Bedlow* have sworn the thing flat upon them: Mr. *Oates* his Testimony is full against them all; but Mr. *Bedlow* does only agree with him to charge Three, and that in this particular: Saith he, I was present at *Harcourt*'s Chamber when *Ireland* was there, and *Pickering* and *Grove*, where they discoursed of their defeat about their design against the King at *Windsor*; and there they came to a new agreement, to do it at *New-Market*. So that here is now, as the King's Council did open it to you at the first, as there ought to be, two Witnesses; so here are Two, which though they speak as to a different circumstance of time, yet they prove one Treasonable Fact at several times: For if killing the King be the fact in question, and one proves they would do it by one thing, and another by another; and one in one place, and another in another; yet these are two Witnesses to prove one fact, that is the substance, which is, the killing of the King. So that there are two Witnesses against them three, expresly proving a Confederacy to kill the King: for *Ireland*'s being by, and consenting, was the same thing, and as much, as if he had been to do it with *Grove* and *Pickering*; for there are no Accessaries in Treason. I do acknowledge, that Mr. *Oates* hath given a very full and ample Testimoy, accompanied with all the circumstances of time and place, against them all, that may go far to weigh with you, all things considered, to believe there is a Plot; yet I do not think that they have proved it against *Whitebread* and *Fenwick* by two Witnesses: so that though the Testimony be so full, as to satisfie a private Conscience, yet we must go according to Law too. It will be convenient from what is already proved, to have them stay till more proof may come in: 'Tis a great Evidence that is against them; but it not being sufficient in point of Law, we discharge you of them; 'tis not a legal proof to convict them by, whatsoever it may be to satisfie your Consciences. Therefore remove Mr. *Fenwick* and Mr. *Whitebread* from the Bar, and let the other three say what they will for themselves.

L C Baron, (Speaking to the Goaler) You must understand they are no way acquitted; the Evidence is so full against them by Mr. *Oate*'s Testimony, that there is no reason to acquit them. It is as flat, as by one Witness can be; and the King hath sent forth a Proclamation for further discovery; before the time therein prefixt come out, no question there will come in more Evidence: Therefore keep them as strict as you can.

Then *Whitebread* and *Fenwick* were taken back to the Goal by the Keeper.

L C J, Now Gentlemen, you shall have liberty to make your full defence.

Ireland, First I shall endeavour to prove there are not two Witnesses against me: For that which he says, of my being at *Harcourt*'s Chamber in *August*, is false; for I will prove I was all *August* long, out of Town, for I was then in *Staffordshire*.

L C J, Call your Witnesses.

Ireland, If there be any of them here.

L C J, Whoever comes to give Evidence for you, shall go and come in safety; they shall not be Trapand for any thing of that, but they shall be heard.

Ireland, My Lord, We are kept so strict, that we are not permitted to send for any body.

L C J, As soon as your Sister came to me, I ordered she should have access to you, and that you should have Pen, Ink and Paper, in order to your defence; therefore call those Witnesses you have, to prove what you say.

Ireland, I can only say this, That last *August* upon the 3*d* day, I went down to *Staffordshire* with my Lord *Aston*, and his Lady, and his Son, and Sir *John Southcot* and his Lady, and all these can testifie that I went down with them. Here is Mr. *John Aston* in Town, if he may be found, who was in my Company all *August* in *Staffordshire*.

L C J, Will you call that Gentleman? Cryer call him.

Cryer, Mr. *John Aston*.

Ireland, It is an hundred to one if he be here; for I have not been permitted so much as to send a scrap of Paper.

L C J, Your Sister had leave to go to whom you thought fit in your behalf. You said you would prove it, Why don't you?

Ireland, I do as much as I can do.

L C J, What, by saying so?

Ireland, Why, I do name them that can testifie.

L C J, If naming them should serve, you must have a Law made on purpose for you.

Ireland, Then there is no help for Innocence.

Recorder, To save him that labour, the King's Evidence will prove, that he was in Town at that time.

Serj. *Baldwin*, Swear *Sarah Pain*. *Which was done.*

Serj. *Baldwin*, My Lord, this person was Mr. *Grove*'s Maid.

L C J, I believe you know your Maid, Mr. *Grove*

Grove, don't you? look upon her, she was your Servant.

Grove, Yes, my Lord, she was so, she is not so now.

L C J, Do you know Mr. *Ireland*?

Sarah Pain, Yes, my Lord.

L C J, Do you know whether Mr. *Ireland* was in Town in *August* last, or no?

S. Paine, I saw him at his own House about a week before I went with my Lord *Arlington to Windsor*.

L C J, When was that?

S. Paine, That was about a week after the King was gone thither.

L C J, Sir *Tho. Doleman*, what day was it the King went to *Windsor*?

Sir *Tho. Doleman*. About the thirteenth of *August*.

L C J, Thirteen and seven is twenty; then you went to *Windsor* about the twentieth it seems, and you say that eight days before you saw Mr. *Ireland* at his own House.

S. Paine, Yes, my Lord, about eight or nine days before that, I did see him at the door of his own House, which was a Scriveners in *Fetter Lane*. He was going into his own Lodging.

L C J, How long had you known him before that time?

S. Paine. My Lord, I knew him, for he came often to our House, when I lived at Mr. *Grove*'s he was the Man that broke open the Pacquet of Letters that my Master carried about afterwards, and he Sealed all the Pacquets that went beyond the Seas. And he opened them still when the Answers returned back again.

Ireland, Now must all the people of my Lodging come and witness that I was out of my Lodging all *August*.

L C J, Call them.

Ireland, There is one *Anne Ireland*.

L C J, Cryer, call her.

Cryer, *Anne Ireland*, Here she is.

L C J, Come Mistriss, what can you say concerning your Brother's being out of Town in *August*?

Anne Ireland, My Lord, on *Saturday* the third of *August*, he set out to go into *Staffordshire*.

L C J, How long did he continue there?

A. Ireland, Till it was a fortnight before *Michaelmas*.

L C J, How can you remember that it was just the third of *August*?

A. Ireland, I remember it by a very good Circumstance, because on the *Wednesday* before, my Brother, and my Mother and I, were invited out to Dinner; we stay'd there all night, and all *Thursday* night, and *Friday* night my Brother came home, and on *Saturday* he set out for *Staffordshire*.

L C J, Where was it Maid that you saw him?

S. Paine. I saw him going in at the door of their own House.

L C J, When was that?

S. Paine, About a week before I went with my Lord Chamberlain to *Windsor*, which was a week after the King went thither.

L C J, That must be about the 12th or 13th. Are you sure you saw him?

S. Paine, Yes, my Lord, I am sure I saw him.

L C J, Do you know this Maid, Mr. *Ireland*?

Ireland, I do not know her, my Lord.

L C J, She knows you by a very good token. You used to break open the Letters at her Master's house, and to seal them.

S. Paine, He knows me very well, for I have carried several Letters to him, that came from the Carrier, as well as those that came from beyond Sea.

L C J, They will deny any thing in the world.

Ireland, I profess, I do not know her. Twenty people may come to me, and yet I not know them; and she having been Mr. *Grove*'s Servant, may have brought me Letters, and yet I not remember her. But, my Lord, here is my Mother *Eleanor Ireland* that can testifie the same.

L C J, Call her then.

Cryer. *Eleanor Ireland*.

E. Ireland, Here.

L C J, Can you tell when your Son went out of Town?

E. Ireland, He went out of Town the third of *August*, towards *Staffordshire*.

Ireland. My Lord, there is Mr. *Charles Gifford* will prove that I was a week after the beginning of *September*, and the latter end of *August*, in *Staffordshire*.

L C J, That will not do: for she says that she saw you in *London* about the 10th or 12th of *August*; and she makes it out by a Circumstance, which is better Evidence than if she had come and sworn the precise day wherein she saw him: for I should not have been satisfi'd, unless she had given me a good account why she did know it to be such a day. She does it by Circumstances, by which we must calculate that she saw you about the 12th or 13th day. She went to my Lord *Arlington*'s at such a day, a week after the King went to *Windsor*, and that was about the 13th, and she saw you a week before she went to my Lord *Arlington*'s which must be the 12th or 13th. You say you went out of Town the third of *August*; who can swear you did not come back again?

Ireland, All the house can testifie I did not come to my Lodging.

E. Ireland, He went out of Town the third of *August*, and did not return till a fortnight before *Michaelmas*.

L C J, Did you lye at his house?

E. Ireland, I did then, my Lord.

L C J, What, all that while?

E. Ireland, Yes, my Lord.

L C J, So did your daughter too, did she?

E. Ireland, Yes, she did.

Ireland, There are others that did see me the latter end of *August* in *Staffordshire*.

L C J, And you would feign have crampt him up, between the 20th and 31; and then, tis possible, you might be in *Staffordshire*.

Ireland, If I might have been permitted to send in for such Witness as I would have had, I could have brought them.

Recorder, Why, have you not a Note of what Witnesses you are to call? why don't you call them according to that Note?

Ireland, I had that but this Morning.

L C J, Why did you not send for them before, to have them ready?

Recorder, 'Tis his Sister that brings that Note of the Witnesses that he should call, and now they are not here.

A. Ireland, There was one *Engletrap*, and one *Harrison* had promised to be here, that went with him into *Staffordshire*.

Mr.

Mr *Oates*, My Lord, when ever we had a mind to come to Town, we commonly writ our Letters, and let them come to Town two days after us. So that we might prove by the writing of such Letters, if any Question did arise, that we could not be at such a place at such a time. And when we pretended to go in the Country, we have gone and taken a Chamber in the City, and have had frequent Cabals at our Chambers there. Mr. *Ireland* writ a Letter as dated from St. *Omers*, when I took my leave of him at his own Chamber, which was betwixt the 12th and 24th in *London*. He was there; and afterwards when I went to *Fenwick*'s Chamber he came thither; a fortnight or ten days at least I am sure it was in *August*.

L C J, Here are three Witnesses upon Oath about this one thing: here is Mr. *Bedlow* that Swears the fact, upon which the Question arises to be in *August*; that you deny, and say you were out of Town then: he produces a Maid here, and she swears, that about that time, which by calculation must be about the 11th or 12th, she saw you going into your own house. And here is a third Witness, who swears he knows nothing of this matter of fact, but he knows you were in town then, and that he took his leave of you as going to St. *Omers*.

Oates, Whereas he says, that the beginning of *Septemper* he was in *Staffordshire*, he was in Town the first of *September*, or second, for then I had of him twenty shillings.

Ireland, This is a most false lie; for I was then in *Staffordshire*. And the Witnesses contradict themselves; for the one saith, he took his leave of me, as going to St. *Omers* the 12th; the other saith, it was the latter end of *August* I was at *Harourt*'s Chamber.

L C J, He does not say you went, but you pretended to go.

A. Ireland, Here is one *Harrison*, that was a Coachman that went with them.

L C J, Well what say you friend? Do you know Mr. *Ireland*?

Harrison, I never saw the man before that time in my life, but I met with him at S. *Albans*.

L C J, When?

Harrison, the fifth of *August*. There I met with him, and was in a journey with him to the sixteenth.

L C J, What day of the week was it?

Harrison, Of a *Monday*.

L C J, Did he come from *London* on that day?

Har. I cannot tell that. But there I met him:

L C J, What time?

Har. In the Evening.

L C J, Whereabouts in Saint *Albans*?

Har. At the Bull Inn, where we lodged.

L C J, Mr *Ireland*, you say you went on *Saturday* out of Town, did you stay at Saint *Albans* till *Monday*.

Ireland, No, I went to *Standon* that day, and lay there on *Saturday* and *Sunday* Night, on *Monday* I went to Saint *Albans*.

L C J, What from thence?

Ireland, Yes my Lord.

L C J, Why did you go thither? was that in your way?

Ireland, I went thither for the company of Sir *John Southcot* and his Lady.

L C J, How did you know that they went thither?

Ireland, I understood they were to meet my Lord *Aston* and Lady there.

L C J, What on *Monday* Night?

Ireland, Yes, my Lord.

Har. From thence I went with him to *Tixwel*, to my Lord *Aston*'s House, there we were all with him.

L C J. Were you my Lord *Aston*'s Coachman?

Har. No, my Lord, I was Servant to Sir *John Southcot*.

L C J, How came you to go with them?

Har. Because my Lord *Aston* is my Lady *Southcot*'s Brother.

L C J, How long was you in his Company?

Har. From the fifth of *August* to the sixteenth, and then I was with him at *Westchester*.

Mr. Just. *Atk.* You have not yet talkt of being at *Westchester* all this while.

Ireland, My Lord, I must talk of my journey by degrees.

L C J, Before, you said you were all *August* in *Stafford-shire*, come you must find out some evasion for that.

Ireland, In *Staffordshire* and thereabouts.

L C J, You Witness, who do you live with?

Har. With Sir *John Southcot*.

L C J, Who brought you hither?

Har. I came only by a messenger last night.

L C J, Was not Sir *John Southcot* in that journey himself?

Har. Yes, my Lord, he was.

L C J, Then you might as well have sent to Sir *John Southcot* himself to come.

A. Ireland, I did it of my self, I never did such a thing before, and did not understand the way of it.

Ireland, It was meer chance she did send for those she did.

L C J, But why should she not send for Sir *John* himself?

Ireland, She did not know, that Sir *John* was there.

L C J, You were not denied to send for any Witnesses, were you?

Ireland, I was expresly denied, they would not let me have one bit of Paper.

L C J, Fellow, what Town was that in *Staffordshire*? Tell me quickly.

Har. It was *Tixwel* by my Lord *Aston*'s, there we made a stay for three or four days, then we went to *Nantwich*, and so to *Westchester*.

L C J, Were not you at *Wolverhampton* with him?

Har, No, my Lord, I was not there, I left him at *Westchester*.

Ireland, My Lord, I was at *Wolverhamton* with Mr. *Charles Gifford*, and here he is to attest it.

L C J, Well Sir, what say you?

Gifford, My Lord, I saw him there a day or two after St. *Bartholomew*'s day, there he continued till the 9th of *September*, the 7th of *September* I saw him there, and I can bring twenty and twenty more, that saw him there. Then, as he said, he was to go towards *London*. I came again thither on the ninth, and there I found him. And this is all I have to say.

Oates, My Lord, I do know that day in *September* I speak of by a particular Circumstance.

Ireland, My Lord, there is one *William Bowdrel*, that will testifie the same, if I might send for him.

L C J, Why han't you him here?

Ire-

Ireland, She hath done what she can to bring as many as she could.

L C J, Have you any more Witnesses to call?

Ireland, I can't tell whether there be any more here or no.

L C J, Mr. *Grove* what say you for your self?

Grove, Mr. *Oates* says he lay at my house, my Lord, I have not been able to send for any Witnesses, and therefore I know not whether there be any here. They could prove that he did not lie there. He says he saw me receive the Sacrament at *Wild-House*, but he never did, and if I had any Witnesses here I could prove it.

L C J, He tells it you with such and such Circumstances, who lay there at that time.

Grove, He did never lie there.

L C J, Why you make as if you never knew Mr. *Oates*.

Grove, My Lord, I have seen him, but he never lay at my house.

L C J, Mr. *Pickering*, what say you for your self; you relie upon your Masses.

Pickering, I never saw Mr. *Oates*, as I know of, in my life.

L C J, What say you to *Bedlow*, he tells you he was with you in *Harcourt*'s Chamber such a day.

Pickering, I will take my Oath I was never in Mr. *Bedlow*'s company in all my Life.

L C J, I make no question but you will. And have a dispensation for it when you have done. Well have you any Witnesses to call?

Pickering, I have not had time to send for any.

L C J, You might have moved the Court, when you came at first, and they would have given you an order to send for any.

Ireland, Methinks there should be some witnesses brought that know Mr. *Oates*, to attest his reputation, for I am told, there are those that can prove very ill things against him, they say he broke prison at *Dover*.

L C J, Why have you not your Witnesses here to prove it?

Ireland, We could have had them if we had time.

L C J, See what you ask now, you would have time and the Jury are ready to go together about their Verdict.

Ireland, Why, we desire but a little time to make out our proof.

L C J, Only you must tye up the Jury, and they must neither eat nor drink till they give in a Verdict.

Ireland, Then we must confess, there is no Justice for Innocence.

L C J, Well if you have any more to say, say it.

Ireland, My Lord, I have produced Witnesses, that prove what I have said.

L C J, I'll tell you what you have proved: you have produced your Sister and your Mother, and the Servant of *Southcot*, they say you went out the third of *August*, and he gives an account you came to St. *Albans* on the fifth, and then there is another Gentleman, Mr. *Gifford*, who says he saw you at *Wolverhampton* till about a week in *September*. Mr. *Oates* hath gainsaid him in that, so you have one Witness against Mr. *Oates* for that circumstance. It cannot be true what Mr. *Oates* sayes, if you were there all that time, and it cannot be true what Mr. *Gifford* says if you were in *London* then. And against your two Witnesses and the Coachman there are three Witnesses, that swear the contrary, Mr. *Oates* Mr. *Bedlow* and the Maid, so that if she and the other two be to be believed, here are three upon Oath against your three upon bare affirmation.

Ireland, I do desire time, that we may bring in more Witnesses.

L C J, Come, you are better prepared than you seem to be. Call whom you have to call. Can you prove that against Mr. *Oates*, which you speak of? If you can, call your Witnesses on God's Name. But only to asperse tho' it be the way of your Church, it shall not be the way of Trial amongst us. We know you can call Hereticks, and ill Names fast enough

Ireland That *Hilsley* that he names can prove, if he were here, that Mr. *Oates* was all the while at St. *Omers*.

L C m, Will you have any more Witnesses call'd. If you will, do it, and don't let us spend the time of the Court thus.

Grove, Here is Mrs. *York*, that is my Sister, will your Lordship please to ask her, whether she see that Gentleman at my House?

L C J, What say you Mistress?

York, No, my Lord, not I.

Mr Just. *Atk*. Nor I neither, might not he be there for all that?

Oates, To satifie the Court, my Lord, I was in another habit and went by another Name.

L C J, Look you, he did as you all do, disguise your selves.

Ireland, Though we have no more Witnesses yet we have Witnesses that there are more Witnesses.

L C J, I know what your way of Arguing is, that is very pretty, you have Witnesses that can prove you have Witnesses, and those Witnesses can prove you have more Witnesses, and so *in infinitum*. And thus you argue in every thing you do.

Ireland, We can go no further than we can go, and can give no answer to what we did not know would be proved against us.

L C J, Then look you Gentlemen ——

A. Ireland, My Lord, Sir *Denny Ashburnham* promised to be here to testifie what he can say concerning Mr. *Oates*.

L C J, Call him.

Cryer. Sir *Denny Ashburnham*. Here he is, my Lord.

L C J, Sir *Denny*, what can you say concerning Mr *Oates*.

Sir *D. Ashburnham*: My Lord, I received a Letter this Morning which I transmitted to Mr. Attorny, and this Letter was only to send to me a Copy of an Indictment against Mr. *Oates* of Perjury; I did send it accordingly with my Letter to Mr. Attorney. He hath seen the Letter and what the Town says to me in it.

Att. Gen. I have seen it, there is nothing in it.

L C J, Do you know any thing of your own knowledge?

Sir *D. Ashburnham*, I do know Mr. *Oates*, and have known him a great while, I have known him from his Cradle, and I do know that when he was a Child, he was not a person of that Credit that we could depend upon what he said.

L C J, What signifies that?

Sir *D. Ashburnham*, Will you please to hear me out, my Lord, I have been also sollicited by some of the Prisoners who sent to me, hoping I could say something that would help them in this matter: Particularly last night one Mistress *Ireland*, Sister

Sister to the Prisoner at the Bar, a Gentlewoman I never saw before in my life, she came to me and was pressing me hard, that I would appear here voluntarily to give evidence for the Prisoner. I told her no, I would not by any means in the world, nor could I say any thing as I thought that would advantage them; for I told her though perhaps upon my knowledge of Mr. *Oates* in his youth, had this discovery come only upon Mr. *Oates*'s testimony, I might have had some little doubt of it, but it was so corroborated with other Circumstances that had convinced me, and I would not speak any thing against the King's Witnesses, when I my self was satisfied with the truth of the thing: And I do think truly that nothing can be said against Mr. *Oates* to take off his credibility; but what I transmitted to Mr. Attorney, I had from the Town of *Hastings* for which I serve.

L C J, What was in that Indictment?

Sir *D. Ashburnham*, It is set forth, that he did swear the Peace against a man, and at his taking his Oath did say, there were some Witnesses that would evidence such a point of fact, which when they came would not testifie so much, and so was forsworn.

L C J, What was done upon that Indictment?

Sir *D. Ashburnham*, They did not proceed upon it, but here is the Letter and the Copy of the Indictment.

Mr. Serj. *Baldwin*, My Lord we desire it may be read, and see what it is.

Mr *Att. Gen.* It is only a Certificate, pray let it be read.

L C J, I do not think it Authentick Evidence.

Mr. *Att. Gen.* But if I consent to it it may be read.

L C J, If you will read it for the Prisoners you may, you shan't read it against them. If there be any strain it shall be in favour of the Prisoners and not against them.

Mr. *Att. Gen.* It is nothing against the Prisoners nor for them, but however if your Lordship be not satisfied it should be read, let it alone.

L C J, Truly I do not think it is sufficient Evidence or fit to be read.

A. Ireland, I went to another, one Colonel *Shakesby*, who was sick and could not come, but could have attested much as to this.

L C J, Have you any more Witnesses?

Ireland, I have none, nor I have not time to bring them in.

L C J, If you have none, what time could have brought them in. But you have called a Gentleman that does come in, and truly he hath done you very great service, you would have had him testified against Mr. *Oates*, he saith he hath known him ever since he was a Child, and that then he had not so much Credit as now he hath: And had it been upon his single Testimony that the discovery of the Plot had depended, he should have doubted of it, but Mr. *Oates* his Evidence with the Testimony of the fact it self, and all the concurring Evidences which he produces to back his Testimony, hath convinced him that he is true in his Narrative.

Sir *D. Ashburnham*, Your Lordship is right in what I have spoken.

L C J, Have you any more Witnesses, or any thing more to say for your selves.

Ireland, If I may produce on my own behalf Pledges of my own Loyalty and that of my Family——

L. C. J. Produce whom you will.

Ireland. Here is my Sister and my Mother can tell how our Relations were plundered for siding with the King.

L. C. J. No, I will tell you why it was, it was for being Papists, and you went to the King for shelter.

Ireland. I had an Uncle that was killed in the King's service, besides the *Pendrels* and the *Giffards* that were instrumental for saving the King, after the Fight at *Worcester*, are my near Relations.

L. C. J. Why all those are Papists.

Pickering. My Father, my Lord was killed in the King's Party.

L. C. J. Why then do you fall off from your Father's Vertue?

Pickering. I have not time to produce Witnesses on my own behalf.

Ireland. I do desire time to bring more Witnesses.

Grove. As I have a soul to save, I know nothing of this matter charged upon me.

L. C. J. Well, have you any thing more to say?

Ireland. No, my Lord.

L. C. J. You of the King's Council will you sum up the Evidence?

Mr. Serj. *Baldwin*. No my Lord, we leave it to your Lordship.

C. of Cr. Cryer, Make Proclamation of silence.

Cryer. O yes! All manner of Persons are commanded to keep silence upon pain of Imprisonment.

Then the Lord Chief Justice directed the Jury thus:

L. C. J. Gentlemen, you of the Jury! As to these three persons, *Ireland*, *Pickering*, *Grove*: (the other two you are discharged of) One of them, *Ireland*, it seems is a Priest. I know not whether *Pickering* be or no, *Grove* is none, but these are the two men that should kill the King, and *Ireland* is a Conspirator in that Plot. They are all indicted for Conspiring the King's death, and endeavouring to subvert the Government, and destroy the Protestant Religion, and bring in Popery. The main of the Evidence hath gone upon that foul and black offence *Endeavouring to kill the King*. The utmost end was without all question to bring in Popery and subvert the Protestant Religion, and they thought this a good means to do it by killing the King. That is the thing you have had the greatest Evidence of, I will sum up the particulars and leave them with you.

'Tis sworn by Mr. *Oates* expresly, that on the 24*th* of *April* last there was a Consultation held of Priests and Jesuits. They are the Men fit only for such a mischief, for I know there are abundance of honest Gentlemen of that persuasion, who could never be drawn to do any of these things, unless they were seduced by their Priests, that stick at nothing for their own end: He swears expresly that the Consult was begun at the White Horse Tavern in the *Strand*. That they there agreed to murder the King; That *Pickering* and *Grove* were the Men that were to do it, who went afterwards and subscribed this holy League of theirs, and signed it every one at his own Lodging, *Whitebread* at his, *Ireland* at his, and *Fenwick* at his, two of which are out of the case, but they are repeated to you only to shew you the order of the Conspiracy. That afterwards

Pickering

Pickering and *Grove* did agree to the ſame, and they received the Sacrament upon it as an Oath to make all Sacred, and a Seal to make all Secret.

Mr. *Bedlow* hath ſworn as to that particular time of Killing the King by *Pickering* and *Grove*, though they were not to give over the Deſign, but there were Four that were ſent to kill the King at *Windſor*. Mr. *Oates* ſwears there was an Attempt by *Pickering* in *March* laſt, but, the Flint of the Piſtol happening to be looſe, he durſt not proceed, for which he was rewarded with Pennance. He ſwears there were Four hired to do it. That Fourſcore Pounds was provided for them. He ſaw the Money; and ſwears he ſaw it delivered to the Meſſenger to carry it down.

Ireland. At what time was that?

L. C. J. In *Auguſt* there was an Attempt firſt by *Pickering* and *Grove*. They then not doing of it, four other Perſons (*Iriſh* men) were hired to doe it, and Ten Thouſand Pounds proffered to Sir *George Wakeman* to Poiſon the King. Thus ſtill they go on in their Attempts, and, That being too little, Five Thouſand Pounds more was added. This is to ſhew you the groſs of the Plot in general; and alſo the particular Tranſactions of theſe two Murtherers, *Grove* and *Pickering*, with the Conſpiracy of *Ireland*. *Bedlow* ſwears directly, that in *Auguſt* laſt, theſe three and *Harcourt* and *Pritchard* and *Le-Faire*, being all together in a Room, did diſcourſe of the Diſappointment the Four had met with, in not killing the King at *Windſor*; And there the Reſolution was, the old Stagers ſhould goe on ſtill, but they had one *Conyers* joyned to them, and they were to kill the King then at *New-Market*. He ſwears they did agree to do it; that *Ireland* was at it; and that all three did conſent to that Reſolve. So that here are two Witneſſes that ſpeak poſitively, with all the Circumſtances of this Attempt, of the Two to kill the King, and the Confederacy of *Ireland* all along with them. Now, I muſt tell you, there are no Acceſſaries, but all Principals, in Treaſon. It may ſeem hard perhaps to convict Men upon the Teſtimony of their fellow Offenders, and, if it had been poſſible to have brought other Witneſſes, it had been well: but, in things of this Nature, you cannot expect that the Witneſſes ſhould be abſolutely ſpotleſs. You muſt take ſuch Evidence as the nature of the thing will afford, or you may have the King deſtroyed and our Religion too. For *Jeſuites* are too ſubtle to ſubject themſelves to too plain a Proof, ſuch as they cannot evade by equivocation or a flat denial.

There is alſo a Letter produced, which, ſpeaking of the Conſult that was to be the 24*th* of *April*, proves that there was a Conſpiracy among them: And, although it is not Evidence to convict any one Man of them, yet it is Evidence upon Mr. *Oates*'s Teſtimony to prove the general Deſign. It is from one *Petre* to one of the Confederates, and taken amongſt *Harcourt*'s Papers, after Mr. *Oates* had given in his Teſtimony; and therein it is mentioned, That the Superior had taken care, that there ſhould be a Meeting the 24*th* of *April*, the day after Saint *George*'s Day, which is the very time *Oates* ſpeaks of; and that they were not to come to Town too ſoon, that the Deſign might not be diſcovered. I would fain know what the Signification of that Clauſe may be. And then it goes farther, That it was to be kept ſecret, as the nature of the thing doth require; which ſhews plainly there was ſuch a Tranſaction on foot. But the reaſon I urge it for is, to ſhew you that it is a concurrent Evidence with Mr. *Oates*, who had never ſeen this Paper till three or four days after his Information was given in, wherein he ſwears the time when this Agitation was to be, and when they came to look upon the Papers, it agrees with the time preciſely. Now they do not write in this Letter that they intend to kill the King, but they write to caution them to keep the Deſign undiſcovered, and by that you may gueſs what they mean.

What is ſaid to all this by the Priſoners, but denyal? *Ireland* cannot deny but that he knew Mr. *Oates*, and had been in his company ſome times; Five times, by Circumſtances, Mr. *Oates* hath proved, ſo that they were Acquaintance, and it appears plainly, there was a Familiarity between them. *Ireland* objects, that *Bedlow* charges him in *Auguſt*, when he was out of Town all that time, and that therefore the Teſtimony of one of the Witneſſes cannot be true. And, to prove this, he calls his Mother, his Siſter, and Sir *John Southcott*'s Man, and Mr. *Gifford*. His Mother and Siſter ſay expreſly, that he went out of Town the third of *Auguſt*, and the Servant ſays, that he ſaw him at St. *Albans* the fifth of *Auguſt*, and continued in his company to the ſixteenth; (ſo that as to that, there is a Teſtimony both againſt Mr. *Bedlow* and againſt Mr. *Oates*;) and *Gifford* comes and ſays, he ſaw him at the latter end of *Auguſt* and beginning of *September* at *Wolverhampton*, whereas Mr. *Oates* hath ſworn, he ſaw him the twelfth of *Auguſt* and the firſt or ſecond of *September*, and tells it by a particular Circumſtance, wherein, I muſt tell you, it is impoſſible that both ſides ſhould be true. But if it ſhould be a miſtake only in point of time, it deſtroys not the Evidence, unleſs you think it neceſſary to the ſubſtance of the thing. If you charge one in the month of *Auguſt* to have done ſuch a Fact, if he deny that he was in that place at that time, and proves it by Witneſſes, it may go to invalidate the credibility of a man's Teſtimony, but it does not invalidate the truth of the thing it ſelf, which may be true in ſubſtance, though the circumſtance of time differ. And the queſtion is, whether the thing be true?

Againſt this, the Counſel for the King have Three that ſwear it poſitively and expreſly, That *Ireland* was here. Here is a young Maid that knew him very well, and was acquainted with him, and with his breaking up of Letters; and ſhe is one that was *Grove*'s Servant: ſhe comes and tells you directly, That about that time, which, by computation, was about the twelfth of *Auguſt*, ſhe ſaw him go into his own houſe, which cannot be true, if that be true which is ſaid on the other ſide: and ſhe does ſwear it upon better Circumſtances than if ſhe had barely pitch'd upon a day; for ſhe muſt have ſatisfied me well, for what reaſon ſhe could remember the day ſo poſitively, e're I ſhould have believed her: But ſhe does it remembring her going to my Lord *Arlington*'s ſervice, which was a week after the King went to *Windſor*; which is ſworn to be about the thirteenth of *Auguſt*, and a week before her going it was that ſhe ſaw *Ireland* at his own door. What arts they have of evading this I know not, for as they have turn'd their Learning into ſubtlety,

ſo they have their Integrity too. The ſtudy of Politicks is their buſineſs and Art which they make uſe of upon all occaſions; and I find them Learned chiefly in Cunning, and very ſubtle in their Evaſions. So that you ſee, without great difficulty, a man cannot have from them a plain Anſwer to a plain Queſtion. But the Fact againſt them is here expreſly ſworn by two Witneſſes; if you have any reaſon to disbelieve them, I muſt leave that to you. Sir *D. Aſhburnham*, who is produced to diſcredit Mr. *Oates*, ſays, that when he was a Child there was little or no credit to be given to him, and if the matter had depended ſolely upon his Teſtimony, thoſe Irregularities of his, when a Boy, would have ſtaggered his Belief. But when the matter is ſo accompanied with ſo many other Circumſtances, which are material things, and cannot be evaded or deny'd, it is almoſt impoſſible for any man either to make ſuch a Story, or not to believe it when it is told. I know not whether they can frame ſuch a one; I am ſure never a Proteſtant ever did, and, I believe, never would invent ſuch a one to take away their lieves: Therefore it is left to your Conſideration what is ſworn. The Circumſtances of ſwearing it by two Witneſſes, and what Reaſons you have to disbelieve them.

It is moſt plain the Plot is diſcovered, and that by theſe Men; and that it is a Plot, and a Villanous one, Nothing is plainer. No Man of common Underſtanding, but muſt ſee there was a Conſpiracy to bring in *Popery*, and to deſtroy the *Proteſtant Religion*; and we know their Doctrines and Practices too well, to believe they will ſtick at any thing, that may effect thoſe ends. They muſt excuſe me, if I be plain with them; I would not aſperſe a Profeſſion of Men, as the Prieſts are, with hard words, if they were not very true, and if at this time it were not very neceſſary. If they had not murthered Kings, I would not ſay they would have done ours. But when it hath been their Practice ſo to do; When they have debauched Mens Underſtandings, overturned all Morals, and deſtroy'd all Divinity, What ſhall I ſay of them? When their Humility is ſuch, that they tread upon the Necks of Emperors, Their Charity ſuch, as to kill Princes, and their Vow of Poverty ſuch, as to covet Kingdoms, What ſhall I judge of them? When they have Licences to lie, and Indulgences for Falſhoods, Nay, When they can make him a Saint that dies in one, and then pray to him, as the Carpenter firſt makes an Image, and after worſhips it, and can then think to bring in that wooden Religion of theirs amongſt us in this Nation, What ſhall I think of them? What ſhall I ſay to them? What ſhall I do with them?

If there can be a Diſpenſation for the taking of any Oath (and diverſe Inſtances may be given of it, that their Church does Licenſe them to do ſo) it is a Cheat upon Mens Souls, it perverts and breaks off all Converſation amongſt Mankind; For how can we deal or converſe in the World, when there is no Sin, but can be Indulged; no Offence ſo big, but they can pardon it, and ſome of the blackeſt be accompted meritorious? What is there left for Mankind to lean upon, if a Sacrament will not bind them (unleſs it be to conceal their Wickedneſs?) If they ſhall take Teſts and Sacraments, and all this, under colour of Religion, be avoided, and ſignifie nothing, What is become of all Converſe? How can we think Obligations and Promiſes between Man and Man ſhould hold, if a Covenant between God and Man will not?

We have no ſuch Principles nor Doctrines in our Church, we thank God. To uſe any prevarication in declaring of the truth is abominable to natural Reaſon, much more to true Religion; and 'tis a ſtrange Church that will allow a Man to be a Knave. 'Tis poſſible ſome of that Communion may be ſaved, but they can never hope to be ſo in ſuch a courſe as this. I know they will ſay, That theſe are not their Principles, nor theſe their Practices, but they Preach otherwiſe, they Print otherwiſe, and their Councils do determine otherwiſe.

Some hold, that the *Pope* in Council is *Infallible*, and ask any *Popiſh Jeſuite* of them all, and he will ſay the *Pope* is *Infallible* himſelf *in Cathedra*, or he is no right *Jeſuite*. And if ſo, whatever they command, is to be juſtified by their Authority; ſo that if they give a Diſpenſation to kill a King, that King is well killed. This is a Religion that quite unhinges all Piety, all Morality, and all Converſation, and to be abominated by all Mankind.

They have ſome parts of the Foundation 'tis true, but they are adulterated, and mixt with horrid Principles, and impious Practices. They eat their God, they kill their King, and Saint the Murtherer. They indulge all ſorts of Sins, and no humane Bonds can hold them.

They muſt pardon me if I ſeem ſharp, for a *Papiſt* in *England* is not to be treated as a *Proteſtant* ought to be in *Spain*; and if ye ask me why? I'll give you this Reaſon, we have no ſuch Principles nor Practices as they have. If I were in *Spain* I ſhould think my ſelf a very ill Chriſtian, ſhould I offer to diſturb the Government of the place where I lived, that I may bring in my Religion there. What have I to do to undermine the tranquillity and peace of a Kingdom, becauſe all that dwell in it, are not of my particular Perſuaſion?

They do not do ſo here, there is nothing can quench the thirſt of a *Prieſt* and a *Jeſuite*, not the Blood of Men, not of Any, if he can but propagate his Religion, which in truth is but his Intereſt.

They have not the Principles that we have, therefore they are not to have that common Credence, which our Principles and Practices call for.

They are not to wonder if they keep no Faith, that they have none from others; and let them ſay what they will, that they do not own any ſuch things as we charge upon them, and are like to go hard with them; For we can ſhew them out of their own Writings and Councils, that they do juſtifie the Power of the Pope in Excommunicating Kings, in Depoſing them for Hereſie, and Abſolving their Subjects from their Allegiance. And the Claim of Authority both in Pope and Council is the ſureſt Foundation they build upon.

I have ſaid ſo much the more in this Matter, becauſe their Actions are ſo very plain and open, and yet ſo pernicious; and 'tis a very great Providence, that we, and our Religion, are delivered from Blood and Oppreſſion. I believe our Religion would have ſtood notwithſtanding their Attempts, and I would have them to know we are not afraid of them; nay I think we ſhould have maintained it by deſtroying of them. We ſhould have been all in Blood 'tis true, but the greateſt effuſion would have been on their ſide; and without it, How did they hope it ſhould have been done? There are honeſt Gentlemen, I believe hundreds of that Communion, who could not be openly won upon to engage in ſuch a Deſign. They will not tell them that the King ſhall be killed; but they inſinuate into them, that he is but one Man, and if he ſhould die it were fit they were in readineſs to promote the Catholick Religion, and when it comes to that, they know what to do. When they have got them to give Money to provide Arms and be in readineſs on their ſpecious pretence, then the Jeſuits will quickly find them Work. One Blow ſhall put 'em to exerciſe their Arms; and when they have killed the King, the Catholick Cauſe muſt be maintained.

But they have done themſelves the Miſchief, and have brought Miſery upon their whole Party, whom they have enſnared into the Deſign upon other Pretences than what was really at the bottom. A Popiſh Prieſt is a certain Seducer, and nothing ſatisfies him; not the Blood of Kings, if it ſtands in the way of his Ambition. And I hope they have not only undeceived ſome Proteſtants, whoſe Charity might encline them to think them not ſo bad as they are; but I believe they have ſhaken their Religion in their own Party here, who will be aſhamed in time, that ſuch Actions ſhould be put upon the ſcore of Religion.

I return now to the Fact, which is proved by two Witneſſes, and by the concurrent Evidence of the Letter and the Maid; and the Matter is as plain and notorious as can be, That there was and intention of bringing in Popery by a cruel and bloody Way; for I believe they could never have Prayed us into their Religion. I leave it therefore to you to conſider, whether you have not as much Evidence from theſe two Men, as can be expected in a Caſe of this nature; and whether Mr. *Oates* be not rather juſtified by the Teſtimony offered againſt him, than diſcredited. Let Prudence and Conſcience direct your Verdict, and you will be too hard for their Art and Cunning.

Gentlemen, If you think you ſhall be long, we will Adjourn the Court till the Afternoon, and take your Verdict then.

Jury. No, my Lord, we ſhall not be long.

Then an Officer was Sworn to keep the Jury ſafe, according to Law, and they withdrew to conſider of their Verdict.

After a very ſhort receſs, the Jury returned, and the Clerk of the Crown ſpake to them thus:

Cl. of Cr. Gentlemen, anſwer to your Names. Sir *William Roberts.*

S. W. Roberts. Here. And ſo of the reſt.

Cl. of Cr. Gentlemen, Are you all agreed in your Verdict?

Omnes. Yes.

Cl. of Cr. Who ſhall ſay for you?

Omnes. The Foreman.

Cl. of the Cr. Set *William Ireland* to the Bar. *William Ireland,* hold up thy Hand. Look upon the Priſoner, How ſay you, is he guilty of the High Treaſon whereof he ſtands Indicted, or not Guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods and Chattels, Lands or Tenements?

Foreman. None to our knowledge.

Cl. of Cr. Set *Thomas Pickering* to the Bar. *Tho. Pickering* hold up thy Hand. Look upon the Priſoner. How ſay you, is he Guilty of the ſame High Treaſon, or not Guilty?

Foreman. Guilty.

Cl. of Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None to our knowledge.

Cl. of Cr. Set *John Grove* to the Bar. *John Grove* hold up thy Hand. Look upon the Priſoner. How ſay you, is he Guilty of the ſame High Treaſon, or not Guilty?

Foreman. Guilty.

Cl. of Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None to our knowledge.

Cl. of Cr. Hearken to your Verdict as the Court hath recorded it. You ſay that *William Ireland* is Guilty of the High Treaſon whereof he ſtands indicted. You ſay that *Thomas Pickering* is Guilty of the ſame High Treaſon. You ſay that *John Grove* is Guilty of the ſame High Treaſon. And for them you have found Guilty, you ſay, That they, nor any of them, had any Goods or Chattels, Lands or Tenements, at the time of the High Treaſon committed, or at any time ſince to your knowledge. And ſo you ſay all.

Omnes. Yes.

L. C. J. You have done, Gentlemen, like very good Subjects, and very good Chriſtians, that is to ſay, like very good Proteſtants: And now much good may their Thirty Thouſand Maſſes do them.

Then the Court adjourned by Proclamation till four in the Afternoon.

In the Afternoon the ſame day.

About five of the Clock Mr. Recorder *and a ſufficient number of the Juſtices, returned into the Court, the Judges being departed home; and Proclamation was made for attendance, as in the Morning.*

Then the Clerk of the Crown called for the Priſoners Convicted of High Treaſon, and ſpoke to each of them thus:

Cl. of the Cr. Set *William Ireland* to the Bar. *William Ireland* hold up thy Hand, thou ſtandeſt Convicted of High Treaſon; what canſt thou ſay for thy ſelf, why the Court ſhould not give thee Judgment to die according to Law.

Ireland. My Lord, I repreſented all along from the

the beginning, that we had not time to call in our Witneſſes to juſtifie our Innocence.

Recorder, If you have any thing to ſay in ſtay of Judgment, you have all free liberty to ſay it.

Ireland, We had no time allowed us to bring in our Witneſſes, ſo that we could have none, but only thoſe that came in by chance; and thoſe things they have declared, though true, were not believed.

Mr. *Recorder*, Theſe things Mr. *Ireland*, you did not object before the Jury gave their Verdict, now they have given their Verdict, and found you guilty; if you have any thing to ſay to the Court why they ſhould not proceed to Judgment according to that Verdict, you may ſpeak it; but for theſe things it is too late.

Ireland, My Lord, I only have this to ſay, I deſire more time to be heard again, and to call in my Witneſſes.

Recorder, Call the Executioner to do his Office.

Ireland, There are Teſtimonies, my Lord, that I could produce of my Loyalty, and my Relations Fidelity to the King.

Mr. *Recorder*, I believe Mr. *Ireland*, it will be a Shame to all your Relations that have been Loyal to the King, that you ſhould be privy to the Murder of that good King whom your Relations ſo well ſerved; and therefore if that be all that you have to ſay, it will ſignifie nothing.

The Executioner not appearing, the Sheriff of *Middleſex* was called to come into Court, and give his attendance upon pain of 40 *l.* But the Executioner coming in, was with a Reproof from the Recorder for his negligence, commanded to tye him up, which he did.

Cl. of Cr. Set *Thomas Pickering* to the Bar.

Thomas Pickering hold up thy Hand, Thou art in the ſame caſe with the Priſoner laſt before thee, what canſt thou ſay for thy ſelf, why the Court ſhould not give thee Judgment to die according to Law.

Mr. *Recorder*, What does he ſay for himſelf?

Cap. *Richardſon*, He has nothing to ſay.

Mr. *Recorder*, Then tie him up.

Cl. of Cr. Set *John Grove* to the Bar.

John Grove hold up thy Hand, Thou art in the ſame caſe with the Priſoner laſt before thee, what canſt thou ſay for thy ſelf, why the Court ſhould not give thee Judgment to die according to Law?

Grove, I am as innocent as the Child unborn.

Cl. of Cr. Tie him up, which was done.

Cl. of Cr. Cryers on both ſides make Proclamations.

Cryers, O yes, All manner of Perſons are commanded to keep ſilence whilſt Judgment is giving upon pain of Impriſonment; Peace about the Court.

Mr. *Recorder*, Where is the Keeper? ſhew me the Priſoners, *William Ireland*, *Thomas Pickering*, and *John Grove*.

Cap. *Richardſon*. Thoſe are the three.

Mr. *Recorder*. You the Priſoners at the Bar. you have been Arraigned for a very great Offence the greateſt that can be committed againſt any Authority upon Earth, for High Treaſon againſt your King, with all the Aggravations that poſſibly can attend ſo great a Crime as that is; for you did not only ſtrike at the Life of the beſt of Kings, but you intended the ſubverſion of the beſt of Religions. Whatever you may apprehend, yet all men that will lay their hopes of ſalvation upon any thing that is fit for a man to lay his hopes upon, which is upon the Merits of a crucified Saviour, and not upon your Maſſes, Tricks or Trumperies, do abhor the thoughts of promoting their Religion by maſſacring Kings, and murdering their Subjects. And though we whom you call Hereticks, abhor to own any ſuch Religion; yet we are not afraid to tell you, and all others who are enſnared into your principles, we will maintain the Religion and the Government as it is Eſtabliſhed, with our Lives and Fortunes. And it is fit that it ſhould be known, that we who live under the Government of ſo mild and pious a Prince, and in a Country where ſo good, ſo moderate a Religion is Eſtabliſht by Law, will not be affrighted by all your Murders, Conſpiracies and Deſigns, from declaring, that they who dare kill Kings, and maſſacre their Subjects, are the higheſt Violaters, not only of the Laws of the Land, but of that great Law which all good Chriſtians and Proteſtants, think themſelves obliged to pay great Reverence and Obedience to, I mean the Law of God Almighty himſelf.

Thus I ſpeak to you, Gentlemen, not vauntingly, 'tis againſt my nature to inſult upon perſons in your ſad condition; God forgive you for what you have done, and I do heartily beg it, though you don't deſire I ſhould; for poor men, you may believe that your intereſt in the World to come is ſecured to you by your Maſſes, but do not well conſider that vaſt Eternity you muſt e're long enter into, and that great Tribunal you muſt appear before, where his Maſſes (ſpeaking to *Pickering*) will not ſignifie ſo many Groats to him, no not one Farthing. And I muſt ſay it for the ſake of thoſe ſilly people whom you have impoſed upon with ſuch fallacies, That the Maſſes can no more ſave thee from a future Damnation, then they do from a preſent Condemnation.

I do not ſpeak this to you, as intending thereby to inveigh againſt all perſons that profeſs the *Romiſh* Religion; for there are many that are of that perſwaſion, that do abhor thoſe baſe Principles of murdering Kings and ſubverting Governments. There are many honeſt Gentlemen in *England*, I dare ſay, of that Comunion, whom none of the moſt impudent Jeſuits durſt undertake to tempt into ſuch deſigns; theſe are only to be impoſed upon ſilly men, not upon men of Conſcience and Underſtanding. And I pray God, as was ſaid lately by a Learned Gentleman whom we all know, that all Proteſtants may be as ſafe from the force of your Daggers, as they are from thoſe of your Arguments; for I dare ſay, that you could ſooner Murder any man that underſtands the Proteſtant Religion, than perſwade him to ſuch Villanies. And among thoſe many things which prevailed with the honeſt Gentlemen of the Jury to convict you of this horrid Crime, they could not but take notice, that you (ſpeaking to *Ireland*) that do pretend to Learning, did ſend into Foreign parts, that your fellow Jeſuits ſhould take care publickly to preach, That the Oaths of Allegiance and Supremacy, by which the Common Juſtice of the Nation is preſerved, ſignified nothing; which is a ſtrong Evidence of your Deſign, not only to Murther the King, but ſubvert the Government; for ſurely the moſt probable way to do that, is to aſperſe thoſe Oaths by which all Proteſtant Subjects, thoſe whom you call Hereticks, lie under an Obligation of

Obedience to their Prince. And I think it not unfit to tell you, that you had a great favour shewed to you to be tried only for the matters contained in this Indictment; for you that are Priests must know, that there is a Law in the Land, that would have hang'd you for your very residence here; for if any Subject born in *England*, shall take Orders from the See of *Rome*, and afterwards come into *England*, and remain there 40 days, such, for that offence alone, are made Traitors by Act of Parliament. But you are so far from being under any Awe of that Law, or Submission to it, that you dare not only come to live here in despite thereof, but endeavour what you can, to overthrow both it, and the Government it self. You dare conspire to Murther the King; nay, not only so, but you dare make your Consults thereof publick. You dare write your names to those Consults. You dare solicit all your party to do the like, and make all the ties of Religion and Conscience (that to Considering Christians are Obligations to Piety and Charity) as Engagements either to act your Villanies, or to conceal them. We think no power can dispence with us whom you call Hereticks, to falsifie our Oaths, much less to break our Covenant with God in the holy Sacrament. But you, instead of making that a Tye and Obligation to engage you to the Remembrance of our Saviour, make it a snare and a gin to oblige your Proselites to the Assassinating of Kings, and murdering their Subjects. I am sorry with all my Soul, that men who have had their Education here, and the benefit of the good Examples of others, should not only be led into such mischievous principles themselves, but to be of that confidence in their perswasion, as to dare to debauch others also. I am sorry also to hear a Lay-man should with so much malice declare, That a Bullet, if round and smooth, was not safe enough for him to execute his Villanies by. But he must be sure, not only to set his poisonous invention on work about it, but he must add thereto his poisonous Teeth; for fear if the Bullet were smooth, it might light in some part where the wound might be cured. But such is the height of some mens malice, that they will put all the Venom and Malice they can into their actions. I am sure this was so horrid a design, that nothing but a Conclave of Devils in Hell, or a College of such Jesuits as yours on Earth, could have thought upon.

This I remember to you for the sake of them that are to live, and for the Charity I have for you who are to die: for the sake of them that are to live; for I hope when they hear, that Men of your Persuasion dare commit those outragious Crimes, and justifie them by a principle of Religion, they will not easily be seduced into your Opinion: And out of Charity to you that are to die, to persuade you to hearty Repentance; for, otherwise, I must tell you, thy 1500 *l.* (speaking to *Grove*) nor thy 30000 Masses (speaking to *Pickering*) will avail but little. And I thought fit to say this also, that it may be known that you have had the full benefit of the Laws Established in *England*, and those the Best of Laws; for such is not the Law of other Nations, for if any Protestant in any place where the *Romish* Religion is profest, had been but thought guilty of such Crimes, he had never come to the Formality and Justice of an Arraignment, and to be tried by his Peers, permitted to make his Defence, and hear what could be said against him; but he had been hang'd immediately, or perhaps suffer'd a worse death. But you are not only beholden to the happy Constitution of our Laws, but to the more happy Constitution of our Religion. For such are the admirable Documents of that Religion we in *England* profess, That we dare not requite Massacre for Massacre, Blood for Blood. We disown and abhor all Stabbing; and we are so far from reckoning that he shall be a Saint in Heaven for Assassinating a Prince, and be pray'd to in another world, that the Protestant is required to believe, that such that begin with Murther, must end with Damnation, if our blessed Lord and Saviour do not interpose; nothing that Man can do, Papist or Protestant, can save any Man in such a case. We dare not say that our Religion will permit us to Murder Dissenters, much less to Assassinate our King.

And having thus said, let me once more as a Christian, in the name of the great God of Heaven, beg of you for your own Souls sake, be not satisfied or over-persuaded with any Doctrine that you have preached to others, or imbibed from others; but believe, that no one can contrive the death of the King, or the overthrow of the Government, but the great God of Heaven and Earth will have an account of it. And all Pardons, Absolutions, and the Dispensations that you who are Priests can give to your Lay-Brother, or that any of your Superiours may give to you, will not serve the turn.

I know not, but as I said, you may think I speak this to insult, I take the great God of Heaven to witness, that I speak it with Charity to your Souls, and with great sorrow and grief in my own heart to see, Men that might have made themselves happy, draw upon themselves so great a ruine. But since you have been so fairly heard, so fairly Tried and Convicted, there is but little more to be said; for I must tell you, because it may not be thought that you had not free liberty to make your full defence, though that Gentleman (speaking to *Ireland*) seemed to be surpriz'd, he had a kind Sister that took care for to bring his Witnesses; I am so far from blaming her for it, that I do commend her, it was the effect of her good nature, and deserves Commendation; but speak to this purpose, to shew that there was no surprise upon him, nor his Life taken away by any such thing; for he had a greater favour shew'd to him than is usually shown to such Offenders.

And having thus said to you my self, we do also require him whose duty it is to attend in such cases, nay, I do Command him in the name of the Court, that he attend upon you to give you all the comfortable assistance that he can for the advantage of your future state: And not only so, but we will certainly take care, that if you will have any others come to you, they shall. I would not be mistaken, I do not mean any of your Priests and Jesuits; but if you will have the Assistance of any Protestant Divines, they shall not be deny'd you. And I hope God Almighty will please to give you pardon in another world, though you have offended beyond hopes of any in this. I once more assure you, all I have said is in perfect Charity. I pray God forgive you for what you have done. And so there remains now only for me to pronounce that Sentence which by the

the Law of the Land the Court is required to do againſt perſons Convicted of that offence which you are Convicted of.

This Court doth therefore Award, *That you the Priſoners at the Bar, be conveyed from hence to the place from whence you came, and from thence that you be drawn to the place of Execution upon Hurdles, that there you be ſeverally hanged by the Neck, that you be cut down alive, that your Privy Members be cut off, and your Bowels taken out, and burnt in your view, that your Heads be ſevered from your Bodies, that your Bodies be divided into Quarters, and thoſe Quarters be diſpoſed at the King's pleaſure: And the God of infinite mercy be merciful to your Souls.*

Then the Priſoners were conveyed back to the Goal by the Keeper of the Goal, according to Cuſtom; and the Commiſſion was called over, and the Priſoners taken Order for according to Law. And then the Court Adjourned by Proclamation, thus:

Cl. of Cr. Cryer, make Proclamation.

Cryer, *O yes, O yes, O yes, All manner of perſons that have any thing more to do at this general Seſſions of the Peace holden for the City of* London, *may depart hence for this time, and give their Attendance at the* Guildhall, London, *on* Friday *the* 10th *day of* January *next, at 7 of the Clock in the morning. And all manner of perſons at this Seſſions of* Oyer *and* Terminer, *and Goal-delivery of* Newgate, *holden for the City of* London *and County of* Middleſex, *may depart hence for this time, and give their Attendance here again on* Wedneſday *the* 15th *day of* January, *at 7 of the Clock in the morning.*

God Save the King.

And then the Court broke up.

Articles of Impeachment of High Treaſon and other High Crimes, Miſdemeanours and Offences, againſt THOMAS *Earl of* DANBY, *Lord High Treaſurer of* ENGLAND; *As they were deliver'd in to the Houſe of Lords, in the Name of the Commons of* England, *by Sir* Henry Capel, December 23. 1678.

I.

THAT He hath traiterouſly encroach'd to himſelf Regal Power, by treating in Matters of Peace and War with Foreign Miniſters and Embaſſadors, and giving Inſtructions to his Majeſty's Embaſſadors Abroad, without communicating the ſame to the Secretaries of State, and the reſt of his Majeſty's Council, againſt the expreſs Declaration of his Majeſty and his Parliament; thereby intending to defeat and overthrow the Proviſion that has been deliberately made by his Majeſty and his Parliament for the Safety and Preſervation of his Majeſty's Kingdoms and Dominions.

II.

That He hath traiterouſly endeavour'd to ſubvert the Ancient and Well-eſtabliſh'd Form of Government in this Kingdom, and inſtead thereof to introduce an Arbitrary and tyrannical Way of Government; and the better to effect this his Purpoſe, he did deſign the Raiſing of an Army, upon Pretence of a War againſt the *French* King, and to continue the ſame as a Standing Army within this Kingdom: And an Army being ſo raiſed, and no War enſuing, an Act of Parliament having paſs'd to Pay and Disband the ſame; and a great Sum of Money being granted for that End, he did continue the Army contrary to the ſaid Act, and miſemploy'd the ſaid Money given for the Diſbanding, to the Continuance thereof, and iſſued out of his Majeſty's Revenues divers great Sums of Money for the ſaid Purpoſe, and wilfully neglected to take Security of the Paymaſters of the Army, as the ſaid Act requir'd; whereby the ſaid Law is eluded, and the Army is yet continued, to the great Danger and unneceſſary Charge of his Majeſty and the whole Kingdom.

III.

That He traiterouſly intending and deſigning to alienate the Hearts and Affections of his Majeſty's Good Subjects from his Royal Perſon and Government, and to hinder the Meetings of Parliaments, and to deprive his Sacred

Sacred Majeſty of their ſafe and wholſome Counſel, and thereby to alter the Conſtitution of the Government of this Kingdom, did propoſe and negotiate a Peace for the *French* King, upon Terms diſadvantageous to the Intereſt of his Majeſty and his Kingdoms; for the doing whereof, he did endeavour to procure a great Sum of Money from the *French* King, for enabling him to maintain and carry on his ſaid traiterous Deſigns and Purpoſes, to the Hazard of his Majeſty's Perſon and Government.

IV.

That He is Popiſhly affected, and hath traiterouſly concealed (after he had Notice) the late horrid and bloody Plot and Conſpiracy, contrived by the Papiſts, againſt his Majeſty's Perſon and Government; And hath ſuppreſſed the Evidence, and reproachfully diſcountenanced the King's Witneſſes in the Diſcovery of it, in Favour of Popery, immediately tending to the Deſtruction of the King's Sacred Perſon, and the Subverſion of the Proteſtant Religion.

V.

That He hath waſted the King's Treaſure, by iſſuing out of his Majeſty's *Exchequer* ſeveral Branches of his Revenue for unneceſſary Penſions and ſecret Services, to the Value of 231602 *l.* within two Years; and that he hath wholly diverted out of the known Method and Government of the *Exchequer* one whole Branch of his Majeſty's Revenue to private Uſes, without any Accompt to be made of it to his Majeſty in his *Exchequer*; contrary to the expreſs Act of Parliament, which granted the ſame; and he hath removed two of his Majeſty's Commiſſioners of that Part of the Revenue, for refuſing to conſent to ſuch his unwarrantable Actings therein, and to advance Money upon that Branch of the Revenue for private Uſes.

VI.

That He hath by indirect Means procured from his Majeſty to himſelf divers conſiderable Gifts and Grants of Inheritance, of the ancient Revenue of the Crown, even contrary to Acts of Parliament.

For which Matters and Things the Knights, Citizens and Burgeſſes of the Commons in Parliament, do, in the Name of themſelves, and of all the Commons of *England*, Impeach the ſaid *Thomas* Earl of *Danby*, Lord High-Treaſurer of *England*, of High Treaſon, and other High Crimes, Miſdemeanours and Offences, in the ſaid Articles contain'd: And the ſaid Commons by Proteſtation, ſaving to themſelves the Liberty of exhibiting at any time hereafter, any other Accuſation or Impeachment againſt the ſaid Earl, and alſo of replying to the Anſwers which the ſaid *Thomas* Earl of *Danby* ſhall make to the Premiſes, or any of them, or any Impeachment or Accuſation that ſhall be by them exhibited, as the Cauſe (according to Courſe and Proceedings of Parliament) ſhall require; Do pray, That the ſaid *Thomas* Earl of *Danby*, may be put to anſwer all and every the Premiſes, that ſuch Proceedings, Trials, Examinations and Judgments may be upon them, and every one of them had and uſed, as ſhall be agreeable to Law and Juſtice, and that he may be ſequeſtred from Parliament, and forthwith committed to ſafe Cuſtody.

Jovis 20 *die Martii*, 1678.

Reſolved, *Nemine contradicente*,
That a Meſſage be ſent to the Lords, to put them in mind of the Impeachment of High Treaſon, exhibited againſt *Thomas* Earl of *Danby*, in the Name of the Commons of *England*, and to deſire that he may be forthwith committed to ſafe Cuſtody.

Reſolved, *&c.*
That it be referred to the Committee of Secreſie to draw up further Articles againſt *Thomas* Earl of *Danby*.

Sabbati 22 *die Martii*, 1678.

Reſolved, *Nemine contradicente.*
That a Meſſage be immediately ſent to the Lords, to remind their Lordſhips of the laſt Meſſage ſent from this Houſe relating to *Thomas* Earl of *Danby*; And to demand, That *Thomas* Earl of *Danby* may be forthwith ſequeſtred from Parliament, and committed to ſafe Cuſtody.

Martis 25 *die Martii*, 1679.

A Meſſage from the Lords by Baron *Littleton*, and Baron *Thurland.*

Mr. *Speaker*, We are commanded by the Lords to acquaint this Houſe, That they ſent to apprehend *Thomas* Earl of *Danby*, both to his Houſe here in Town, and to his Houſe at *Wimbolton*; and that the Gentleman Uſher of the Black Rod had returned their Lordſhips Anſwer, that he could not be found.

Veneris 4 *die Aprilis*, 1679.

Reſolved,
That an humble Addreſs be made to his Majeſty, to deſire his Majeſty to iſſue out his Royal Proclamation for the apprehending *Thomas* Earl of *Danby*; with the uſual Penalties upon ſuch as ſhall conceal him: And that his Majeſty will be further pleaſed to give Order to the Officers of his Majeſty's Houſhold, That they take care that the ſaid Earl of *Danby* be not permitted to reſide within either of his Majeſty's Palaces of *Whitehall*, *Somerſet-houſe*, and St. *James*. And it is referred to Mr. *Powel*, *&c.* to prepare and draw up the ſame, and preſent it to the Houſe to Morrow Morning.

The

The Plea *of the Earl of* Danby, *late Lord High Treaſurer of* England, *to the* Articles *of* Impeachment, *and other High Crimes and Miſdemeanours, and Offences, exhibited againſt him by the Name of* Thomas *Earl of* Danby, *Lord High Treaſurer of* England.

THE ſaid Earl for Plea, ſaith, and humbly offereth to your Lordſhips, as to all and every the Treaſons, Crimes, Miſdemeanours and Offences, contained or mentioned in the ſaid Articles, That after the ſaid Articles exhibited, namely, the Firſt of *March*, now laſt paſt, the King's moſt Excellent Majeſty, by his moſt Gracious Letters-Patents of Pardon, under his Great Seal of *England*, bearing Date at *Weſtminſter*, the ſaid Firſt Day of *March*, in the One and Thirtieth Year of his Majeſty's Reign; and here, into this moſt High and Honourable Court, produced under the ſaid Great-Seal.

Of His ſpecial Grace, certain Knowledge, and meer Motion, hath Pardoned, Remiſed and Releaſed to him, the ſaid *Thomas* Earl of *Danby*, all, and all manner of Treaſons, Miſpriſions of Treaſons, Inſurrections, Rebellions, Felonies, Exactions, Oppreſſions, Publications of Words, Miſpriſions, Confederacies, Concealments, Negligencies, Omiſſions, Offences, Crimes, Contempts, Miſdemeanors and Treſpaſſes whatſoever, by himſelf alone, or with any other Perſon or Perſons, or by any other, by the Command, Advice, Aſſent, Conſent, or Procurement of him the ſaid *Thomas* Earl of *Danby*, adviſed, committed, attempted, made, perpetrated, concealed, committed, or omitted, before the 27th Day of *February* then and now laſt paſt, being alſo after the Time of the ſaid Articles exhibited, altho' the ſaid Premiſes, or any of them did, or ſhould touch or concern the Perſon of his ſaid Majeſty, or any of his Publick Negotiations whatſoever; and alſo his Majeſty's Affairs with Foreign Embaſſadors ſent to his ſaid Majeſty, or by not rightly proſecuting his Majeſty's Inſtructions and Commands to his Embaſſadors, reſiding on his Majeſty's Behalf in Foreign Parts.

And as to all and ſingular Acceſſaries to the ſaid Premiſes, and every of them, altho' he the ſaid *Thomas* Earl of *Danby* were, or were not of the ſaid Premiſes, or any of them, Indicted, Impeached, Appealed, Accuſed, Convicted, Adjudged, Out-law'd, Condemned, or Attainted; and all and ſingular Indictments, Impeachments, Inquiſitions, Informations, Exigents, Judgments, Attainders, Out-lawries, Convictions, Pains of Death, Corporal Puniſhments, Impriſonments, Forfeitures, Puniſhments, and all other Pains and Penalties whatſoever, for the ſame, or any of them; and all, and all manner of Suits, Complaints, Impeachments and Demands whatſoever, which his ſaid Majeſty, by reaſon of the Premiſes, or any of them then had, or for the Future ſhould have, or his Heirs, or Succeſſors, any ways could have afterwards againſt him the ſaid *Thomas* Earl of *Danby*: And alſo Suit of his Majeſty's Peace, and whatſoever to his Majeſty, his Heirs, or Succeſſors, againſt him the ſaid Earl of *Danby*, did, or could belong, by Reaſon or Occaſion of the Premiſes, or any of them. And his Majeſty hath thereby given and granted his firm Peace to the ſaid *Thomas* Earl of *Danby*. And further, his Majeſty willed and granted, that the ſaid Letters-Patents, and the ſaid Pardon and Releaſe therein contained, as to all the things therein pardoned and releaſed, ſhould be good and effectual in the Law, altho' the Treaſons, Miſpriſions of Treaſon, Inſurrections, Rebellions, Felonies, Exactions, Oppreſſions, Publications of Words, Miſpriſions of Confederacies, Concealments, Negligences, Omiſſions, Offences, Crimes, Contempts, Miſdemeanours and Treſpaſſes, were not certainly ſpecified. And notwithſtanding the Statute in the Parliament of the Lord *Richard* the Second, late King of *England*, in the 13th Year of his Reign, made and provided. And notwithſtanding the Statute in the Parliament of the Lord *Edward* the Third, in the Fourteenth Year of his Reign, made and provided, or any other Statute, Act, or Ordinance to the contrary thereof made and provided. And moreover, his ſaid now Majeſty, by his ſaid Letters-Patents of his further Grace, did firmly command all and ſingular Judges, Juſtices, Officers, and others whomſoever, That the ſaid free and general Pardon of his ſaid Majeſty, and the general Words, Clauſes and Sentences aboveſaid, ſhould be conſtrued, expounded, and adjudged in all his ſaid Majeſty's Courts, and elſewhere, in the moſt beneficial ample and benign Senſe.

And for the better and more firm Diſcharge of the ſaid Earl, of, and from the Crimes and Offences aforeſaid, according to the true Intents of his Majeſty, and in ſuch beneficial Manner and Form to all Intents and Purpoſes whatſoever, as if the ſaid Treaſons, Crimes, Offences, Concealments, Negligences, Omiſſions, Contempts and Treſpaſſes aforeſaid, and other the ſaid Premiſes, by apt, expreſs and ſpecial Words had been remitted, releaſed and pardoned. And that the ſaid Letters-Patents of Pardon, and the Releaſe and Pardon therein contained, ſhall be pleaded and allowed in all and every his Majeſty's Courts, and before all his Juſtices whatſoever, without any Writ of Allowance, any Matter, Cauſe, or Thing whatſoever in any Ways notwithſtanding, as by the ſaid Letters-Patents themſelves more at large appeareth, which ſaid Letters Patents follow in theſe Words,

CAROLUS *Secundus Dei Gratia* Angliæ, Scotiæ, Franciæ, & Hiberniæ *Rex, Fidei Defenſor, &c. Omnibus ad quos præſentes literæ noſtræ pervenerint, Salutem. Sciatis, quod Nos pro diverſis bonis Cauſis & Conſiderationibus nos ad hoc ſpecialiter movent. De Gratia noſtra ſpeciali, ac ex certa ſcientia & mero motu noſtris Pardonavimus & Relaxavimus, &c.*

And the ſaid Earl doth averr, That he the ſaid *Thomas* Earl of *Danby*, in the ſaid Articles named,

named, is the ſaid *Thomas* Earl of *Danby* in the ſaid Letters-Patents of Pardon here produc'd, likewiſe named. Which Pardon the ſaid Earl doth rely upon, and pleaded the ſame in Bar of the ſaid Impeachment, and in Diſcharge of all the Treaſons, Crimes, Miſdemeanours and Offences contain'd, or mention'd in the ſaid Articles of Impeachment, and every of them; and this the ſaid Earl is ready to averr.

Whereupon he humbly prays the Judgments of your Lordſhips, and that his Majeſty's moſt Gracious Pardon aforeſaid may be allowed: And that he the ſaid Earl, by virtue hereof, may be (from all the ſaid Articles of Impeachment, and all and every of the Treaſons and Crimes therein alledg'd againſt him) acquitted and diſcharged.

A Copy of the Pardon of THOMAS Earl of DANBY.

CAROLUS *Secundus, Dei Gratia* Angliæ, Scotiæ, Franciæ & Hiberniæ *Rex, Fidei Defenſor, &c. Omnibus ad quos præſentes literæ noſtræ Pervenerint, Salutem. Sciatis, quod Nos pro diverſis bonis Cauſis & Conſiderationibus Nos ad hoc ſpecialiter moventibus, de Gratia Noſtra ſpeciali ac ex certa ſcientia & mero motu noſtris, Pardonavimus, Remiſſimus & Relaxavimus, ac per præſentes pro Nobis, Heredibus & Succeſſoribus noſtris, Pardonamus, Remittimus & Relaxamus prædilecto, & perquam fideli Conſanguineo & Conſiliario noſtro* Thomæ *Comiti* Danbii, *omnes & omnimodas Proditiones, Crimina læſæ Majeſtatis, Miſpriſiones, Proditionum, Inſurrectiones, Verborum Propalationes, Miſpriſiones, Confederationes, Concelamenta, Negligentias, Omiſſiones, Offenſas, Crimina Contemptus, Malefacta & Tranſgreſſiones quæcunque, per ſe ſolum ſeu cum aliqua alia perſona, vel aliquibus aliis perſonis, aut per aliquem alium, ſive aliquos alios, ex præcepto, adviſamento, aſſenſu, conſenſu, ſeu procuratione ejuſdem* Thomæ *Comitis* Danbii, *adviſata, præcepta, attempta, facta perpetrata, concelata, commiſſa, ſeu omiſſa, ante 27 diem* Februarii *jam ultim. præteritum, licet præmiſſa, vel eorum aliqua, vel aliquod, tangunt vel tangat perſonam vel negotiationes Noſtras Publicas qualeſcunque, nec non tranſactiones noſtras cum Forenſecis Legatis ad nos miſſis, vel non rite proſequendo Inſtructiones & Mandata Noſtra Legatis Noſtris, in partibus extra marinis, ex parte Noſtra reſident. ac etiam omnia & ſingula acceſſaria præmiſſorum & cujuſlibet eorum, licet idem* Thomas *Comes* Danbii *de præmiſſis vel aliqua præmiſſorum indictatus, impetitus, appellatus, reſtatus, convictus, adjudicatus, utlegatus condemnatus vel attinctus; Exiſtit vel non Exiſtit, ac omnia & ſingula Indictamenta, Impetitiones, Inquiſitiones, Informationes, exigenda judicia, attincta, utlegaria, Convictiones, Executiones, Pœnas mortis, Pœnas corporales, Impriſonamenta, foris factura, Punitiones, & omnes alias Pœnas, & Pœnalitates quaſcunque, pro eiſdem vel eorum aliquo, ac omnia & omnimoda, Sectas, Querelas, Impetitiones, & Demanda quæcunqe, quæ Nos verſus ipſum* Thomam *Comitem* Danbii, *ratione præmiſſorum vel eorum alicujus, habuimus, habemus, ſeu in futurum habere poterimus, aut Heredes, ſeu Succeſſores Noſtri, ullo modo habere poterint, in futuro, ſectamque pacis Noſtræ, ac quæ ad Nos Heredes & Succeſſores Noſtros verſus ipſum* Thomam *Comitem* Danbii *pertinet, ſeu pertinere poterit, ratione ſeu occaſione præmiſſorum, ſeu eorum aliquorum vel alicujus, ac firmam pacem Noſtram. Et inde damus & concedimus per præſentes, & ulterius volumus, & concedimus, Quod hæ literæ noſtræ, ac hæc noſtra Pardonatio, Remiſſio, Relaxatio in eiſdem contenta, quoad omnia & ſingula ſuperius pardonata, remiſſa, & relaxata, bonæ & effectuales in lege ſint, & erint, licet Proditiones, Crimina læſæ Majeſtatis, Miſpriſiones Proditionum, Inſurrectiones, Rebelliones, Felloniæ, Exactiones, Oppreſſiones, verborum Propalationes, Miſpriſiones, Confederationes, Concelamenta, Negligentiæ, Omiſſiones, Offenſæ, Crimina Contemptus, Malefacta & Tranſgreſſiones antedicta, Minus certe ſpecifact. exiſtunt. Et non obſtante Statuto Parliamento Dom.* Ricardi *Secundi, nuper Regis* Angliæ, *Anno 13 Regni ſui edito, & proviſo, Et non obſtante Statuto in Parliamento Dom.* Edvardi *Tertii, nuper Regis* Angliæ, *Anno Regni ſui 14 edito & proviſo; Aut aliquo alio Statuto, Actu vel Ordinatione, in contrarium inde editis & proviſis. Et ulterius de uberiori Gratia Noſtra firmiter Præcipimus omnibus & ſingulis Judicibus, Juſticiariis, vel aliis quibuſcunque, Quod hæ præſens Litera & Generalis Pardonatio noſtra & generalia Verba, Clauſulæ & Sententiæ ſupradicta, conſtruentur, exponentur & adjudicentur in omnibus curiis noſtris & alibi, in beneficentiſſimo, ampliſſimo, & benigniſſimo ſenſu, & pro maxima & firmiori exoneratione prædicti* Thomæ *Comitis* Danbii *de & à criminibus & offenſis prædictis ſecundum veram intentionem noſtram, & in tam beneficiali modo & forma & ad omnes intentionis & propoſita, prout ſi prædictæ Proditiones, Crimina læſæ Majeſtates, Miſpriſiones, Proditionum crimina Offenſæ Miſpriſiones Concelamenta, Negligentiæ, Omiſſiones, Contemptus, & Tranſgreſſiones prædictæ ac cetera præmiſſa per apta expreſſa, & ſpecialia verba Pardonata, Remiſſa, & Relaxata fuiſſent. Et quod hæ Literæ Patentes, Remiſſio, Relaxatio, & Pardonatio, omnia in eiſdem contenta, in quibuſcunque curiis & coram quibuſcunq; Juſticiariis noſtris, placitentur & allocentur, ſine aliquo Breve de allocatione, aliqua re, cauſa vel materia quacunq; in aliquo non obſtante. In cujus rei Teſtimonium has literas noſtras fieri fecimus Patentes. Teſte me ipſo apud* Weſtmonaſterium 1 *die* Martii, *Anno Regni noſtri* 31.

CHARLES

CHARLES the Second, by the Grace of *God* of *England, Scotland, France* and *Ireland*, King, Defender of the Faith, *&c.* To all to whom theſe our Letters-Patents ſhall come, ſendeth Greeting. Know ye, that we for divers good Cauſes and Conſiderations, Us hereunto eſpecially moving, have out of our ſpecial Favour, certain Knowledge and meer Motion of our own, pardoned, remitted and releaſed, and by theſe Preſents for Us, our Heirs and Succeſſors, do pardon, remit and releaſe to our Well-beloved and Right Truſty Couſin and Counſellor, *Thomas* Earl of *Danby*, all, and all manner of Treaſons, as well High Treaſon, as Miſpriſions of Treaſon, Inſurrections, Revealing of Councils, Miſpriſions, Confederations, Concealments, Neglects, Omiſſions, Offences, Crimes, Contempts, Miſdeeds and Tranſgreſſions

ſions whatſoever, by himſelf alone, or with any other Perſon, or Perſons, or by any other, or others, by the Command, Advice, Aſſent, Conſent, or Procurement of the ſaid *Thomas* Earl of *Danby*, adviſed, commanded, attempted, done, performed, concealed, committed, or omitted, before the 27th Day of *February*, now laſt paſt. Although the Premiſes, or any of them touch, or may touch Our Perſon, or our publick Negociations whatſoever, or our Tranſactions with Foreign Embaſſadors unto Us ſent, or for not right following our Inſtructions and Mandates to our own Embaſſadors reſident on Our Behalf in Foreign Parts beyond the Seas; And alſo all and ſingular Acceſſaries to the Premiſes, or any of them altho' the ſaid *Thomas* Earl of *Danby* be indicted, impeached, appealed, arreſted, convict, adjudged, or as Embaſſador condemned, or be, or be not attainted of the Premiſes, or any of them; and all and every Indictments, Impeachments, Inquiſitions, Informations, Judgments to be required, Attainders, Outlawries, Convictions, Penalties of Death, Corporal Puniſhments, Impriſonments, Forfeitures, Sufferings, together with all other Pains and Penalties whatſoever, for the ſame, or any of them, and all, and all manner of Suits, Complaints, Impeachments and Demands whatſoever, which We againſt the ſaid *Thomas* Earl of *Danby*, by reaſon of the Premiſes, or any of them, have had, now have, or hereafter may have, or which our Heirs or Succeſſors in any manner may have hereafter, together with any Suit for Breach of our Peace, which to Us, our Heirs, or Succeſſors, againſt the ſaid *Thomas* Earl of *Danby* doth, or may belong, by Reaſon or Occaſion of the Premiſes, of ſome, or any of them; We do for ever Indemnifie him. Moreover We give and grant by theſe Preſents, and it is our further Will and Pleaſure, that theſe our Letters, and this our Pardon, Remiſſion and Releaſe therein contained, as to all and ſingular the things above pardoned, remitted and releaſed, be and ſhall be good and effectual in Law, altho' the Treaſons, High Treaſons, Miſpriſions of Treaſons, Inſurrections, Rebellions, Felonies, Extortions, Oppreſſions, Betraying of Councils, Confederacies, Concealments, Negligencies, Omiſſions, Offences, Crimes, Contempts, Miſdemeanours and Tranſgreſſions aforeſaid, be not fully ſpecified. And notwithſtanding the Statute of *Richard* the Second, late of *England* King, in the 13th Year of his Reign made and provided. And notwithſtanding the Statute by the Parliament of *Edward* the Third, late King of *England*, in the 14th Year of his Reign made and provided, or any other Statute, Act, or Ordinance to the contrary heretofore publiſh'd and provided: And moreover of our abundant Grace, We do ſtrictly command all Judges, Juſtices, or others whoſoever, that this preſent Letter, with our General Pardon, and General Words, Clauſes, and Sentences aboveſaid, ſhall be conſtrued, expounded and adjudged in all our Courts, and elſewhere, in the moſt beneficial, moſt ample, and moſt favourable Senſe, and for the greateſt and firmeſt Diſcharge of the aforeſaid *Thomas* Earl of *Danby*, of, and from the Crimes and Offences aforeſaid, according to our true Intention, and in ſo beneficial a Manner and Form, and to all Intents and Purpoſes, ſo as if the ſaid Treaſons, High Treaſons, Miſpriſions of Treaſon, Crimes, Offences, Omiſſions, Contempts, Concealments, Negligence and Tranſgreſſion aforeſaid, and other the Premiſes, had been by apt, expreſs and ſpecial Words, pardon'd, remitted and releas'd. And that theſe Letters-Patents, Remiſſion, Releaſe and Pardon, with all things therein contain'd, in whatſoever Courts, and before whatſoever Our Juſtices, ſhall be pleaded and allowed, without any Writ of Allowance, any Thing, Cauſe, or Matter whatſoever in any wiſe notwithſtanding. In Witneſs whereof We have cauſed theſe Our Letters-Patents to be made. Witneſs My ſelf at *Weſtminſter*, the Firſt Day of *March*, in the 31*ſt* Year of Our Reign.

The Reaſons and Narrative of Proceedings betwixt the two Houſes; which were deliver'd by the Commons to the Lords, at the Conference, on Monday *the* 26*th of* May, 1679.

THE Commons have always deſir'd, that a good Correſpondence may be preſerv'd between the two Houſes.

There is now depending between your Lordſhips and the Commons a Matter of the greateſt Weight: In the Tranſactions of which, your Lordſhips ſeem to apprehend ſome Difficulty in the Matters propoſed by the Commons.

To clear this, the Commons have deſir'd this Conference; and do readily acknowledge, That any Change in Judicature in Parliament, made without Conſent in full Parliament, to be of pernicious Conſequence, both to his Majeſty and his Subjects; and conceive themſelves oblig'd to tranſmit to their Poſterity, all the Rights which of this kind they have received from their Anceſtors, by putting your Lordſhips in mind of the Progreſs that has already been between the two Houſes, in Relation to Propoſitions made by the Commons, and the Reaſonableneſs of the Propoſitions themſelves; they doubt not to make it appear, that their Aim has been no other, than to avoid ſuch Conſequences, and preſerve that Right; and that there is no delay of Juſtice on their Part. And to that End, do offer to your Lordſhips the enſuing Reaſons and Narrative: That the Commons in bringing the Earl

of *Danby* to Juſtice, and in Diſcovery of that execrable and traiterous Conſpiracy, have labour'd under many great Difficulties, is not unknown to your Lordſhips.

Nor is it leſs known to your Lordſhips, that upon the Impeachment of the Houſe of Commons againſt the Earl of *Danby* for High Treaſon, and other high Crimes, Miſdemeanours and Offences, even the common Juſtice of Sequeſtring him from Parliament and forthwith committing him to ſafe Cuſtody, was then requir'd by the Commons, and denied by the Houſe of Peers, though he then ſat in their Houſe; of which your Lordſhips have been ſo ſenſible, that at a free Conference the 10th of *April* laſt, your Lordſhips declared, That it was the Right of the Commons, and well warranted by Precedents of former Ages, That upon an Impeachment of the Commons, a Peer ſo impeach'd ought of right to be order'd to withdraw, and then to be committed. And had not that Juſtice been denied to the Commons, a great Part of this Seſſion of Parliament, which hath been ſpent in framing and adjuſting a Bill, for cauſing the Earl of *Danby* to appear, and to anſwer that Juſtice from which he was fled, had been ſaved, and had been employed for the Preſervation of his Majeſty's Perſon, and the Security of the Nation; neither had he had the Opportunity of procuring for himſelf that illegal Pardon, which bears Date the Firſt of *March* laſt paſt, and which he hath now pleaded in Bar of his Impeachment: Nor of waſting ſo great a Proportion of the Treaſure of the Kingdom, as he hath done ſince the Commons exhibited their Articles of Impeachment againſt him.

After which Time thus loſt, by reaſon of the Denial of that Juſtice, which of Right belong'd to the Commons upon their Impeachment, the ſaid Bill being ready for the Royal Aſſent, the ſaid Earl then rendred himſelf; and by your Lordſhips Order of the Sixteenth of *April* laſt, was committed to the *Tower*. After which he pleads the ſaid Pardon; and being preſs'd, did at length declare, He would rely upon, and abide by that Plea; which Pardon pleaded, being illegal and void, and ſo ought not to bar or preclude the Commons from having Juſtice upon the Impeachment; They did thereupon, with their *Speaker*, on the Fifth of *May* Inſtant, in the Name of themſelves and all the Commons of *England*, demand Judgment againſt the ſaid Earl, upon their Impeachment; not doubting, but that your Lordſhips did intend in all your Proceedings upon the Impeachment, to follow the uſual Courſe and Method of Parliament.

But the Commons were not a little ſurpriz'd by the Meſſage from your Lordſhips, deliver'd them on the Seventh of *May*; thereby acquainting them, That as well the Lords Spiritual as Temporal had order'd, That the Tenth of *May* Inſtant, ſhould be the Day for hearing the Earl of *Danby*, to make good his Plea of Pardon. And that your Lordſhips had addreſſed to his Majeſty for naming of a Lord High Steward in the Caſe of the Earl of *Danby*.

Upon Conſideration of this Meſſage, the Commons found, that the admitting of the Lords Spiritual to exerciſe Juriſdiction in theſe Caſes, was an Alteration of the Judicature in Parliament; and that if a Lord High Steward ſhould be neceſſary upon Trial on Impeachments of the Commons, the Power of Judicature in Parliament, upon Impeachments, might be defeated, by ſuſpending or denying a Commiſſion to conſtitute a Lord High Steward.

And that the ſaid Day of Trial appointed by your Lordſhips, was ſo near to the Time of your ſaid Meſſage, that theſe Matters, and the Method of proceeding upon the Trial, could not be adjuſted by Conference betwixt the two Houſes, before the Day ſo nominated. And conſequently, the Commons could not then proceed to Trial, unleſs the Zeal which they have for ſpeedy Judgment againſt the Earl of *Danby* ſhould induce them at this Juncture, both to admit the Enlargement of your Lordſhips Juriſdiction, and to ſit down under theſe or any Hardſhips, though with the Hazard of all the Commons Power of Impeaching for Time to come, rather than the Trial ſhould be deferr'd for ſome ſhort time, whilſt theſe Matters might be agreed on and ſettled.

For reconciling Differences in this great and weighty Matter, and for ſaving that Time, which would neceſſarily have been ſpent in Debates and Conferences betwixt the two Houſes, and for expediting the Trial, without giving up the Power of Impeachment, or rendring it ineffectual.

The Commons thought fit to propoſe to your Lordſhips, that a Committee of both Houſes might be appointed for this Purpoſe. At which Committee (when agreed to by your Lordſhips) it was then agreed, that the Propoſition as to the Time of the Trial, ſhould be the laſt thing conſider'd. And the Effect of this Agreement ſtands reported upon your Lordſhips Books.

After which, the Commons communicated to your Lordſhips, by your Committee, a Vote of theirs, (*viz.*) That the Committee of the Commons ſhould inſiſt upon their former Vote of their Houſe, That the Lords Spiritual ought not to have any Vote in any Proceedings againſt the Lords in the *Tower*, and that when that Matter would be ſettled, and the Method of Proceedings adjuſted, the Commons ſhould then be ready to proceed upon the Trial

Trial of the Pardon of the Earl of *Danby*, againſt whom they had before demanded Judgment; but the Commons as yet received nothing from your Lordſhips towards an Anſwer of that Vote, ſave that your Lordſhips have acquainted them, that the Biſhops have ask'd Leave of the Houſe of Peers, that they might withdraw themſelves from the Trial of the Five Lords, with Liberty of entring their uſual Proteſtation.

And tho' the Commons Committee have almoſt daily declared to your Lordſhips Committee, that that was a neceſſary Point of Right to be ſettled before the Trial, and offered to debate the ſame; your Committee always anſwered, That they had not any Power from your Lordſhips, either to confer upon, or to give any Anſwer concerning that Matter.

And yet your Lordſhips, without having given the Commons any ſatisfactory Anſwer to the ſaid Vote, or permitting any Conference or Debate thereupon, and contrary to the ſaid Agreement, did, on *Thurſday* the 22*d* of *May*, ſend a Meſſage to the Commons, declaring, That the Lords Spiritual as well as Temporal, had order'd, that the 27th of this Inſtant *May* be appointed for the Trial of the Five Lords.

So that the Commons cannot but apprehend that your Lordſhips have not only departed from what was agreed on, and in Effect laid aſide that Committee which was conſtituted for preſerving a good Underſtanding betwixt the two Houſes, and better Diſpatch of the weighty Affairs now depending in Parliament, but muſt alſo needs conclude from the Meſſage, and the Votes of your Lordſhips on the 14th of *May*, that the Lords Spiritual have a Right to ſtay and ſit in Court, till the Court proceeds to the Vote of Guilty or not Guilty. And from the Biſhops asking Leave (as appears by your Lordſhips Books two Days after your ſaid Vote) that they might withdraw themſelves from the Trial of the ſaid Lords, with Liberty of entring their uſual Proteſtation, and by their perſiſting ſtill to go on and give in their Votes Proceeding upon the Impeachment; that their Deſire of Leave to withdraw at the ſaid Trial, is only an evaſive Anſwer to the before mention'd Vote of the Commons, and chiefly intended as an Argument for a Right of Judicature in Proceedings upon Impeachments, and as a Reſerve to Judge upon the Earl of *Danby*'s Plea of Pardon, and upon theſe and other like Impeachments, although no ſuch Power was ever claim'd by their Predeceſſors, but is utterly denied by the Commons. And the Commons are the rather induced to believe it ſo intended, becauſe the very asking Leave to withdraw, ſeems to imply a Right to be there, and that they cannot be abſent without it.

And becauſe by this Way they ſhould have it in their Power, whether or no for the Future, either in the Earl of *Danby*'s Caſe, or any other, they will ever ask Leave to be abſent; and the Temporal Lords a like Power of denying Leave, if that ſhould once be admitted neceſſary.

The Commons therefore are obliged not to proceed to the Trial of the Lords on the 27th of this inſtant May, *but to adhere to their aforeſaid Vote: And for their ſo doing, beſides what hath been now and formerly by them ſaid to your Lordſhips, do offer you theſe Reaſons following:*

REASONS.

I.

BEcauſe your Lordſhips have received the Earl of *Danby*'s Plea of Pardon with a very long and unuſual Proteſtation, wherein he hath aſperſed his Majeſty by falſe Suggeſtions, as if his Majeſty had commanded or countenanced the Crimes he ſtands charg'd with; and particularly ſuppreſſing and diſcouraging the Diſcovery of the Plot, and endeavouring to introduce an arbitrary and tyranical Way of Government; which remains as a Scandal upon Record againſt his Majeſty, tending to render his Perſon and his Government odious to his People; againſt which it ought to be the firſt and principal Care of both Houſes to vindicate his Majeſty, by doing Juſtice upon the ſaid Earl.

II.

The ſetting up a Pardon to be a Bar of an Impeachment, defeats the whole Uſe and Effect of Impeachments; and ſhould this Point be admitted, or ſtand doubted, it would totally diſcourage the exhibiting any for the future: Whereby the chief Inſtitution for the Preſervation of the Government (and conſequently the Government it ſelf) would be deſtroy'd. And therefore the Caſe of the ſaid Earl (which in Conſequence concerns all Impeachments whatſoever) ought to be determin'd before that of the ſaid Five Lords, which is but their particular Caſe.

And without reſorting to many Authorities of greater Antiquity, the Commons deſire your Lordſhips to take notice (with the ſame regard they do) of the Declaration which that Excellent Prince, King *Charles* the Firſt of bleſſed Memory, made in this Behalf, in his Anſwer to the Nineteen Propoſitions of both Houſes of Parliament: Wherein, ſtating the ſeveral Parts of this regulated Monarchy, he ſays; *The King, the Houſe of Lords, and the Houſe of Commons, have each particular Privileges:* And among thoſe which belong to the King, he reckons *Power of Pardoning.* After the enumerating of which, and other his Prerogatives,

rogatives, his ſaid Majeſty adds thus: *Again, That the Prince may not make uſe of this high and perpetual Power, to the Hurt of thoſe for whoſe Good he hath it, and make uſe of the Name of publick Neceſſity for the Gain of his private Favourites and Followers, to the Detriment of his People. The Houſe of Commons (an excellent Conſerver of Liberty, &c.) is ſolely intruſted with the firſt Propoſitions concerning the Levies of Monies, and the Impeaching of thoſe who for their own Ends, though countenanced by any ſurreptitiouſly-gotten Command of the King, have violated the Law, which He is bound (when He knows it) to protect, and to the Protection of which they were bound to adviſe Him, at leaſt not to ſerve him in the contrary. And the Lords being truſted with a Judicatory Power, are an excellent Skreen and Bank between the Prince and People, to aſſiſt each againſt any Incroachments of the other; and by juſt Judgments to preſerve that Law, which ought to be the Rule of every one of the Three,* &c. *Therefore the Power legally placed in both Houſes, is more than ſufficient to prevent and reſtrain the Power of Tyranny,* &c.

III.

Until the Commons of *England* have Right done them againſt this Plea of Pardon, they may juſtly apprehend, that the whole Juſtice of the Kingdom, in the Caſe of the Five Lords, may be obſtructed and defeated by Pardons of like Nature.

IV.

An Impeachment is virtually the Voice of every particular Subject of this Kingdom, crying out againſt an Oppreſſion, by which every Member of that Body is equally wounded; And it will prove a Matter of ill Conſequence, That the Univerſality of the People ſhould have Occaſion miniſtred and continued to them, to be apprehenſive of utmoſt Danger from the Crown, from whence they of Right expect Protection.

V.

The Commons exhibited Articles of Impeachment againſt the ſaid Earl, before any againſt the Five other Lords, and demanded Judgment upon thoſe Articles: Whereupon, your Lordſhips have appointed the Trial of the ſaid Earl to be before that of the other Five Lords; Now your Lordſhips having ſince inverted that Order, gives a great Cauſe of Doubt to the Houſe of Commons, and raiſes a Jealouſie in the Hearts of all the Commons of *England*, that, if they ſhould proceed to the Trial of the ſaid Five Lords in the firſt place, not only Juſtice will be obſtructed in the Caſe of thoſe Lords, but that they ſhould never have Right done them in the Matter of this Plea of Pardon, which is of ſo fatal Conſequence to the whole Kingdom. and a new Device to fruſtrate publick Juſtice in Parliament.

Which Reaſons and Matters being duly weighed by your Lordſhips, the Commons doubt not but your Lordſhips will receive Satisfaction concerning their Propoſitions and Proceedings; and will agree, That the Commons ought not, nor can, without deſerting their Truſt, depart from their former Vote communicated to your Lordſhips; *That the Lords Spiritual ought not to have any Vote in any Proceedings againſt the Lords in the* Tower; *and when that Matter ſhall be ſettled, and the Methods of Proceedings adjuſted, the Commons ſhall then be ready to proceed upon the Trial of the Earl of* Danby.

May 27. 1679.

The Narrative and Reaſons delivered at the Conference Yeſterday with the Houſe of Commons were again read, and after a long Debate, the Vote of this Houſe, dated the 13th of *May* Inſtant, and the Explanation there-upon, dated the 14th Inſtant, were read, and the Queſtion was put, Whether to inſiſt upon theſe Votes concerning the Lords Spiritual, and it was reſolv'd in the Affirmative.

DISSENTERS Preſent.

Buckingham
Huntingdon.
Kent.
Shaftsbury, P. R.
Bedford.
Wincheſter.
Rocheſter.
North and *Grey.*
Suffolk.
J. Lovelace.
Townſhend.
Herbert.
Gray.
Stamford.
Newport.
Say and *Seal.*
P. Wharton.
Leiceſter.
Scarſdale.
Strafford.
Derby.
Delamer.
Howard.
Paget.
Clare.
Salisbury.
Falconberg.
Windſor.

The

The Honourable Mr. Powel's *Speech in the Houſe of Commons, upon the Earl of* Danby's *Impeachment, Pardon and Plea.*

Mr. Speaker.

I Should have been pleaſed to have heard (ſomewhat omitted) needful to have been ſpoken unto, from ſome other Member of this Houſe, rather than my ſelf; it is concerning the Earl of *Danby*, who ſtands Impeached by the Commons of *England* of High-Treaſon.

The Perſon, to whom we owe the Dangers and Fears of the *French* King againſt us.

The Perſon, to whom we owe the Threats and ſevere Anſwers to thoſe humble Addreſſes we made the laſt Seſſions of Parliament.

The Perſon, to whom we owe the Ruins of this Nation, and Exhauſting the King's Revenue.

The Perſon, to whom we owe the Expence of 200000 *l.* and upwards, within a Year, unaccounted for.

The Perſon, to whom we owe the many Prorogations that happen'd in the laſt Parliament, when many profitable Bills were ready for paſſing.

The Perſon, to whom we owe the Raiſing of a Standing Army, to be kept up by the Receipt of ſix Millions of Livres yearly, for three Years together, to enſlave us and our Religion.

The Perſon, to whom we owe the late Bone that was thrown in the Sitting of the laſt Parliament, to hinder the good Iſſue that might have come by their Proceedings; who is now laying down his Staff, and making up his Accompts in the Treaſury as he pleaſeth, to enrich himſelf out of the Spoils of the People, and ſo depart.

My humble Motion is, That a Meſſage be ſent immediately to the Lords from the Commons of *England*, to deſire their Lordſhips, That *Thomas* Earl of *Danby* be immediately committed to ſafe Cuſtody, he being impeach'd by the Commons of *England* of High-Treaſon.

The Earl of Danby's *Speech in the Houſe of Peers, upon an Impeachment of High-Treaſon, &c. brought up againſt His Lordſhip by the Houſe of Commons*, Dec. 23. 1678.

My Lords,

I Hope you will not enter upon any other Buſineſs, before you have given that Liberty to me, which is the Privilege of every Peer, to be heard upon any Accuſation that is brought againſt him, tho' of far leſs Moment than what hath been newly read againſt my ſelf.

I confeſs I ſhould have heard this Charge with Horror, if the Matter of it had been true; but I thank God, I know my Innocency to be ſo great, that it protects me from all ſorts of Fear, but that of lying under ſo black a Character, as may be believed by thoſe that cannot hear my Defence; tho' I have the Confidence to think that it is not truly believed in the Hearts of the greateſt part of thoſe that have been informed againſt me.

I muſt needs confeſs, that I thought my ſelf the laſt Man in this Kingdom that ſhould ever have been in danger of being accuſed for Treaſon, becauſe I know no Man that abhors it more, and that would purſue it more vigorouſly than my ſelf, againſt any that ſhould be guilty of it. Nay, to ſuch a degree is my Deteſtation of that Crime, that were I ſure the deareſt Child I have were guilty of it, I would willingly be his Executioner.

My Lords, I know this is not the time for me to enter regularly upon my Defence, becauſe I know your Lordſhips will firſt order me a Copy of my Charge, and appoint me a Time for my Vindication; when I doubt not but to do it to the full Satisfaction of your Lordſhips and all the World. In the mean time I will only beg leave to obſerve to your Lordſhips, That thoſe Articles in this Charge which can ſeem to have any thing of Treaſon in them, have their Anſwer ſo obvious, that there is very little in them which may not be anſwered by many others as well as my ſelf, and ſome of them by every Man in the Kingdom.

The Firſt, which is the aſſuming Regal Power, I confeſs I do not underſtand; having never in my Life done any thing of great Moment, either at Home, or relating to Foreign Matters, for which I have not always had His Majeſty's Command. And altho' I am far from having been the moſt cautious Man in taking Care of my own Security, (which perhaps my great Innocence hath been the Cauſe of) yet I have not been ſo wanting of common Prudence, as in the moſt material Things not to have had His Majeſty's Orders and Directions under his own Hand, and particularly for the Letters now made uſe of againſt me.

The Second, I think, doth ſcarce need my giving any Anſwer to; it being obvious, that the Army was no more raiſed by me, than by every Lord in this Houſe: And who ever is in that Station which I hold, muſt certainly be a Fool, to deſire any thing which creates a want of Money, eſpecially ſo great an one, as the Charge of an Army muſt neceſſarly and immediately produce. And for one Part of the Article concerning the Pay-Maſter of the Army, it is in Fact otherwiſe; for Security from the Pay-maſter has been taken in the Sum of Four Hundred Thouſand Pounds.

The Third is of the ſame Nature with the firſt, and comes from the ſame Foundation, which is, what a Gentleman hath thought fit to produce to the Houſe of Commons. I will not now cenſure his Action, I think it will do enough for it ſelf; I will only ſay, That altho' I take it for one of the greateſt Misfortunes which can befal a Man, to lie under ſuch a Charge of the Houſe of Commons, yet I would much ſooner chooſe to be under that Unhappineſs, than under his Circumſtances.

The Fourth Article is not only falſe in every part of it, but it is not poſſible to believe it true, without my being the greateſt Fool on Earth, as well as the blackeſt Villain. For were I capable of ſuch a Wickedneſs, yet the more wicked any Man is, the more he is carried to his own Intereſt; and is it poſſible any thing under Heaven can agree leſs with my Intereſt, than the Deſtruction of this King? Can I poſſibly hope to be better than I am? And is it not apparent, that there is not one Man living, whoſe Happineſs depends ſo much as mine upon the Preſervation of his Perſon?

My Lords, I know there is not a Man in the World, that can in his Heart think me guilty of that part of the Article, if I ſhould ſay nothing to it. But beſides, I was ſo far from concealing this helliſh Plot, that it is notoriouſly known, His Majeſty ſent me the firſt Notice of it, together with forty three Heads of the Information, before I knew a Syllable of it from any Body elſe: And it hath been own'd at the Bar of the Houſe of Commons by him (from whom only I had the Intelligence) that he had all the Encouragement and Diſpatch from me that I could give him. Beſides,

when it was diſcloſed to the Council-board, he told ſome of the Clerks of the Council, (as he had done me divers times before) that it would have been much better, and more would have been diſcover'd, if it had been longer kept private. Beſides this, I had the Fortune to be particularly inſtrumental in ſeizing Mr. *Coleman*'s Papers, without which Care there had not one of them appear'd, and conſequently, the beſt and moſt material Evidence which is yet of the Plot, had been wholly wanting. And certainly this is the firſt time that any Man was accuſed to be the Concealer of that Plot, whereof he hath been a principal Means of procuring the Diſcovery.

For that Part of the Article that ſays, I am Popiſhly affected, I thank God, that the contrary is ſo known to all the World, that even ſome of thoſe that voted againſt me, did own their Knowledge of the Falſity of that Allegation; and I hope I have through my whole Life given ſo good Teſtimony of my Religion, both in my own Family and by my Services to the Church, (when-ever it hath lain in my power) that I ſhall not need much Vindication in that Particular: And I hope your Lordſhips will forgive me my Weakneſs, in telling you, that I have a younger Son in the Houſe of Commons, whom I ſhall love the better as long as I live, for moving to have that Part of the Article to ſtand againſt me, that by that Pattern it might appear, with what ſort of Zeal the whole hath been caried to my Prejudice.

The Fifth Article will, upon Examination, appear to be as ill grounded as any of the reſt; and I am ſorry I am able to give one Reaſon, which is, That I have known no Treaſure in my time to waſte, having enter'd upon an empty Treaſury, and never ſeen one Farthing given to His Majeſty (in almoſt ſix Years) that hath not been appropriated to particular Uſes, and ſtrictly ſo applied by me, as the Acts have directed. And there hath not been one of thoſe Aids which, inſtead of giving the King Money, hath not coſt him more out of his own Purſe, to the ſame Uſes, as doth appear by the larger Dimenſions of the new Ships, and ſo in other Things: Inſomuch that I take upon me the Vanity to ſay, That by the Payments I have made to the Navy and Seamen, beyond former Times; the Paying off the greateſt part of the Debt which was ſtop'd in the *Exchequer* before my Time; by my own Punctuality in the Courſe of Payments, and by other Things, which I am able to ſhew, I doubt not but to appear Meritorious, inſtead of being Criminal, upon that Article.

As to the Sixth Article, which mentions my great Gettings, I cannot deny, but that I ſerve a Maſter, whoſe Goodneſs and Bounty hath been a great deal more to me than I have deſerved, and to whom I can never pay Gratitude enough by all the Services of my Life. But when the Particulars of thoſe Gettings ſhall appear, it will be found very contrary to what is ſuggeſted abroad; and that in near ſix Years time in this Great Place, I have not got half that, which many others have got in leſſer Places in half that time. And from the Examination of this, which I deſire may be ſeen, there will ariſe Matter to accuſe my Prudence, in not having done for my Family what juſtly I might, but nothing to arraign either my Honour, my Conſcience, or my faithful Service to the Crown.

My Lords, If my Obedience to the King ſhall not be my Crime, I think nothing elſe will ſtick upon me from theſe Articles: For my own Heart flatters me to believe, that I have done nothing but as a true Proteſtant, and a faithful Servant both to my King and Country. Nay, I am as confident, as that now I ſpeak, that had I either been a Papiſt, or Friend to the *French*, I had not been now accuſed. For I have reaſon to believe, that the principal Informer of the Houſe of Commons hath been aſſiſted by *French* Advice to this Accuſation; and if the * Gentleman were as juſt to produce all he knows for me, as he hath been malicious to ſhew what may be liable to miſconſtruction againſt me, or rather againſt the King, (as indeed it is) no Man could vindicate me more than himſelf. Under whoſe Hand I have it to ſhew, how great an Enemy to *France* I am thought, how much I might have had to have been otherwiſe, and what he himſelf might have had for getting me to take it. But I do no not wonder this Gentleman will do me no Right, when he does not think fit to do it to His Majeſty (upon whom chiefly this Matter muſt reflect.) Although he knows, as will appear under his Hand, that the greateſt Invitations to His Majeſty, for having Money from *France*, have been made by himſelf; that if His Majeſty would have been tempted for Money, he might have ſold Towns for as much as if they had been his own, and the Money have been convey'd as privately as he pleaſed: That His Majeſty might have made Matches with *France*, if he would have conſented to give them Towns; and yet that the King hath always ſcorn'd to yield the meaneſt Village that was not agreed to by the *Spaniard* and *Hollander*. That Gentleman hath often pretended how much his own Intereſt in *France* was diminiſh'd, only by being thought my Friend. And beſides divers other Inſtances, I have under his Hand, to ſhew the Malice of the *French* Court againſt me, I ſent two of his Letters to the Houſe of Commons, which ſhew how Monſieur *Ruvigny* was ſent hither on purpoſe to ruin me; which I am well aſſured at this time they would rather ſee, than of any one Man in *England*. Beſides what that Gentleman could ſay of this kind (if he pleas'd) I hope His Majeſty will give me leave (in my Defence) to ſay in his Preſence, and in the hearing of divers Lords, with whom I have the Honour to ſit in the Committee of Foreign Affairs, that, which were it not true, His Majeſty muſt think the impudenteſt and worſt of Men to affirm before him, That ever ſince I had the Honour to ſerve His Majeſty to this Day, I have deliver'd it as my conſtant Opinion, That *France* was the worſt Intereſt His Majeſty could embrace, and that they were the Nation in the World from whom I did believe he ought to apprehend the greateſt Danger; and who have both His Perſon and Government under the laſt Degree of Contempt: For which Reaſon alone (were there no other) I would never adviſe His Majeſty to truſt to their Friendſhip.

* Mr. *Mountague.*

My Lords, 'Tis my greateſt Happineſs, that your Lordſhips are my Judges; whoſe Wiſdom and Juſtice are ſo great, that you will both diſcern the Truth of the Evidence when it ſhall come before you, and in the mean time diſtinguiſh truly what the Crimes are (if they could be proved) and not what they are call'd. For this Reaſon this Houſe hath wiſely provided to have the ſpecial Matter before them, to the end, they may be ſatisfied whether the Charge have its right Denomination; for otherwiſe it were to no pur-

purpoſe to deſire ſpecial Matter, unleſs it were to ſee whether the ſpecial Matter alledg'd be what it is call'd. As for Example, if a Man were accuſed of having traiterouſly paſs'd the River in a Pair of Oars, this is ſpecial Matter, and ſtiled Treaſon, by inſerting the Word Traiterouſly; yet your Lordſhips would not therefore proceed as taking it for Treaſon. So in this Caſe, I beg for all your Lordſhips ſakes, as well as my own, that you will pleaſe to uſe that Caution which will be neceſſary for all your Lordſhips Safety and Seats in this Houſe: For I beſeech your Lordſhips to conſider, whither ſuch a Precedent may go hereafter? What the Houſe of Commons may do in ſuch a Caſe, there is no Queſtion but His Majeſty may do the ſame by his Attorney; and what either of them may do againſt one Lord, they may do againſt more; (and we have ſeen it done in our Days againſt all the Biſhops at once.) Were it not very precariouſly then that your Lordſhips hold your Seats here, when by either of theſe Ways as many of your Lordſhips, as for a time it might be convenient to remove, ſhould be at the Mercy of having a thing call'd Treaſon, whether it be ſo or no.

Truly, my Lords, I have reaſon to believe, that in the Houſe of Commons the Matter of my Charge (if proved) was not thought to amount to Treaſon, either by Statute or Common Law; and I hope your Lordſhips have too ſad an Example in your Memory, ever to aſſiſt the making of Treaſon by Accumulation.

I ſhould therefore not only wrong my own Innocence, but the Right of the Peers, to ſubmit to anſwer Matters of Miſdemeanor, as a Criminal in Treaſon.

My Lords, I wonder not at the malicious Proſecution of thoſe who would have me taken for what they truly are. For I am well aſſur'd, that neither the *French* take me to be of their Intereſt, nor the Papiſts to be of their Religion: But I am troubled to fall under ſo ſevere a Cenſure of the Houſe of Commons, altho' I cannot blame them, but my Accuſers, who have ſo wrongfully inform'd them.

My Lords, I will conclude with this Comfort, That I do not in the leaſt apprehend the Matter of my Charge under the Security of your Lordſhips Juſtice; and will therefore trouble your Lordſhips no longer at this time, but only to pray your Directions whether I am to withdraw, which I ſhall readily obey.

The Earl of Danby's *Arguments at the Court of* King's-Bench, *upon His Lordſhip's Motion for Bail, the 27th Day of* May, Term. Paſch. 1682, &c.

IMmediately after His Lordſhip was in Court, the Return of the *Habeas Corpus* was read, and Mr. *Saunders* (of Council for His Lordſhip) did move the Court, That whereas in *Eaſter-Term*, 1681, the Court had diſmiſs'd His Lordſhip with a *Declaration*, that they would take into their Conſideration, till the *Term* following, what Anſwer they would make to what had then been ſaid to them by His Lordſhip and his Council; he therefore moved, That they might now accordingly know the Pleaſure of the Court, and that they would be pleaſed to grant Bail to the Earl of *Danby*.

But before the ſaid Mr. *Saunders* could well have pronounced the foregoing Words, the Lord Chief Juſtice *Pemberton* did reprimand the ſaid Mr. *Saunders*, for having offer'd to impoſe upon the Court what had never been ſaid by them; ſaying, That there was no ſuch thing as their having ſaid, at any time, that they would take the Earl of *Danby*'s Caſe into farther conſideration; for that they had told my Lord of *Danby* the laſt time, That it was not in their Power to give him any Relief at all; and that he therefore wonder'd, and muſt extreamly blame Mr. *Saunders*, for moving the Court again in a Matter to which they had already given ſuch a poſitive Anſwer; and could not but admire, that he ſhould ſo miſinform his Client, as to give him any ſuch Advice, which could only be to the giving both him and the Court an unneceſſary Trouble.

To all which Mr. *Saunders* replied, That he humbly begg'd His Lordſhip's Pardon, if he had miſtaken him; for that truly he did underſtand, that His Lordſhip had declar'd that he would take time to conſider of my Lord of *Danby*'s Caſe till the following Term; but that if it was a Miſtake, he muſt beg His Lordſhip's Pardon, and did believe the reſt of his Brethren took it ſo, as well as himſelf.

The Earl of *Danby* then ſpoke himſelf for about two Hours, and ſaid to the Lord Chief Juſtice, That he met with an Objection, which he did not expect; and that he muſt beg His Lordſhip's Pardon, not to let that paſs for a Miſtake which his Council had affirm'd, of the Court's having taken time to conſider of his Caſe, till the next Term after that of His Lordſhip's being laſt there; for that His Lordſhip did therein appeal both to the reſt of the Judges, which were upon the Bench with him, and to all other Perſons whatſoever, who were then in Court, whether His Lordſhip had not ſaid, that if he (meaning the Earl of *Danby*) pleaſed, they would take time to conſider of his Caſe till the next Term; and he did declare upon his *Honour*, that thoſe Words had been pronounced to him by my Lord Chief Juſtice himſelf, and that he did then accept it as a Favour from the Court, and did return his humble Thanks to them for it: Inſomuch, that His Lordſhip ſaid, That he confeſſed he was very much ſurprized to meet with ſuch an Introduction at the firſt entrance into a Matter which he conceived to be of ſo great Weight, as he doubted not but he ſhould make this Caſe of his appear to be.

But yet, that it did give him Reaſon to believe, that he came with ſome Prejudice before his Lordſhip, and that they were ſo much prepoſſeſſed in this Matter, that if he did not think every Man in *England* would find that he might be concern'd in what Reſolution ſhould be given in this Caſe, as well as himſelf, he ſhould ſcarcely have ventured upon it, though he had lain ſo long under ſo unreaſonable a Confinement, as he took himſelf to do; and therefore he muſt deſire their Lordſhip's Patience and Attention to what he had to offer in his own Behalf, and (as he believed) in the Behalf of the *Liberty of the Subject* in general.

His Lordſhip, directing himſelf to the Lord Chief Juſtice, ſaid, It was juſt now a Year ſince he was before his Lordſhip in this Court; and that he was aſſured, that his Lordſhip did then pleaſe to tell him, That they would take Time to the following Term to conſider of what they ſhould think fit to do in his Lordſhip's Caſe: But he ſaid,

that Care was then taken the first Day of that following Term to prevent his coming there, by an *Indictment* which was brought against him (*ready cut and dry'd*, as he had been told) for his being privy to the Murther of Sir *Edmund-Bury Godfrey*.

He said he did not wonder at it, because there was nothing so *black*, which had not been Invented to be said against him; but, he confessed, he did wonder to hear, that such an Evidence of an *Irish Papist* (who was upon Trial for his own Life, and upon an *Hear-say* only) should be believed against an *English Protestant*, by a Jury of *English-Men*, and some of them *Gentlemen*; but yet that Wonder had been much abated, when he heard that the same *Foreman* had been as favourable in the Case of a *Notorious Murther*, as he had been ready to find that *Murther* against him, which had not the least *Probability* in it, and which no Man could think of with more Detestation both of the *Fact*, and of any *Man* that could have an hand in it, than himself.

However, this prevented him from coming there again, till after Notice had been given to Sir *Edmund-Bury Godfrey's* Brothers, to know if they had any thing further to say against him on that Matter, and that he could get himself Discharg'd from that *Indictment*; and as to the Wretch himself, *Fitz Harris*, (who had accused him) he did Two Days before his Death, send the *Minister* of the *Tower* to his Lordship, to beg of him, that before he died, his Lordship would forgive him his having sworn falsly against him; and he did confess, that he was put upon it to *Save* his *own* Life; and did say by *whom* he was prompted to it. And whether it proceeded from those Men, who might think their Villanies discovered, and so might fear they could no way be safe but by putting that Matter yet farther against him, or from what other Cause, his Lordship could not tell; but (if his Lordship was not misinformed) he did hear that *Some* Men were still endeavouring to get something more of the same Nature to be sworn against him, if they can contrive how to make their forg'd Testimonies to agree about it.

He said he thought that Time would have tired out the Malice of such *Blood-Suckers* before now, whom he had found so busy, for the first Year and Half after his Imprisonment, that he was not a Week without Endeavours used by strange People to get to speak with him, and such as he had Reason often to suspect to be *Knights of the Post*; amongst whom the Story of one *Magrath*, (another *Irish-Man*) he said, was notably remarkable, in his Endeavour (under Pretence of Kindness) to have made him their *Tool*, to prove, that Sir *Edmund-Bury Godfrey* had killed himself: But he said, he had the good Fortune immediately to *detect* that Villany, as he hoped yet to live to do of *some* others; but that in the mean time he foresaw, that he was always to be a particular Object of the Malice of such Men, so long as he was left under this *Confinement*, from which he saw no Hopes to be relieved, but by that Court where the Law directs every *Englishman* to come for Justice, that is oppress'd in his Liberty.

He said, he hoped His Lordship would forgive him for having been a little tedious on that Subject of Sir *Edmund-Bury Godfrey*, because his Reputation had been so much exposed in that Particular, and before that Court.

After his Discharge from that Indictment, he said, there seem'd to be a Probability of the Call of a *Parliament* in some short time; and whenever he could give himself the least Hopes of that, he resolved to trouble no other Place: But that now he had not the least Prospect of that kind; and that he had been a Prisoner above Three Years, and yet could safely swear, he was without the Knowledge to that Day, for what real Crimes he was Committed; only he knew that the Name of *Treason* had been laid to his Charge, without saying wherein the *Treason* consisted.

He said he came, therefore, now to that *Court* (as the only proper Place for all Persons to resort to for their *Liberty*) and he was sorry, that he was put to the great Disadvantage of speaking in his own Cause. But because he saw the last time he was there, that some Fault seemed to be found with his Council, for urging things which seemed to relate to Matters of *Parliament* (altho' upon a due Consideration of his Request, there is nothing in it which does touch their Jurisdiction) he had chosen rather to rely upon the Court's Pardoning his Defects, than put any further Hardships upon those Gentlemen, who had been his Council, to whom he had been more beholden, than they had been to him; for that they had undergone some unheard-of *Rebukes* already in another Place, for offering to be of Council with him, (though in Matters of Law) which he believed had never been heard of, but in his Case; and he hoped, that (when all his Circumstances shall have been well considered) he shall be the last *Englishman* that will ever have so many Hardships put upon him; as will appear to be thro' every Part of his Case.

In the first Place he said, that he had been both Accused and Committed, without any *Oath* or *Affidavit* made against him, for any *Crime* whatever: Which had been in the Case of no other Lord but himself, and he did believe of no other Man.

Secondly, That there was no particular *Treason* mention'd in the *Articles* against him, only the word TRAITEROUSLY had been applied to things which were not *Treason*, if they had been true (as was then declared by Sir *William Jones*, the King's Attorney) and he said, there were good Store of Witnesses to prove, that when it could not be maintained by Argument in the *House of Commons*, that any of the Crimes mentioned against him were *Treason*; It was answered by one of the long *Robe* there, (who would not have spared to have assigned the Treason, had there been any) that however they ought to give the *Title* of *High Treason* to the Articles, *for that otherwise they would dwindle to nothing when they came into the House of Peers*. Now in the Impeachments of the other Lords (not to meddle with the Truth or Falsity of their Accusers) they were charg'd with the highest Treasons in Name, and upon Oaths made against them.

Thirdly, When a *short* Day was set by the Lords for his being heard; and that he appeared that Day accordingly, his Council was then threatned if they did dare to plead Matter of Law for him: Which he said was never heard of before in any Man's Case whatsoever, nor in the worst of Times.

Fourthly, He said if all the Articles had been true against him, and had been Treason; he had his Majesty's *Pardon* (which he then shewed to the Court, and demanded the Benefit of it) saying, That that did Pardon both his Crimes (if he were Guilty of any) and his Imprisoment; and yet, that both that *Pardon* and *He*, had been Prisoners together for above three Years (of which he said he durst confidently affirm, that his was the first Precedent since the Conquest.)

Fifthly, He set forth, That he had not only His Majesty's

jesty's Pardon, but that there had been his Majesty's *Declaration* of it in his *Speeech* to his Two Houses of *Parliament*, together with a *Declaration* of his Innocency, and a *Declaration* that he would give him his Pardon *Ten* times over, if that were defective either in *Matter* or *Form*. And in this also he said, that his Case was not only particular from any others, but that such *Declarations* of the King's Intentions to pardon, (altho' the *formal* Pardons have not been obtained) have heretofore been alone a Ground to procure Bail at least, when the Party has been the King's *Prisoner*, and at the King's Suit; which he supposed was not doubted in his Case.

Sixthly, He said that he had not only been thus Committed, and thus Detained for above forty Months, but he had been kept a Prisoner, without any Prosecution, for the greatest part of that time; which is *another* sufficient ground by the Law for Bail: But instead of a Restraint *Ad Custodiam*, he said he had undergone Punishments greater than the Crimes alledged against him could have deserved, if they had been true; both by the length of his Imprisonment, which was agreed to be a sufficient *Ground* for Bail, both by the King's Council and the Prisoner's, in the Arguments on the Grand *Habeas Corpus*, 3 *Car.* as also in *Melvin*'s Case, 1 *Car.* and in Sir *Thomas Darnell*'s and other Cases.

By the Inconvenience of his Accommodations in the Prison, for above two Years and an half of the time.

By Two most dangerous Sicknesses in the Prison. And

By the loss of divers of his Family since his being in Prison, who would some of them most certainly not have been in those Places where they have been lost, had he been at Liberty.

He said he was informed, That His Majesty had been again pleased to give his Directions to Mr. *Attorney*, to give his Consent a second Time to his *Bail*, and he did beg leave to ask Mr. *Attorney* if it were so? Whereupon Mr. *Attorney* did stand up, and say, that he had His Majesty's Directions to give His Majesty's Consent again to His Lordship's being Bailed.

His Lordship did thereupon say, That this also was Particular in his Case; and he did believe, there was scarce a Precedent in the World, of the *King*'s Prisoner, and at the *King*'s Suit, not being Bailed when there hath been the *King*'s Consent to it; unless where the Prisoner hath not been able to find sufficient Security for his Appearance to abide his Trial. For that the two only justifiable Grounds for the continuance of Restraint by the Law are, either for keeping the Party from being able to do any harm by his being at Liberty, (of which the King is the best Judge) or for securing the Party to abide the Judgment of the Law, (in which the Court ought to have good Satisfaction) and so they might have sufficiently in his Case.

He said, That the Precedent would be no less strange and new against the King, than against himself, if they should not permit him to be Bail'd under such Circumstances: For he had heard, that the Law did admit of no *Absurdity*: Now he did desire to know, how any thing could in Reason be more *absurd* on behalf of the *King*, than if the *King*'s Prisoner and at the *King*'s Suit, should be kept in Prison by any of the *King*'s Courts, against the *King*'s Will?

Or how, said he, can any thing be more dangerous to the Subject, or be a plainer *failure* of Justice (whatever may be pretended to the contrary) than to say, That there can be any such Restraint of *English* Liberty, as cannot obtain so much as Bail, but by the leave of the House of Lords? When that House can neither meet but when the King pleases, nor can never sit longer than he pleases: So that to say a Man shall be a close Prisoner (I mean by that a Prisoner without Bail, for Bail it self is Imprisonment in the Eye of the Law) till he shall be discharged by the House of Lords; is to say, that a Man shall be a Prisoner during the *King*'s Pleasure; which was the Great Grievance complained of, when the *Petition of Right* was granted, and that was thought to have fully and for ever Redressed that Grievance.

But if after so many Heats and Disputes which our Ancestors have had with the Crown about their Liberties, this Doctrine should now be admitted for Law; We would seem to endeavour, (as much as in us lies) to bring it to this Conclusion, and be our own *Felo's de se*; *That the King shall have a way found out by our selves, and without his seeking, how he may Imprison any Man, or number of Men, when he pleases in a Parliamentary way; and by Dissolving that Parliament he may keep them as long as he pleases in a Prison without Remedy: But that he shall neither have Power to Relieve us himself by his own Authority, nor by his Courts of Justice.* So as in short, by this Doctrine, the King should only have Power to *hurt* his Subjects as much and as long as he pleases, but should not be able to do them any *Right* if he would; and then we shall have *Magna Charta* and the *Petition of Right* revers'd, instead of receiving that Benefit by them, which the Kings of *England* have been so Gracious as to give us, and all the Learned Writers upon those happy *Laws* of *Liberty* have told us, we are secure under, *at all Times, and against all Accidents whatever.*

He then beg'd leave to observe to His Lordship what he found in my Lord Chief Justice *Coke*'s Comments upon *Magna Charta*; who said, That the Words *Nulli Vendemus, Nulli Negabimus, aut Differemus Justitiam vel Rectum*, are spoken in the Person of the King, who (in Judgment of Law) is always present, and repeating the said Words in all his Courts of Justice.

And therefore (says he) every Subject in the Realm, may, *at all times*, have Remedy by the Course of the Law; and may have Justice done freely, fully, and speedily, without delay; for that Delay is a sort of Denial.

The said Lord *Coke* observes farther, That those Words of *Magna Charta* are fully expounded by latter Statutes, *viz.* 20 *Eliz.* 3, &c. which do direct, That there shall be no *Delay* nor *Hindrance* of speedy Justice to any Man, neither by any *Seal*, nor by any *Order*, nor any *Writ* whatsoever; neither from the *King*, nor from any *other*, *nor by any other Cause.*

Now, whatever may be said out of other Considerations, he said, No Man can deny, but that there is great *Delay of Justice* (to say no worse of it) to any Man who (through no Neglect of his own) can neither get *Trial* nor *Bail* in above three Years, altho' his Crimes were never so great. And he said, he durst be confident, that the Makers of *Magna Charta* did believe they had secured all *Englishmen* from ever being under the Possibility of such a Danger; and that he made no Question at all, but that by *Law* we are so.

He said, That the said L. *Coke* does say in his Comment upon the 15 *W.* 1. (where he speaks of what Things are Bailable, and what are not; and names Treason amongst the Things not Bailable) that is,

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(ſays he) ſuch Offences ſhall not be Replevied by the Sheriff; but all or any of theſe, he ſaith, may be Bailed in the *King's-Bench*.

And he ſaid, he had alſo ſome of the *preſent* Judges Opinions to ſhew, in this Point, which he deſired to Read out of a *Copy* of the Lords *Journal*, (*viz*) 23d. *Decemb.* 1678. *The Queſtion being put, Whether the Lord Treaſurer ſhould withdraw? 'Twas carried in the Negative.* And on the 27th of the ſaid *December, The Queſtion being put, Whether the Earl of* Danby, *Lord High Treaſurer, (who ſtands Impeached by the Houſe of Commons) ſhould be Committed? It was Reſolved in the Negative.*

And it was the ſame Day propoſed to the Judges, Whether the Judges can Bail any Perſon, in Caſe of *Miſpriſion* of Treaſon, wherein the King's *Life* is concern'd?

To which Sir *William Scroggs* (Lord Chief Juſtice of the *King's-Bench*,) Sir *Francis North* (Lord Chief Juſtice of the Court of *Common-Pleas*,) Juſtice *Windham*, Juſtice *Jones*, and other of the Judges then preſent, gave ſeverally their Opinions; That the Court of *King's-Bench* may take Bail for High-Treaſon of any kind, if they ſee Cauſe.

He cited the Lord *Coke* alſo in his Comment on the 24 *W.* II. where he ſays, That it is a Rule in Law, *Quod Curia Regis non debet Deficere Conquerentibus in Juſtitia Exhibenda.* And the Reaſon of this is, that a *Failure* of *Juſtice* may be prevented; which, he frequently ſays, is *Abhorred by the Law:* So as it appears, That *the Law abhors all Failure of Juſtice*; and he ſaid, That if ſuch *Failure* do appear in his Caſe, or any Man's elſe; no *Order* can licenſe ſuch Failure; nor *no Court* can Juſtify the not giving Relief againſt it: And he ſaid, he ſhould either make ſuch Failure appear, or His Lordſhip (meaning the Lord Chief Juſtice) would be able to tell him where he might repair for Juſtice; which both *Magna Charta* and the *Petition of Right* are underſtood to have provided *at all times for the Subjects Liberty:* But if His Lordſhip could not inform him where he might appeal forthwith for his Liberty; in that Caſe, he ſaid, That for that Reaſon alone (were there no other) he ought of *Right* to be admitted to Bail by that Court; till he could be brought before ſuch a *Judicature*, as had Power to diſcharge him.

He obſerved alſo, That the Lord *Coke* (in a Chapter on the *King's-Bench*) did ſay, That that Court might Bail for any Offence whatſoever: And that in the ſaid Chapter it was particularly obſerved, That there had been ſuch Care taken by the Law to avoid *Failure* of *Juſtice*, (even in ſmall Matters, in compariſon of Liberty) that he gives there an Example concerning a *Clerk* or *Officer* of that Court: For he takes notice of what Things, and againſt whom that Court hath Power to hold *Plea* by *Bill*. And amongſt thoſe, he names againſt any Officer or Clerk of that Court; and gives the Reaſon: Becauſe if they ſhould be Sued in any other Court, they would have the Privilege of that Court, which might be the Cauſe of a *Failure of Juſtice*. And from this His Lordſhip ſaid it did appear, That the Law intended that there ſhould be no *Failure of Juſtice* by the Privilege of any Court, how great ſoever it was; for that (as was ſaid before) the Law did abhor all *Failure of Juſtice*. And he ſaid, if ſuch Care had been taken againſt a Failure, in ſuch ſmall Matters, and not in what concern our Liberties; all *Engliſhmen* ought juſtly to break out into the like Exclamations, as the ſame Lord *Coke* and many others did, in their Speeches in Parliament, and in their Pleadings, 3 & 5 *Car.* upon the Argument of the Grand *Habeas Corpus* at that time: Where the Lord *Coke* breaks forth into this Expreſſion; *Shall I have an Eſtate of Inheritance for Life, or for Years, in my Land? And ſhall I be Tenant at Will for my Liberty? Shall I have Property in my Goods by the Laws; and not Liberty in my Perſon?* And thereupon he tells us, That *Perſpicuè vera non ſunt probanda*; As taking for granted, That our *Liberties* were not to be doubted, where our *Properties* were ſo ſecured: And the King (ſays he) had diſtributed his *Judicial* Power to Courts, and to his Miniſters of Juſtice; *Who are to ſee Right done.*

And he ſaid, The Lord *Coke* gave the Reaſons of thoſe Laws which are againſt undue Impriſonments; and that one of thoſe is, *For the Indefiniteneſs of Time*; which, he ſays, may be *Perpetual during Life:* And that his Words are, *That it is unreaſonable to think, that a Man has a Remedy for his Horſe or Cattle, (if detained) and* none *for his Body indefinitely Impriſoned: For that a Priſon without any prefixed Time is a kind of Hell.*

And here his Lordſhip ſaid, That he hoped the Court would either allow him Bail, or tell him a *prefixed* Trme, wheu he ſhould be Tried or Diſcharged. He did then alſo Quote the Caſe of the *Duke of Suffolk*, 26 *H.* VI. and the Opinions of *Preſcot* and *Forteſcue*, (who were eminent Judges) who ſaid, That he ought not to be Committed, (tho' for Treaſon) without Eſpecial Cauſe of the Treaſon ſhewed; which had not been in his Caſe.

He further ſaid, That many other Principal Gentlemen of that Parliament had ſpoke moſt *Senſibly* on the ſame Subject of Liberty; and amongſt the reſt, Sir *Robert Philips* had ſaid, To have our Liberties (which are the Souls of our Lives) taken from us and to be Pent up in Goals without Remedy by Law; and this to be ſo adjudged, (for ſo that Court had then thought fit to deny Bail, for Reaſons which were at that time alſo beſt known to themſelves) he cries out, *O Improvident Anceſtors! O Unwiſe Fore-Fathers! To be ſo curious in Providing for the Quiet Poſſeſſion of our Lands, and to neglect our Perſons and Bodies! And to let them lie in Priſons! And without Remedy,* durante bene placito! *If this be Law, what do we talk of our Liberties? This* (ſays he) *is* Summa Totalis *of all Miſeries.*

He ſaid alſo, That Mr. *Selden* did in the ſame Parliament argue, at a Conference with the Lords, That in all Caſes where any *Right* or *Liberty* belongs to the Subject, by any *Poſitive* Law, written or unwritten, if there were not alſo a Remedy by Law, for enjoying or regaining of this *Right of Liberty*, when it is violated or taken from him, the *Poſitive* Law were moſt vain, and to no purpoſe; and it were to no purpoſe for any Man to have any Right in Land, Liberty, or other Inheritance, if there were not *a known Remedy*, by which, in ſome Court of ORDINARY JUSTICE he might recover it; and in this Caſe of Right of Liberty of Perſon, if there were not a Remedy in the Law for regaining it, when it is reſtrain'd, it were to no purpoſe to ſpeak of Laws.

Here he deſired leave, to ſhew His Lordſhip what Sir *Nicholas Hide* (when ſitting as Lord Chief Juſtice in that Court) did ſay on this Occaſion, *viz.* That the King's Pleaſure is, his Law ſhould take place and be executed; and for that do we ſit here: And whether the Commitment be by the King, *or others*, this Court is the Place where *the King doth ſit in Perſon to do Right, if Injury be done*; and if it appear that any Man hath Wrong done

done to him by his Impriſonment, we have *Power to deliver or diſcharge him.* And he farther ſaid, That the ſame Lord Chief Juſtice *Dodderidge, Jones,* and *Whitlocke,* (anſwering the Priſoner's Council at that time) did ſay, the Attorney-General had told them, That the King had done it; and that they (the Judges) do ever truſt him in great Matters. And here he took occaſion to ſay, That he hoped that the King's Conſent to his Bail, and his Declaration of his Innocency, would be now as much truſted in this Court.

He cited alſo the Arguments of Mr. *Calthorpe* for Sir *John Corbet,* on the ſame Occaſion, who ſaid, That, admit the Commitment were lawful, yet when a Man hath continued in Priſon a reaſonable time, he ought to be brought to Anſwer, and not to be continued ſtill in Priſon: For that it appears by the Books of our Laws, that Liberty is a thing ſo favour'd by the Law, that the Law will not ſuffer the continuance of any Man in Priſon, longer than of neceſſity it muſt.

He cited alſo Mr. *Hackwell*; who ſaid, upon the ſame Occaſion, That the Law admits not the Power of detaining in Priſon at Pleaſure, when the Impriſonment is but *pro Cuſtodia*: For a Man, by long Impriſonment, might otherwiſe *be puniſhed before his Offence.* And he mention'd an Expreſſion of his, That long Impriſonment was, *Vita pejor Morte.*

He mentioned how the Commons, at the End of the Parliament 3 *Car.* did deſire, That the Judges might declare themſelves upon the Matter, why thoſe Gentlemen had not been Bailed, when *(by the Judges Arguments)* it was poſſible they might have been *kept Priſoners all their days.*

To which, he ſaid, *Whitlocke* anſwer'd, Firſt, Not ſo; but they did Remand them, that they might better adviſe of the Matter; and that the Gentlemen, if they had pleaſed, might have had a new Writ of *Habeas Corpus,* when they thought fit. And Secondly, That he had ſpent much Time in this Court; and that in ſuch great Caſes, he never knew any Man *Bailed without the King firſt conſulted in it*: And the ſame he ſaid, was then ſaid by the reſt of the Judges of that Court.

Hereupon he made Two Remarks: Firſt, That by this it did appear, that upon Conſideration, That Court had altered their Opinions in the Caſe of Bail, juſt contrary to what their firſt Opinions had been poſitive in: And, Secondly, That the conſulting of the King was ever neceſſary in ſuch Great Caſes. And he ſaid, he did believe, that there was not a Precedent, where the King had agreed to the Bail, that ever it had been denied.

He ſaid, That thoſe Men whom he had quoted, were Men of no Ordinary Underſtanding in the Laws: And as the Judges then did at laſt acknowledge their Senſe of them to be right, ſo he ſaid, He hoped our Laws were neither changed nor diminiſh'd, in what related to the SUBJECTS LIBERTIES; and he hoped that no Order of one Houſe, nor Ordinance of both Houſes, nor King alone, nor King and either Houſe alone, could alter them: And he reſted aſſured, that a King and Parliament would never alter them to the Prejudice of Liberty.

He proceeded, That if the Law were ſtill the ſame it was heretofore, it was plain that that Law did both give a Power to that Court to Bail for all Offences whatſoever (and for Treaſon particularly) and did require, that *the Subject ſhould at all times find Remedy in it,* when his Liberty was Reſtrained, BY ANY CAUSE WHATEVER.

The Chief Reaſons, he ſaid, why ſuch large Powers had been given to that Court, were principally *for avoiding all Failure of Juſtice;* and to the End, Firſt, That the King may both have a Means of giving Right to his Subjects *at all times,* according to his Oath at his Coronation, and according to the Intent of *Magna Charta,* and the *Petition of Right.* And Secondly, That there might be *a conſtant Place* for the Subject to reſort unto for *Remedy at all times,* whenſoever he was oppreſs'd in his Liberty: And he hoped we were not now to learn a new Law, That the King could neither keep his Oath, nor maintain *Magna Charta,* nor the *Petition of Right,* without the aſſiſtance of an *Extraordinary Court,* which he may both chuſe, whether he will call, or when he will call it, and how long it ſhall ſit; which *(as he had ſaid)* would put all under the *King's abſolute Will.*

He then ſaid, He took for granted, that there would be no Diſpute made in this Matter, but that there was *an Order of the Lords* which was ſuppoſed to ſtand in the way: But he ſaid, If his Lordſhip would give him Leave, he would firſt ſay ſomething to the Order it ſelf, and then he hoped to ſhow His Lordſhip, that it ſtood not at all in the way, as to his Requeſt of Bail; and that it ſhould neither be interfered with in the leaſt, nor the Juriſdiction of the Lords, nor their Proceedings meddled with in any kind by his being Bailed; but rather owned and ſubmitted to, by his being Bailed to the Parliament.

And firſt for the Order it ſelf, He deſired the Court to obſerve, that it was dated the 19th of *March,* 1678, and worded as followeth, *viz.*

Die Mercurii, 19no Martii, $167\frac{8}{9}$.

THE Houſe this Day taking into Conſideration the Report made from the Lords Commitee for Privileges, that in Purſuance of the Order of the 17th *Inſtant to them directed, for conſidering whether Petitions of Appeal, which were preſented to this Houſe* in the laſt Parliament, *be ſtill in force to be proceeded on; and for conſidering of the State of Impeachments brought up from the Houſe of Commons* the laſt Parliament; *and all the Incidents relating thereunto; upon which the Lords Committees were of Opinion, That in all* Caſes of Appeals, *and* Writs of Errors, *they continue, and are to be proceeded on in* Statu quo, *as they ſtood at the Diſſolution of* the laſt Parliament, without beginning *De Novo. And that the Diſſolution of* the laſt Parliament *doth not alter* the State of the Impeachments *brought up by the Commons in* that Parliament.

Now upon this Order, he obſerved, That it related as well to Appeals and Writs of Error, as to Impeachments; and ſeemed to be more fully worded to them, than to Impeachments: The Words STATU QUO, and *without beginning* DE NOVO being annex'd in the Order more particularly to the Appeals and Writs of Error; whereas all that was ſaid as to the Impeachments, he obſerved to be, that the Diſſolution of THAT LAST PARLIAMENT doth not alter *the State of Impeachments* brought up by the Commons in THAT PARLIAMENT, and are not Words which *(ſtrictly taken)* can bind after the Diſſolution of any other *than that Parliament.*

But he ſaid, If the Order ſhould be Expounded otherwiſe, yet that both the Law, and the Practice of the Inferior Courts, were undoubtedly contrary, *In the Caſes of Appeals and Writs of Error.* And, he hoped, no Court would take upon them to Expound the Order ſo, as if they were at Liberty

berty to ſplit the Order, and to judge, *which Part of the ſame Order ſhould be binding, and which not*; for that would be to meddle, in a more extraordinary Manner, with the Proceedings of the Lords, than he had deſired.

Now, as to *Writs of Error*, he ſaid, there were full Reſolutions of the Judges in the Caſe, tho' in times of Prorogations only, when a Day is ſet for the Sitting of the Lords Houſe; and he cited the Caſe of *Heydon* and *Godſalve*, in *Croke*'s Reports; as alſo the Lord Chief Juſtice *Hale*, who did not only grant Execution upon a Writ of Error (depending in Parlament) but did alſo anſwer the Defendant's Council (who would have pleaded the Lords Order in Bar of the Execution) that he ſhould always pay all due Reſpect to that Superior Court of the Lords; but that he muſt act according to Law; and, that he knew, that the Lords did not intend otherwiſe. And of this Lord Chief Juſtice *Pemberton* himſelf, who he ſaid had denied Reſtitution upon an Execution lately taken out, in Caſe where a Writ of Error was, and is ſtill depending in Parliment. And in *Caſes of Appeals*, he ſaid, he was inform'd, that the Court of Chancery did not take any Notice of the Appeal being in Parliament after a Diſſolution, but did notwithſtanding proceed to Sequeſtration. And he ſaid, that there was a late Precedent in the Court of Exchequer, in the Caſe of one *Fountaine*, where an Appeal was brought from a Decree in the Exchequer, and Recognizance entred into by the ſaid *Fountaine*, to abide the Order of the Houſe of Lords: and after the Parliament was Diſſolved, the Council of the ſaid *Fountaine* did inſiſt on the ſaid Order before the Barons, That the Houſe being poſſeſt of Mr. *Fountaine*'s Cauſe, and Security having been given by him to abide the Order of the Houſe, that no Proceedings ought to be had in the Exchequer upon the ſaid Decree, until the Matter on the Appeal was determined before the Lords. Notwithſtanding which, and that Mr. *Fountaine* produced the Lords Order in Court, and produced the Security allow'd; yet the now Barons declared and ordered, That the Decree by them made, ſhould be proceeded on againſt the ſaid *Fountaine*, in the Court of *Exchequer*: And a Proceeding hath been had accordingly.

By all which he obſerved, That the Inferior Courts did proceed upon *Matters, forbid as much by the Houſe of Lords*, in the Matters of Appeals and Writs of Error, as it was upon Impeachments; and yet that the Reaſon was plain why they did ſo, for that the Parliament might proceed again upon the ſame Appeals, and Writs of Errors, notwithſtanding thoſe Proceedings in the Inferior Courts, in the Interval of Parliaments; for that none of thoſe Acts of the Inferior Courts, does ſo hinder the Procedings of the Superior, but that the Plantiff in Parliament may revive the ſame Matter there again, by *Scire Facias*, or by Reſummons, *&c.* But he ſaid, It was never heard of, that the Lords themſelves did proceed again *Ex Officio*, without the Petition of the Party to revive the Cauſe. And ſo he ſaid in the Caſe of Impeachments, that the Lords would no more proceed *Ex Officio* upon that neither, unleſs they were called upon by the Proſecutors; and then *their Lordſhips Proceedings upon the Impeachment, would be no more hindered by the Bailing of him in the Inferior Court, than they were in the other Caſes by the Executions and Sequeſtrations, which are granted in the Intervals of Parliament*, which were for the Prevention both of DELAY *and of* FAILURE *of* JUSTICE.

Beſides, he ſaid, If this ſhould not be done, how could it be known, whether the Proſecutors of an Impeachment from the Houſe of Commons (who are never the ſame Men in a new Parliament) will proceed any more upon a Former Impeachment? For, he ſaid it had many times fallen out otherwiſe; and he cited a late Caſe of the Lord *Mordant*, who was Impeach'd upon Articles in one Seſſion: and having taken out a Pardon during the Prorogation, was never more called upon, nor never queſtion'd upon the former Impeachment; altho' the very ſame Parliament ſat again, which had Impeach'd him: And therefore, he ſaid, That the Caſe might more probably happen to fall out ſo, when a new Parliament ſhould meet again, which would conſiſt of new Men,

He ſaid, It was likewiſe to be obſerved, That altho' the Tranſcript of the *Record* in a *Writ of Error* might have days of continuance, yet no *Superſedeas* is grantable; and he ſaid, That if the Lords Order be no Ground for a *Superſedeas* on a Writ of Error, why the lying of an Impeachment ſhould be a Ground for Confining a Man within *Tower* Walls all his Life, he was ſure muſt be both leſs reaſonable and leſs juſt, as Liberty was more valuable than Property, and without which, Property could be of no Comfort.

In the next Place he obſerved, That if the Order ſhould be continued literally to mean, that the Impeachments, as well as the Appeals and Writs of Error, (and the Incidents relating to all of them) ſhould remain in the ſame State they were at the Diſſolution of THAT PARLIAMENT mentioned in the ſaid Order, his Caſe thereupon, he ſaid, would be quite different from any others; for that he was *not under any Commitment* at the *Diſſolution of* THAT PARLIAMENT, nor at the time when THAT ORDER *was made*, but was *then at Liberty* to be a Sitting Member of that Houſe, and *by a Vote of the Houſe had Leave to continue ſo*; for that (as he had already obſerved) the the Date of the Order was the 19th of *March* 1678. and the Warrant of his Commitment did appear by the Return before the Court, to be the 16th of *April* following: Inſomuch, that he deſired the Court to take Notice, that the ſtrict Letter of the Words *Statu Quo* in the Order (compar'd with the Time when the ſaid Order was made) would be an Argument to ſet him *in a ſtate of Liberty, as he then was.*

He then told the Court, That by what he had ſaid, he hoped he had made appear, That the Order did not afford the leaſt Shadow for the hindering of his being Bailed; but that on the contrary, the Reaſons were much ſtronger for the doing of that, (as it related not only to him, but *to the Liberty of the Subject in general*) than for the Proceedings which the Inferior Courts do daily Practice upon Appeals and Writs of Error (*which are but for Property*) and are *comprized in the ſame Order*; and therefore he ſaid, That he hoped he ſhould at leaſt find the ſame Favour in a Caſe of *Liberty*, which is allow'd every Day in Caſes of leſſer Moment.

He then ſaid, That altho' it did not concern his particular Caſe, yet for the ſake of *Engliſh Liberty itſelf*, he could not but ſay ſomething farther upon this Point: For he could not but be of Opinion, That if the Order had directly forbid Bail; which it was far from doing; and beſides, the Lords own Practice had ſhew'd their Meaning to the contrary, by the Bailing of a Commoner, whoſe Crimes were declared to be greater than his;

his; and in which Caſe they made no *Non Obſtante* to their Order, but take that to be ſtill in the ſame Force towards him, as towards any others who are in Cuſtody: Yet he ſaid, In that Caſe, if ſuch an Order ſhould be found to be againſt *Magna Charta*, and the Fundamental Right of the Liberty of the Subject, (as any thing muſt be, *which does ſubject any Man to an* INDEFINITE IMPRISONMENT); he conceived, that of Right that Court ought to free any Man from ſuch a Slavery; for he ſaid, he could give it no better a Name. And he then cited an Argument of the Earl of *Shaftsbury*'s upon that Point, which that Lord argued in that Court upon an *Habeas Corpus*; when the Court agreed they would have Bailed him, had it not been in a Time of an *Adjournment* only of the Parliament. His Words, he ſaid, were, *That this Court will, and ought to judge* AN ACT OF PARLIAMENT VOID, *if it be againſt* MAGNA CHARTA; *and more might it judge of* AN ORDER OF THE HOUSE OF LORDS, *that is put in Execution to deprive any Subject of his* LIBERTY. And, as he ſaid, this could not be denied to be Law; ſo he was confident the Earl of *Shaftsbury* was ſtill of the ſame Mind, and ſo muſt every Lord in *England* be, or (when they conſider their own Caſes) they would make their Liberties to be very precarious.

He proceeded to ſay, That the Earl of *Shaftsbury* being allow'd to be a knowing Man, both in the Laws, Orders, and Conſtitutions of Parliaments, he would beg Leave to quote another Part of the ſame Speech; *viz. That Mr.* Attorney (which was then Sir *William Jones*) *was pleaſed to anſwer the Inſtance of one of his Lordſhip's Council, That if a great Miniſter ſhould be Committed, he hath the Cure of a Pardon, a Prorogation, or a Diſſolution: But* (ſays the Earl) *if the Caſe ſhould be put, why Forty Members, or a greater Number, may not as well be taken without any Remedy of any of the King's Courts? His Lordſhip ſaid, That Mr. Attorney could not very eaſily anſwer. And if in this Caſe* (ſays he) *there can be no Relief, no Man can foreſee what may be hereafter.* And in another place of the ſame Speech he ſays, *He does not think it a Kindneſs to the Lords to make them Abſolute, and above the Law; for ſo it muſt be, if it be adjudged, that they may Commit a Man to an* INDEFINITE IMPRISONMENT.

He ſaid, He took theſe Men whom he had named, for no ſmall Authorities in this Age: And the Earl of *Shafsbury*, he ſaid, was a Man ſtill as much for the maintaining of this Order as ever; but that his Lordſhip did ſhew himſelf, at the ſame time, to be for *Engliſh Liberty*: And he plainly ſhew'd his own Senſe, both of this and of all Orders whatever, which concern'd the Liberty of the Subject; and declared, That he took that Court to be the proper Judge of all ſuch Orders.

He ſaid, It thereby appear'd how ſenſible that Lord was, that ſuch Caſes might concern Forty, as well as One, and Members of either Houſe, as well as other Men; and without Relief, if it ſhould be admitted, that ORDINARY COURTS *could not Relieve.* And the Earl of *Danby* ſaid, That there was no anſwering of theſe Arguments of the Earl of *Shaftsbury*; unleſs it could be denied, *That the King can Impeach as well as the Commons; or that the King cannot Call and Diſſolve Parliaments at his own Will and Pleaſure*: For if he may (as was not to be doubted) he ſaid, He was ſure *every Man in* England *was in the ſame Danger when the King pleaſed*; and then he ſaw nothing whereby we had any Security; but that we lived under a King who would not exerciſe this Power over us, which we will needs put into his Hands, altho' he does not deſire it himſelf. As if we were ſo weary of our Liberties, that we would be Induſtrious in contriving how we might inſenſibly ſlide into thoſe Slaveries, which our Anceſtors have been ſome Ages taking Pains to ſecure us from; and our Kings have been ſo Gracious as to grant and confirm to us, ſo many times over as they have done; and which other Kings may be as ready to reaſſume hereafter, as we are to give them away.

He concluded his Obſervations upon that Speech of the Earl of *Shaftsbury*'s, with taking Notice, That His Lordſhip had ſhew'd he was one of thoſe Peers who would take it for no Kindneſs to be made Abſolute, and above the Law, by ſuch Orders of theirs being conſtrued to extend to INDEFINITE IMPRISONMENTS.

He then repeated Sir *William Jones*'s Declaration in that Court; *That either a Pardon, a Prorogation, or a Diſſolution, was a Cure againſt ſuch Impriſonments.* And he obſerved thereupon, That if that Doctrine were true, *That any one of thoſe was a Cure againſt ſuch Impriſonment*, (and he could not doubt of its being good Law) then certainly he ought to find Relief from his Impriſonment, *who had every one of thoſe Cures on his Side.*

He then deſired to put the Court in mind, How in the worſt of Times, Juſtice had taken place ſo far, as *to lay aſide the Force of Orders made in Parliaments, after the Diſſolutions of thoſe Parliaments which made them*; altho' it was to the Prejudice of the Intereſt of thoſe Uſurpers themſelves.

He cited an Inſtance of one Sir *John Stowel*, who, by the Articles of *Exeter* was to have been admitted to Compoſition for his Eſtate; but yet, contrary to thoſe Articles, the Parliament did afterwards order his Eſtate to be ſold. After the Diſſolution of which Parliament Sir *John Stowel* pleaded by his Council (which were Serjeant *Maynard* and Mr. *Latch*), That *that Order was Diſſolved by the Diſſolution of that Parliament*; and that therefore the Articles were again in Force: And that the Plea was admitted to be good, and Sir *John* reſtored to the Benefit of the Articles upon that Plea, *even by* Bradſhaw *himſelf.* But he ſaid, he was ſorry that he could neither have Sir *William Jones*, to argue thoſe Points for him which he had uſed againſt my Lord *Shaftsbury*; nor Serjeant *Maynard*, to make good *the Invalidity of Parliamentary Orders after Diſſolutions*: But he ſaid, That it was not his Fault, and he doubted not but he was before more Juſt Judges than there was in thoſe Ill Times; and that he hoped, *That the Liberty of the Subject was not now more Precarious than it was in thoſe Days.*

He added, That if upon *ſuch Orders* Men could not be Bailed in the Interval of Parliaments, they would become *Grievances* equal to the *Multiplications* of *Treaſons* in former Days; which have ſometimes been greedily made heretofore by Parliaments in Diſtemper'd Times; but the Commons had never been quiet, till they could get their Bear chain'd up, and their Laws reduced to the Old Standard of Treaſon again: But yet thoſe things had been done by Acts, and not by Orders of Parliament.

He deſired them likewiſe to remember, That it had been one of the chief Grounds of the late War betwixt the King and his Parliament, (in which ſo much Blood had been ſhed) That an Ordinance of Parliament ſhould not be held equal to an Act of Parliament; and yet thoſe were Orders of both

Houſes. And now, ſaid he, ſhall we be Defending, That an Order of One Houſe only ſhall be Equivalent to a Law? And ſhall be in Force againſt our greateſt and moſt Sacred Laws of Liberty, which have been ſo confirmed to us? This, ſaid he, I am not able to underſtand the Reaſon of; nor will any Man who ſhall give himſelf the leaſt leiſure to think upon it.

He then ſaid, He deſired to ask any Man that then heard him, or any Commoner of *England*, who would but take Time to conſider this Caſe, *(which may be any Man's in* England,) Whether they would be contented to Inveſt the Lords with ſuch an *Inherent* Power over their Liberties, which they can no more be exempted from than the Peers themſelves?

And he ſaid, That the Lords had already made it appear, that they would not have any ſuch *Arbitrary Power* placed in them, for that they had refuſed to paſs a *Favourite Act* (which was for their own Trials) only by reaſon of a Clauſe which was inſerted therein, *To have Enacted the Subſtance of this preſent Order into a Law.*

And he ſaid, That the Houſe of Commons deſiring that ſuch a Power might have been Enacted into a Law, *(tho' themſelves would have been the firſt who would have repented ſuch a Law,)* did ſufficiently denote, *That the Commons did not think the Order would be binding in Law after their Diſſolution*; for otherwiſe what need was there *of a Law*, if the Order was in force after Diſſolution, *without a Law.*

Upon the whole he ſaid, He thought the Diſtemper of that time had given more weight to the Order, than any thing elſe; and ſome of their Lordſhips on that Bench did know, both in what an Heat it had been made, and how it had been ſince blown upon by the Lords themſelves; who he was confident would no more endure to have it Conſtrued in that Senſe which now ſeems to be put upon it, (*of Subjecting Men to be under* INDEFINITE IMPRISONMENT,) than they will endure themſelves to be every Day put in the Stocks.

As he had ſaid thus much to the Order it ſelf, ſo he ſaid, He hoped to make appear, *That the Court's Bailing of him would not at all Intrench upon the Order, nor meddle with the Juriſdiction of the Lords, nor their Proceedings in any kind.*

For that he took it for granted, That what is done by that Court, and the Courts of *Chancery* and *Exchequer*, on Appeals and Writs of Error, was underſtood not to meddle at all with the Juriſdiction nor Proceedings of the Lords in thoſe Caſes; and *that this was juſt the ſame, all being alike ſubject to the final Determination of the Lords, whenever they pleaſed to call the Appeal, Writ of Error, or Impeachment, before them, and without any Prejudice to their Lordſhips Proceedings by any of thoſe Acts done by that or the other Courts in the Interval of Parliaments.*

Beſides, he ſaid, It had been uſual to Bail in that Court to the Juſtice Seat in *Eyre*, and yet that that Court could not proceed further.

He Inſtanced alſo, That Courts allowing of the Pardons of Peers, (when pleaded there) and yet that they had no power to proceed to the Trial of a Peer.

And ſo he ſaid, There were divers other Inſtances of that Court's Proceeding to ſuch and ſuch Degrees of Exerciſing their Power to avoid Delays, *&c.* where the Court had no Juriſdiction to determine the Matter.

Precedents he ſaid were not to be expected, which were exactly fitted to his Caſe, becauſe he durſt be bold to ſay, there never was ſuch a Caſe before, (when well conſidered in all its Circumſtances,) nor he hoped never would be again: But he ſaid, That therefore both the King's Power and the People's Liberties would be the more concern'd in what Reſolution ſhould be given by the Court in this Caſe of his.

He ſaid, There were Precedents of Diſcharging of Men Impeach'd in Parliament upon the King's Writ to that Court, Commanding the Proceedings to ceaſe, and they have been Diſcharg'd accordingly by that Court, without any other Reaſon given in the Writ, but becauſe the King held the Parties to be Innocent and Free from the Crimes charg'd againſt them. As in the Caſes of *Melton* Archbiſhop of *York*, and *Graveſend* Biſhop of *London*, 7 E. 3.

He mentioned alſo *Hugh Spencer*, and Sir *Thomas Berkley's* being Mainpriſed to Parliament, and yet that the latter was upon Suſpicion for the Murder of a King, *(viz.) Edward* the Second.

He ſaid, Inferior Courts had Bailed to Parliament about the Pope's Bull, *&c. Reg. Writs*, 274.

He ſaid, A Single Judge, *(viz.)* Sir *Robert Atkins*, had lately Bailed one for Treaſon, and another for Murder; and that he did himſelf hear his Juſtification of both allow'd (as to the legal part) before the King and Council.

He ſaid, That Kings had fomerly aboliſh'd Accuſations of Treaſon, and Inſtanced a Caſe of *Talbot* againſt *Ormond* in the time of *H. 6.*

And to ſhew how powerful the bare Intention of Kings to Pardon had been heretofore, he Inſtanced the Caſe of a Man Indicted of Felony, who (without any Council) ſhew'd forth a Charter of Pardon to the Court, which was diſcordant to the Indictment, and alſo to his Name; and yet becauſe the Court perceived that it was the King's Intention he ſhould be pardoned, he was Remanded to get a better Pardon, 26. *Aſſ.* p. 46.

And he did thereupon ſay, That he hoped the King's Intention of Pardon as to him, had been ſufficiently declared to the whole Kingdom.

And in ſhort, he ſaid, That if the Matter was proper for the Juriſdiction of that Court, before it was in Parliament; its having been there, did not take away the Juriſdiction from a Competent Court, when the Extraordinary Juriſdiction fails; which was not to be ſuppoſed could lay all other Juriſdictions aſleep, when it ſelf was not in being; and eſpecially when that Competent Court ſhould do nothing in Contradiction to the Proceedings of the Extraordinary Court, as he hoped he had made appear, that that Court would not do by the Bailing of him.

Whereas on the contrary, he ſaid it was moſt evident, that *Juſtice did fail in the higheſt Concern, (which is that of Men's Liberties)* unleſs he could be inform'd when and where he might certainly be either Tried or Diſcharged; for that (as he had ſaid before) it was agreed both by the Council for the King, and the Council for the Priſoners, in the Arguments on the Grand *Habeas Corpus*, that INDEFINITE IMPRISONMENT was held to be PERPETUAL IMPRISONMENT, *which the Law did admit in no Caſe where the Impriſonment was only* AD CUSTODIAM. And altho' his had been intended but AD CUSTODIAM, yet it could not be denied, but *it had already been* ad Gravem Pœnam, *and without any particular Cauſe yet ſhew'd for which he ought not to be Bailed by Law.*

He then ſaid, That *Littleton* had declared in his Arguments, 5 *Car.* That if Treaſon in General ſhould be held to be a ſufficient Return, yet that the

the *King's-Bench* might Bail: And the ſaid *Littleton*, and the King's Attorney, in their Arguments (one for the King, and the other for Mr. *Selden*) did agree, *That where the Party could not avoid the Judgment of the Law, nor that there was no Danger by his being at Liberty, He ought to be Bailed after long Impriſonment*; and, at that time, Six Months was taken to be long Impriſonment.

He ſaid he had read a Paſſage in the Lord *Coke's* Inſtitutes, where he ſpoke of ſuch Impriſonments as he compared to the Impriſonment of St. *Paul*, by the *Centurion*, who firſt put him in Chains, and then enquired who he was, and what he had done.

He ſaid he would not compare his Caſe to that; but that there was ſo much of reſemblance in it, that he had been in Chains, or what was there meant by Chains (which was a Priſon) for above Three Years, on a pretence of Treaſon, without being told to that day what kind of Treaſon he had committed; which had been done in nobodies Caſe but his, and by ſo much the greater was his Hardſhip.

He had alſo both been Accuſed and Committed without any Oath made againſt him.

When a Day had been appointed for his Hearing, his Council had been forbid to Plead Matter of Law for him.

It had been acknowledged, that there was no Treaſon contained in any of the Articles againſt him, if they were all True.

And if they had been True, and had amounted to Treaſon, he had there ſhewed the King's Pardon, which did releaſe both the Crimes and the Impriſonment.

That beſides that Pardon, he had had his Majeſty's Declaration in full Parliament, both of his Innocence, and that he would Grant him his Pardon ten times over if this were defective.

That he had now had his Majeſty's Conſent to his Bail, a ſecond time, declared to that Court by the Attorney-General, by the King's Direction.

That in all theſe foregoing Particulars, his Caſe was ſingular, and different from all others, who are or have been made Priſoners ſince the beginning of the late Plot, or (as he believed) at any other time.

Beſides theſe Things, which are peculiar to his own Caſe, he ſaid that there was alſo what was Common to other Caſes as well as his

The length of his Impriſonment, which had been above 40 Months.

The being Confin'd ſo long under pretence (as he conceived) of an Order of the Houſe of Lords, *which neither Directs nor Implies any thing to forbid Bail.* But in that alſo he had what was particular to himſelf (which he had already ſaid, and deſired leave to repeat, becauſe it would deſerve their Conſideration,) *viz. That he was at Liberty, and had leave to be a ſitting Member in the Houſe of Lords, at the Time when that Order did declare that the Impeachments, Appeals, &c. and the Incidents belonging to them ſhould ſtand in* STATU QUO; *ſo that (as is already obſerved) the* STATUS QUO *(as to him) he again ſaid, was to put him into a State of Liberty.*

Laſtly, he ſaid, That he had no proſpect now when any Parliament would ſit, and by the Examples of paſt Parliaments he might reaſonably fear, whether, when they did meet, they might ſit ſo long as to give him Relief; for that his Petition had been read the firſt Day that the laſt Parliament entered upon any publick Buſineſs; or whether greater Buſineſs of the Kingdom might not (as it had done already) ſo take up their Time, as not to give them leiſure to conſider the Caſe of a ſingle Perſon: And ſince this had already fallen out to be his Misfortune in Three Parliaments ſucceſſively, he took it to be but too plain *a Demonſtration of his lying under an Indefinite Impriſonment*, unleſs he ſhould find Relief in that Court, *for that there was no other to Appeal unto.*

He ſaid, That in thoſe Great and Eminent Caſes which fell out 3 & 5 *Car.* about the Bailing of Perſons committed to *Indefinite Impriſonment*, the Judges were then very poſitive againſt their Bail, and yet changed thoſe Opinions afterwards; and ſo he hoped that Court might do upon a due Conſideration of his Caſe and Circumſtances; or elſe he hoped that His Lordſhip would convince him, *that his Impriſonment was not Indefinite*, by letting him know *at what prefixed Time*, and where he might reſort for Remedy, which the Law does, without queſtion, allow to all Men, and at all Times.

He ſaid, he was a very reaſonable Man, and when he was convinced by Reaſon (upon which he was ſure all Laws were founded) he could be content to ſuffer ſtill, tho' his Impriſonment had been ſo long already; for that however he may have been miſrepreſented for *an Arbitrary Man*, he would rather periſh in his Priſon, than have any thing done for him which the Law would not warrant: But, on the other ſide, he ſhould be ſorry, that his Caſe ſhould be made a *Precedent againſt Law, and againſt* Engliſh *Liberty*, which he was ſure it would be, if he ſhould be continued to lye *under an Indefinite Impriſonment without being bailed*; and he ſaid he was not aſhamed to ſay, in the behalf of all *Engliſhmen's* Liberties, as well as of his own Caſe; That it was a Caſe which did concern every Man to take care of in the Conſequences of it, and which did cry loudly for Relief.

He then told the Court, That he had troubled them long, but that he hoped it would be excuſed in a Caſe of that Moment: And in the firſt place he ſaid, he hoped it was plain, that That Court had it in their power to grant him Relief if they pleaſed.

That it was as plain, that there was nothing in the Lords Order againſt it, and that the practice of the Lords had been otherwiſe, even in the behalf of Commoners.

That it was apparent, that both that Court, and the Courts of *Chancery* and *Exchequer*, *do relieve upon Appeals and Writs of Error, which are in the ſame Order with the Impeachments*, and yet do in no ſort meddle with the Judicature or Proceedings of the Houſe of Lords.

That it was manifeſt, that let the Order be conſtrued as any Man pleaſes, yet that Bailing could be no ſort of Judging of any Proceedings in the Superior Court, *but would leave the Judgment entirely to the Parliament, and would continue him a Priſoner in Law*, bound to appear before that Extraordinary Court, whenever His Majeſty ſhall be pleaſed to call it; and he ſaid it was more evident, that *otherwiſe* he was an *Indefinite Priſoner*, and at the *King's Will only for his Liberty*, the Conſequences of which every Man ought to lay to his Heart, with a dread of it, whenever they ſhould live under a Prince that might not be ſo Merciful as our preſent King; and he hoped the Court would duly conſider it.

Beſides all this, he ſaid, he durſt confidently affirm, *That there was not a Precedent ſince the Conqueſt, of any Man's being refuſed Bail under ſuch Circumſtances as his were:* Whereas he ſaid, the detaining of Men under long Impriſonment, ought either to

have *expreſs Law for it, or a good Number of Precedents, and in good Times, to juſtify it*, and not any ſingle Inſtance or two (if they could be produced) which he thought they could not.

And he hoped that Precedent which he had already mentioned on his Majeſty's behalf, would be very well conſidered, which was, How the *King*'s Court ſhould keep the *King*'s Priſoner, and at the *King*'s Suit, in the *King*'s Priſon, with the *King*'s Pardon, and againſt the *King*'s Will, twice declared in that Court by his Attorney-General.

He ſaid, he ſhould conclude with letting his Lordſhip know, that as the King himſelf had ſufficiently declared that there was no danger in the letting him have his Liberty, ſo he had ſuch Bail to offer to his Lordſhip as would ſufficiently ſatisfy the World, that he ſhould be forth-coming to anſwer when and where that Court ſhould appoint; and then, he hoped, the Two Chief Grounds for Detenſion in a Priſon (viz. *The Danger of a Man's having his Liberty, and the Danger of his not appearing to abide his Trial*) would be fully anſwered.

And if it might not ſeem too great a Vanity to ſay (altho' the true Reaſon does take away the Vanity of it, becauſe it would not be for his, but for their own ſakes, as what may happen to be their own Caſes) he ſaid, he doth believe, he could have the Major Part of the Houſe of Lords to be his Bail in this Caſe, and ſome of thoſe very Lords who were for the making of this Order, altho' not in that Senſe which would ſeem to be put upon it. Inſomuch, that there would be no more to fear in the granting him Bail, than, he hoped, there was either Reaſon or Juſtice to deny it. And he doubted not, but he was there before very juſt Judges, who would duly conſider what he had ſaid.

The Lord Chief Juſtice then ſpeaking, did ſay, That the Earl of *Danby* had ſeemed to reflect upon the Court, as if they had denied him Juſtice in not hearing his Council.

Then the Earl of *Danby* deſired Leave to interrupt his Lordſhip, ſaying, That his Lordſhip had miſtaken him, for that he had ſaid no ſuch thing of that Court, nor did he mean of that Court; but ſaid, It was very well known, that his Council had been forbid to plead for him in another Place; which was then acknowledged by Juſtice *Jones* to be very true.

The Lord Chief Juſtice then proceeded, and ſaid, That for his Lordſhip's ſaying they needed not to fear, becauſe, he did believe, the greateſt Part of the Lords would be his Bail: That it was not the Fear of another Court that had any kind of Influence upon them, or that they ſhould do ſuch things as they feared to be called to an Account for; but that they were to govern themſelves by the doing of Juſtice.

That they had heard his Lordſhip with a great deal of Patience; and that he had ſaid many material Things, and with much Acuteneſs; And that they were not ſenſeleſs of the Hardſhip of his Lordſhip's Caſe, and of the Greatneſs of his Sufferings.

That they were likewiſe ſenſible of the King's Deſires, that his Lordſhip ſhould have no longer Impriſonment than the Law requires. And he confeſſed, *That the King had done as much as lay in his Power.*

That it was not denied, becauſe that Court could not Bail for Treaſon; *for that they had a Power to Bail in all Caſes whatſoever*, if the Court ſaw Cauſe. Neither would the Indictment which was found againſt him about Sir *Edmund-bury Godfrey* have hindred; *nor was it the Order of the Houſe of Lords which hindred them:* But that they were to act there according to Law; and he pray'd his Lordſhip to conſider that they could not relieve him according to Law.

That he did agree to ſome things mentioned by his Lordſhip; and that it was a very hard Caſe he ſhould lie ſo long in Priſon: But here was the Miſery; they could only compaſſionate him; for that his Lordſhip was impriſoned by an higher Hand, and where they had no Power to intermeddle.

He inſtanced in Indictments for Treaſons, and ſeveral other great Crimes, in which they could bail Men; but in this Caſe, *the Supreme Juriſdiction of the Nation had laid their Hands upon it, which was attended by the Houſe of Commons with an Impeachment.*

Whether their Lordſhips had Cauſe, or not Cauſe, to commit his Lordſhip, they could not inſpect; But that they ought to believe that his Lordſhip was juſtly Committed; and that their Lordſhips, in their mature Deliberation, would do nothing unjuſtly.

He ſaid, That they had a Juriſdiction over all the Courts in the Kingdom, (that only excepted.) *And as it would be very Incongruous for an Inferior Court to Bail whom they had Committed, or to call their Proceſſes in Queſtion; ſo would it be in like manner for them to do in this Caſe*, becauſe the Lords exceed their Juriſdiction, and were above them. He ſaid alſo, That the Opinion of all the Judges in *England* had been taken therein, and had delivered their Opions, that he could not be bailed: And that the truth was, his Lordſhip was impriſoned by too high a Court for them to bail him: For that his Lordſhip *was not indefinitely Impriſoned*, as he had alledged: *For whenever his Majeſty is pleaſed to call a Parliament, his Lordſhip would have Remedy.*

That the King has Power to do it when he pleaſes; and, for his People's Good, no doubt he will, when he ſees fit: But that at ſome time the Circumſtances of State differ from other times; and that it may not for ſome Space of Time be thought convenient: And tho' this may prove miſchievous to a ſingle Perſon, or to two or three Perſons, yet ſuch things muſt be endured for the Good of the Publick. He ſaid alſo, *That if that Court ſhould commit a Man for High Treaſon, and the King ſhould adjourn them from time to time, that Man could not be bailed until they ſat again:* So that he muſt confeſs, (as his Lordſhip had ſaid) that as this Caſe did happen, he was under a *Temporary Indefinite Impriſonment.*

He concluded, with telling his Lordſhip, *That he muſt be contented to wait the King's Pleaſure when he would call a Parliament.*

That, for his Part, he was before of Opinion, that they could not bail his Lordſhip, and he was ſo ſtill.

The Earl of *Danby* to all this anſwered, that he muſt confeſs, his Ears did tingle to hear his Lordſhip ſay, *That the King had done as much as lay in his Power*; when his Majeſty is bound both by his Coronation Oath, and by the Laws, to ſee Right done at all times to his Subjects; and he deſired to know, *Whether this was not the King's Court, and whether he had not deputed a Power to them to ſee Right done to all accordingly?*

He ſaid alſo, That he was now under greater Amazement than before; ſince his Lordſhip had both granted, *That this Court could bail any Treaſon*, and *that the Order of the Houſe of Lords did not hinder it;*

it; which, till now, he confeſt, he had taken to be the only Obſtruction to his Liberty.

That he had hoped, he had ſatisfied his Lordſhip, that altho' he was impriſoned by an higher Hand, yet *that the Bailing of him did not intermeddle with the Juriſdiction of that higher Judicature*, and he had yet heard nothing to ſhew him that it did.

That for what his Lordſhip had ſaid of the Opinion of all the Judges in *England*, being taken in his Caſe, he muſt needs inform his Lordſhip, That that was a Miſtake; for that the Opinion of the Judges had never been asked in this particular Caſe, ſaving once, upon petitioning the King for Liberty to go to his Country Houſe at *Wimbledon*, with a Guard, or otherwiſe, as his Majeſty ſhould think fit; which Petition was referred by his Majeſty to the Judges: And they (according to their wonted Prudence and Caution) did only report, That they thought his Majeſty could not legally grant the Petitioner's Requeſt.

That whereas his Lordſhip ſaid, That he was *not indefinitely impriſoned, for that whenever his Majeſty is pleaſed to call a Parliament, he will have Remedy*; *and that he muſt be content to await the King's Pleaſure when he will call a Parliament*; He took thoſe to be fuller Arguments, than any himſelf had made, to prove, *That his Impriſonment was Indefinite, and at the King's Pleaſure*; *ſo that he was now more fully confirm'd than ever to be of that Opinion, and wiſh'd that every Man, that heard that Doctrine given for Law, might fully conſider the Conſequences of it.*

He ſaid further, That his Lordſhip had miſtaken him, in thinking that he had ſaid he was under a *Temporary Indefinite Impriſonment*; for that he had ſaid he was under an *Abſolute Indefinite Impriſonment*: And that his Lordſhip had rather proved him to be ſo, than ſhewed any thing to the contrary; nor did he know what *Temporary Indefinite* did mean.

The Lord Chief Juſtice then ſaid, That he was not a Judge at that time when the Judges Opinions were asked; but deſired his Brother *Jones* to relate how it was.

Mr. Juſtice *Jones* then ſaid, That he remembred the Caſe had been put to the Judges, Whether the Lords in the *Tower* might be bailed, and that it was then the Opinion of the Judges that they might not: But he ſaid, he did think the Earl of *Danby* was not particularly concerned in the Queſtion at that time, but that it related to the Popiſh Lords only, and that there was much difference betwixt his Lordſhip's Caſe and theirs; beſides, he did think, that was at a time when there was a Day appointed for the Meeting of a Parliament.

The Earl of *Danby* then ſaid, That the Queſtion which was put at that time to the Judges, about the Popiſh Lords, did not concern his Caſe at all; for that it differed from theirs in very many Particulars, which he had already mentioned, *viz.* Of no Oath againſt him; No ſpecial Treaſon alledged, *&c.* which he was loth to trouble them with repeating again; but he ſuppoſed, that the then Opinion of the Judges, ought not to be made any Argument againſt him.

He ſaid alſo, That the Lord Chief Juſtice had argued very ſtrongly for him: For that it was true, *That the King might call a Parliament when he pleaſed*; *but if therefore a Man muſt ſtay in Priſon till the King did pleaſe to do ſo, he may (by that very Argument) lie there all his Life-time, if the King pleaſes*; which confirms what he had been a great Part of this time labouring to prove: And he ſaid, he muſt confeſs, he did expect to have heard ſtronger and more powerful Arguments to have convinc'd him, that he was in the wrong in what he had ſaid; but that now he was more encourag'd than before, not to give over a Cauſe which did ſo much concern every Man in *England*.

The Lord Chief Juſtice then ſaid, That his Lordſhip was miſtaken in believing that that Court did keep him in Priſon; for that he was not kept in Priſon by them, but by a Superior Court, which was too big for them to meddle with, or to examine what they did.

To this his Lordſhip anſwered, That he had Wrong done him, which muſt be done by ſome-body, and that it was a Maxim of the Law, *That the King could do no Man Wrong*, (being adviſed by his Courts); beſides, that his Majeſty had twice ſhew'd his Conſent in that Court to have him bail'd. Neither could he ſay, that the Lords did him Wrong, becauſe there was nothing in their Order to hinder his being bailed, (beſides their own Practice to the contrary); and it ſeemed now to be ſaid, that it was by the Law, and not by the Order, that he was kept a Priſoner. He ſaid, he would not ſay, that That Court did keep him a Priſoner, but by ſome-body he was ſure he was kept Priſoner; but perhaps it might be by the Stars, ſince he could not find who it was upon Earth that did it.

He concluded, that if he were legally impriſon'd, yet by *Magna Charta* and the *Petition of Right*, &c. it was impoſſible for an *Engliſhman* to be without ſome certain Proſpect of Relief in a reaſonable time, they being to have Juſtice done them by the Law at all times, and without Delay; and that he was now in the King's proper Court for Juſtice; wherefore as his Lordſhip had given his own Opinion, ſo he did deſire that every Judge would be pleaſed to deliver theirs ſeverally.

Then Mr. Juſtice *Jones* ſaid, That he was not ready to give any preſent Opinion, there having been ſo much, and ſome things ſo materially ſaid by his Lordſhip: But that for his better Satisfaction, he did deſire to ask his Lordſhip a Queſtion, in a Point which did much ſtick with him, and would go a great way in guiding his Judgment; and he was confident that his Lordſhip was as able to give him an Anſwer to it, as any Man; which was this, His Lordſhip (he ſaid) had been charg'd with Treaſon by an Impeachment, and had pleaded a Pardon to the Impeachment before the Lords; *He ſaid he took that Plea to be a Tacit Confeſſion of Guilt in Law*, (tho' the Party were never ſo innocent) and then it had been *a Tacit Pleading of Guilty*; inſomuch that he did believe, there could be no Admittance of any ſecond Plea; and if ſo, he did confeſs, he did not ſee how that Court could then have any thing to do with his Lordſhip in that Caſe; but it was what he had not well conſidered (tho' at preſent he took the Law to be ſo) and he did deſire to hear what his Lordſhip did ſay to that?

His Lordſhip anſwered, That he gave him great thanks for letting him clear any Objections, and giving him liberty to anſwer them as well as he could. That this indeed was a Queſtion of Law, which he was but little vers'd in, but that he was at preſent able to ſay, That he had read the Opinions of ſome great Men of the Law, to be otherwiſe; and inſtanced what the Lord *Coke* had ſaid upon the Caſe of *Graveſend*, Biſhop of *London*, 7 *E.* 3. who did get a Writ of Diſcharge to the *King's Bench*, and did not take a Pardon; upon which he obſerved the ſaid Lord *Coke* to have ſaid, *That it may be he thought that the taking of a Pardon would*

would have implied a Confeſſion of the Fault, and therefore went a new way; but that was a Miſtake, for that no Man that is wiſe and well adviſed, will refuſe God and the King's Pardon, how often ſo ever he may have it; for there is no Man but offendeth God and the King almoſt every day, and the Pardon is the ſafeſt and ſureſt way.

And tho' at preſent, he ſaid, he was not provided of Precedents in the Caſe, yet he remembred there was a Caſe of a Coiner tried at *Durham* upon a Pardon, where the Pardon proved defective, and yet he was allowed to plead over.

And he told him, That the ſame Queſtion had been moved in the Houſe of Lords upon his own Caſe, where divers Lords had declared themſelves, *That they hoped it ſhould never paſs for Law amongſt them, that a Man ſhould not have one Plea for his Life; and gave for Reaſon, that if a Pardon was pleaded, and not admitted to be good, then the Priſoner had depended upon what he thought had been a good Plea, but was adjudged by the Court not to be ſo, and then if he ſhould not be admitted to plead over, it would be to enſnare a Man's Life, without giving him any Plea at all for it.* And he concluded, ſaying, He thought that this Queſtion was rather going into the Merits of his Cauſe, than to what he only demanded, which was but Bail.

Mr. Juſtice *Dolben* then ſaid, He muſt acknowledge there was a vaſt Difference betwixt his Lordſhip's Caſe, and the Caſe of the Popiſh Lords in the *Tower*, in many material Particulars, which his Lordſhip had mentioned; *and he muſt confeſs that he thought it one of the hardeſt Caſes in* England. He ſaid alſo, that he could not but differ from what his Brother *Jones* had ſaid, as to the not having Liberty to plead over; for that he was of Opinion his Lordſhip ought not to be debarr'd from having a ſecond Plea, if the Pardon ſhou'd be over-ruled; and (if I did not miſtake him) he cited the Inſtance of one *Hetley*'s Caſe (or ſuch a Name) and he ſaid, that his Lordſhip had ſaid ſo many things of great Conſequence, that he thought it did very well deſerve further Conſideration; but if he ſhould be put to give any preſent Anſwer, he muſt then ſay (as my Lord Chief Juſtice had done) that he thought they could not bail his Lordſhip; but he thought it might well deſerve further Conſideration.

Mr. Juſtice *Raymond* then ſaid, That his Lordſhip's Caſe had ſo many weighty Circumſtances in it, as ought to make it to be very well conſidered, before any Opinion could be delivered in it. That for what had been ſaid by his Brother *Jones*, about the Pleading over or not, he thought that did not properly lie before them in that Place; That his Lordſhip had *ſaid ſome things, to which he thought full Anſwers might be given*; but that he had alſo ſaid *ſome things, to which he thought it would not be ſo eaſy to anſwer.* That for his Part, he thought it was a Caſe which might well deſerve the Conſideration of more of the Judges, betwixt this and the next Term; and that he muſt acknowledge he muſt further conſider it, before he would preſume to give any Opinion at all upon it.

A Council at the Bar then moved, That a Rule of Court might be made to bring his Lordſhip thither again, the firſt Day of the next Term.

The Lord Chief Juſtice ſeemed diſpleaſed with the Forwardneſs of that Council; and the Earl of *Danby* excuſed it, ſaying, It was not moved by his Deſire or Directions; but ſaid, That was all alike to him, whether there were any Rule of Court or no; for that they were like to be troubled with him again, and that he ſhould not eaſily give over a Cauſe, wherein he took the Liberty of the Subject in general to be as deeply concern'd as himſelf, and wherein he had found ſo little to be ſaid againſt him, that he did believe he ſhould be as troubleſome to them as ever Judge *Jenkins* had been heretofore in the Defence of *Engliſh* Liberty.

The Lord Chief Juſtice then ſtanding up, ſaid, My Lord, your Lordſhip muſt for the preſent be content to be remanded; and ſpeaking to the Lieutenant of the *Tower*'s Officer, told him, he muſt take back his Priſoner.

And then the Lord Chief Juſtice immediately left the Court.

The Tryals of Robert Green, Henry Berry, *and* Lawrence Hill.

ON *Wedneſday* the 5th of *February*, 1678. *Robert Green*, *Henry Berry*, and *Lawrence Hill*, were brought from His Majeſty's Goal of *Newgate*, to the Bar of the Court of *King's-Bench*, to be Arraigned for the Murder of Sir *Edmund-bury Godfrey*, upon an Indictment found by the Grand Jury for the County of *Middleſex*, on *Monday* the Morrow of the Purification of the Bleſſed Virgin *Mary*; and the Court proceeded thus:

Mr. Juſtice *Wild* Arraign'd the Priſoners.

Clerk of the Crown. Robert Green, hold up thy Hand; *Henry Berry*, hold up thy Hand; *Lawrence Hill*, hold up thy Hand. Which they ſeverally did.

You ſtand Indicted by the Names of Robert Green, *late of the Pariſh of St.* Mary le Strand, *in the County of* Middleſex, *Labourer:* Henry Berry, *late of the ſame Pariſh and County, Labourer: And* Lawrence Hill, *late of the ſame Pariſh and County, Labourer; for that you three, together with* ——— Girald, *late of the ſame Pariſh and County, Clerk;* Dominick Kelly, *late of the ſame Pariſh and County, Clerk; and* Philibert Vernatt, *late of the ſame Pariſh and County, Labourer, who are withdrawn: Not having the Fear of God before your Eyes, but being moved and ſeduced by the Inſtigation of the Devil, the* 12th *day of* October, *in the Thirtieth Year of the Reign of our Sovereign Lord* Charles the Second, *by the Grace of God, of* England, Scot-

Scotland, France *and* Ireland, *King, Defender of the Faith,* &c. *at the Pariſh of St.* Mary le Strand *aforeſaid, in the County of* Middleſex *aforeſaid, in and upon Sir* Edmund-bury Godfrey, *Knight, in the Peace of God, and of our ſaid Sovereign Lord the King, then and there being feloniouſly, voluntarily and of your Malice aforethought, did make and aſſault; and that thou the aforeſaid* Robert Green, *a certain Linen Handkerchief of the value of Six-pence, about the Neck of the ſaid Sir* Edmund-bury Godfrey, *then and there feloniouſly, wilfully, and of thy Malice aforethought, didſt fold and faſten; and that thou the ſaid* Robert Green, *with the Handkerchief aforeſaid, by thee the ſaid* Robert Green, *in and about the Neck of the ſaid Sir* Edmund-bury Godfrey, *in manner and form aforeſaid, folded and faſtned then and there him the ſaid Sir* Edmund-bury Godfrey, *didſt choak and ſtrangle, of which ſaid choaking and ſtrangling of him the ſaid Sir* Edmund-bury Godfrey, *in manner and form aforeſaid, he the ſaid Sir* Edmund-bury Godfrey *then and there inſtantly died: And that you the ſaid* Henry Berry *and* Lawrence Hill, *together with the ſaid* —— Girald, Dominick Kelly, *and* Phillibert Vernatt, *then and there feloniouſly, voluntarily, and of your Malice aforethought, were preſent, aiding, abetting, comforting and maintaining the aforeſaid* Robert Green, *the aforeſaid Sir* Edmund-bury Godfrey *in manner and form aforeſaid, feloniouſly, voluntarily, and of his Malice aforethought, to kill and murder; and ſo you the ſaid* Robert Green, Henry Berry, *and* Lawrence Hill, *together with the ſaid* —— Girald, Dominick Kelly, *and* Phillibert Vernatt, *in manner and form aforeſaid, the aforeſaid Sir* Edmund-bury Godfrey, *feloniouſly, wilfully, and of your Malice aforethought, did kill and murder, againſt the Peace of our Sovereign Lord the King, his Crown and Dignity.*

How ſay'ſt thou, *Robert Green,* art thou guilty of this Felony and Murder whereof thou ſtandeſt Indicted, and haſt been now Arraigned, or not guilty?

Green. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be Tryed?

Green. By God and my Country.

Cl. of the Crown. God ſend thee a good Deliverance. How ſay'ſt thou, *Henry Berry,* art thou guilty of the Felony and Murder whereof thou ſtandeſt Indicted, and haſt been now Arraigned, or not guilty?

Berry. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be Try'd?

Berry. By God and my Country.

Cl. of the Cr. God ſend thee a good Deliverance. How ſay'ſt thou, *Lawrence Hill,* art thou guilty of the Felony and Murder whereof thou ſtand'ſt Indicted, and haſt been Arraign'd, or not guilty?

Hill. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be Try'd?

Hill. By God and my Country.

Cl. of the Cr. God ſend thee a good Deliverance.

Capt. Richardſon. I deſire to know when they muſt be brought up to be Try'd?

Mr. Juſt. Wild. Upon *Friday* next.

Cl. of the Crown. You ſhall have a Rule to bring them up on *Friday.*

But on Thurſday *the* 6th *of* February, *Mr. Attorney-General mov'd the Court that it might be defer'd till* Monday, *that the King's Evidence might be the more ready; which was granted accordingly.*

On *Monday* the 10th of *February,* 1678, the ſaid *Robert Green, Henry Berry,* and *Lawrence Hill,* were brought again to the Bar for their Trial, which proceeded as followeth.

Clerk of the Cr. Make Proclamation.

Cryer. O Yes.

Clerk of the Cr. Again, Again.

Cryer. O Yes! O Yes! Our Sovereign Lord the King doth ſtraightly Charge and Command all manner of Perſons to keep ſilence upon pain of Impriſonment.

Clerk of the Cr. Make an O *Yes.*

Cryer. O Yes! If any one can inform our Sovereign Lord the King, the King's Serjeant at Law, the King's Attorney-General, or this Inqueſt now to be taken of the Felony and Murder whereof *Robert Green, Henry Berry,* and *Lawrence Hill,* the Priſoners at the Bar, ſtand Indicted, let them come forth and they ſhall be heard, for now the Priſoners ſtand at the Bar upon their Delivery. And all others that are bound by Recognizance to give Evidence againſt the Priſoners at the Bar, let them come forth and give their Evidence, or elſe they forfeit their Recognizance.

Clerk of the Cr. Robert Green, hold up thy Hand; *Henry Berry,* hold up thy Hand; *Lawrence Hill,* hold up thy Hand. Which they ſeverally did.

Thoſe good Men that you ſhall hear call'd, and perſonally appear, are to paſs between our Sovereign Lord the King and You, upon Trial of your ſeveral Lives and Deaths: If therefore You, or any of You, will challenge Them, or any of Them, your time is to ſpeak unto them when they come to the Book to be Sworn, and before they are Sworn. Cryer, Make an O *Yes.*

Cryer. O Yes! You good Men that are Impannel'd to enquire between our Sovereign Lord the King, and *Robert Green, Henry Berry,* and *Lawrence Hill,* the Priſoners at the Bar, anſwer to your Names, and ſave your Iſſues.

Cl. of the Cr. Sir *William Roberts.*

Cryer. Vouz avez, Sir *William Roberts.*

Cl. of the Cr. Sir *William Roberts,* to the Book.

Cryer. Sir *William Roberts,* look upon the Priſoners: You Priſoners look upon the Jury. You ſhall well and truly Try, and true Deliverance make, between our Sovereign Lord the King and the Priſoners at the Bar, whom you ſhall have in Charge, and a true Verdict give according to your Evidence. *So help you God.*

And the ſame Oath was adminiſtred to the reſt, and their Names were as follow:

Sir *William Roberts,* Baronet.
Sir *Richard Fiſher,* Bar.
Sir *Michael Heneage,* Knight.
Sir *Thomas Bridges,* Knight.
William Avery, Eſq;
Charles Humphrevile, Eſq;
John Bathurſt, Eſq;
Richard Gowre, Eſq;
Thomas Henſlowe, Eſq;
John Sharpe, Eſq;
John Haynes, Eſq; and
Walter Moyle, Eſq;

Cl. of the Cr. Cryer, count theſe. Sir *William Roberts.*

Cryer. One, *&c.*

Cl. of the Cr. Walter Moyle.

Cryer. Twelve, Good Men and true, ſtand together, and hear your Evidence. Gentlemen, are you all Sworn? And you that are not Sworn, pray withdraw.

The ſtanding-place for the Jury being ſo throng'd, that thoſe who were ſworn had not room to ſtand together, the Clerk of the Crown was order'd to make Proclamation thus:

Cl. of the Cr. Cryer, make Proclamation.

Cryer.

Cryer. O Yes, My Lords the Kings Juſtices, doth ſtraitly charge and command all Perſons, that are not of the Jury, to withdraw forthwith, upon pain of one hundred Pounds a Man.

Clerk of the Cr. Robert Green hold up thy Hand; *Henry Berry*, hold up thy Hand; *Lawrence Hill*, hold up thy Hand. Which they ſeverally did.

Gentlemen, You that are ſworn look upon the Priſoners, and hearken to their Charge: You ſhall underſtand, that they ſtand Indicted by the Names of *Robert Green*, late of the Pariſh of *St. Mary le Strand* in the County of *Middleſex*, Labourer; *Henry Berry* late of the ſame Pariſh and County, Labourer; and *Lawrence Hill* late of the ſame Pariſh and County, Labourer; for that they, together with, *&c. (as before)* againſt the Peace of our Sovereign Lord the King, his Crown and Dignity. Upon this Indictment they have been arraigned, they have thereunto ſeverally pleaded *Not Guilty*, and for their Trials have ſeverally put themſelves upon God and their Country, which Country you are. Your Charge is to enquire, whether the Priſoners at the Bar, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, or any of them, are guilty of the Felony and Murder, whereof they ſtand Indicted, or not guilty and for them which you ſhall find guilty, you ſhall inquire what Goods or Chattels, Lands or Tenements, they had at the time of the Felony Committed, or at any time ſince. If you find them, or any of them, not guilty, you ſhall enquire, whether they, or any of them, that you find ſo not guilty, fled for the ſame; if you find, that they or any of them fled for the ſame, you ſhall enquire of their Goods and Chattels, as if you had Found them guilty: But, If you find them, nor any of them, not guilty, nor that they did fly for it, ſay ſo and no more, and hear your Evidence. Cryer make Proclamation.

Cryer. O Yes! If any one will give evidence on half of our Sovereign Lord the King, againſt *Robert Green*, *Henry Berry*, and *Lawrence Hill*, the Priſoners at the Bar, let them come forth and they ſhall be heard.

Then Sir *Thomas Stringer*, Serjeant at Law of Council with the King in this Cauſe, opened the Indictment thus;

Mr. Serjeant Stringer. May it pleaſe your Lordſhip, and you Gentlemen of this Jury, The Priſoners at the Bar, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, ſtand Indicted for that they, with one *Girald* a Prieſt, one *Kelly*, and one *Vernatt*, did the twelfth of *October* laſt, at the Pariſh of *St. Mary le Strand* in this County, felonioufly, willfully, and of their malice aforethought, aſſault the Perſon of Sir *Edmond-bury Godfrey*, Kt. and that the Priſoner, *Robert Green*, did put about the Neck of the ſaid Sir *Edmond-bury* a twiſted Handkerchief, and did with that twiſted Handkerchief ſo choak and ſtrangle the ſaid Sir *Edmond-bury*, that he immediately died, and that the other Priſoners, *Henry Berry*, and *Lawrence Hill*, with the other Perſons *Girald*, *Kelly*, and *Vernatt*, were aiding and aſſiſting the ſaid *Robert Green* to Murder the ſaid Sir *Edmundbury*, and ſo the Priſoners at the Bar, with the ſaid other Perſons, the ſaid Sir *Edmondbury Godfrey*, did kill and murder againſt the Kings Peace, his Crown and Dignity. To this they have pleaded not guilty, and for their Trial have put themſelves upon their Country, which Country you are. If we prove them, or any of them guilty, you are to find it ſo.

Then Sir *William Jones*, his Majeſty's Attorney General, opened the Evidence in this manner,

Mr. Attorney General. May it pleaſe your Lordſhip, and you Gentlemen of this Jury, the Priſoners who ſtand now at the Bar, are Indicted for Murder. Murder, as it is the firſt, ſo is it the greateſt Crime, that is prohibited in the Second Table. It is a Crime of ſo deep a ſtain, that nothing can waſh it away but the Blood of the Offender, and unleſs that be done, the Land in which it is ſhed, will continue polluted. My Lord, as Murder is always a very great Crime, ſo the Murder which is now to be try'd before your Lordſhip, is, it may be the moſt heinous and moſt barbarous that ever was committed. The Murder was committed upon a Gentleman, and upon a Magiſtrate, and I wiſh he had not therefore been murdered, becauſe he was a Proteſtant Magiſtrate.

My Lord, I will not ſpend much of your time in making my Obſervations before hand, becauſe I muſt in this Caſe crave leave to do it in the concluſion of the Evidence. For I, that have made a ſtrict Examination into this matter, do find, that I ſhall better ſpend my time in making Obſervations, and ſhewing how the Witneſſes do agree, after the Evidence given, than before. Therefore my Lord, I ſhall at preſent only make a ſhort Narrative of the fact, to ſhew you the courſe of our Evidence, that it may be the better underſtood and remembred by the Jury.

My Lord, Upon the diſcovery of the late horrid Plot ——

Lord Chief Juſtice, (Sir *William Scroggs.*) And preſent Plot too, Mr. Attorney: But pray go on.

Mr. *Attorney General.* If your Lordſhip pleaſe, you may call it ſo, for 'tis to be feared they have not yet given it over: But upon the diſcovery of that Plot (call it late or preſent) Sir *Edmond-bury Godfrey* (whom I ſuppoſe, the Jury all knew, and every Man, that lived thereabouts, muſt needs remember to have been a very uſeful and active Juſtice of the Peace) had taken ſeveral Examinations about this Matter, and perhaps ſome more than now are extant: (but we have proof he had ſome) and was very induſtrious in finding out the principal Actors in this Plot, among whom, ſome Prieſts and Jeſuits foreſeeing their own danger, and likewiſe the overthrow of a deſign which they had been ſo long in contriving, they had ſeveral Conſultations how to prevent the diſcovery. And as they are men, who never ſtick at Blood but rather account it meritorious to ſhed it, though never ſo unjuſtly, when their Intereſt may be profited by it, they did reſolve to ſecure themſelves and their deſign by taking away the Life of this Gentleman. In order thereunto they had ſeveral meetings, and the place of their meeting, you will find by the Evidence, to be at the *Plow*-Alehouſe, and there they did conſult how to take away the Life of Sir *Edmund-bury Godfrey*. And they made ſeveral attempts to do it: one while they dogg'd him into the Fields, another while they ſent People to ſpy when he came abroad, that they might follow him into ſome dark Alley, or other obſcure or unfrequented Place, and there diſpatch him; and at laſt, after many attempts, they ſucceeded in that wicked one, when the Murder was committed.

My Lord, There are contained in this Indictment ſix Offenders, all Principals, three of them, I think, are Prieſts, or at leaſt two of them are ſo, that is, Father *Girald* an *Iriſh*-man, Father *Kelly*

Kelly likewise of the same Nation, and one *Vernatt* whether a Priest or Layman, I know not. These Priests (as they are always the first that contrive mischief, so they are always the first that fly punishment) have taken care for themselves and run away, and left their blind followers, the Prisoners at the Bar, whom they had drawn into this bloody act, alone to answer for it.

The Day, when this murder was committed, was *Saturday* the 12th of *October* last; and I must desire your Lordship to take notice of the Day, for upon that much of the Evidence will depend. And we shall prove, that as they did before send several times to Sir *Edmund-bury Godfrey's* House to get intelligence of his going abroad, so this very Day in the morning, *Hill*, one of the Prisoners at the Bar, came to his house upon pretence of business with him; and as we guess, and have reason to believe, to learn whither he went that day: *Green* (another of the Prisoners) had been there before on the same errand. And so much we shall prove to you by the People of the House, Sir *Edmund-bury Godfrey* happened about Noon, or some time in the Afternoon of the same Day (as we have it by the confession of one of the Parties) to be at an House near St. *Clement's* Church, where these murtherers had notice he was, and had prepared a Trap for him as he came back. They had appointed men to watch him and give them notice when he did come back, and whatever his business was at the House that he was in (for it cannot yet be known) he staid there till about seven or eight a Clock at Night: And your Lordship knows that at that time of the Year it is then dark, He coming from about St. *Clement's* Church towards his own House near *Charing-Cross*, notice was given to the Murderers of his approach near to *Somerset-House*. And thus they had laid their Bloody Contrivance: Some of them were appointed to meet him at the Back-Gate of *Somerset-House*, and to inform him that there was a Quarrel in the Yard, and He being a Man always careful to keep the Peace and punish them that broke it, they thought it a very apt means to train him into the Yard. And when he came near the Back-Gate they did accordingly acquaint him that Two of the Queen's Servants were fighting in the Yard, and that they needed his Presence to part and quiet them. He, at first, thought it might be but some ordinary idle Scuffle, and was not willing to go down, but being very much importun'd by them, down he went, thro' the Back-Gate into the Yard, where were indeed two Men Scuffling together, but counterfeitly; the one was *Berry*, the Prisoner here; the other was *Kelly*, the Priest that is run away. And when Sir *Edmund-bury Godfrey* was come, and within their reach, then, as it was before contrived, the Fray of it self ended, and *Berry* goes to the lower Water-Gate, and Mr. *Praunce* (who was in that foul fact, but hath since repented, and hath made this discovery) to the Upper-Gate, to keep back any casual Passengers for a little while, till such time as the Murder was over.

My Lord, Things being thus prepared, whilst Sir *Edmund-bury Godfrey* stood still, or was returning, having no more to do there, after the Scuffle was thus appeased, *Green* one of the Prisoners, coming behind him, puts a Cravat, or a Twisted Linen Cloth, (which he had ready for the purpose) about his Neck. And he, *Hill*, and those Holy Fathers *Girald* and *Kelly* (with great veneration be it spoken, for Men of their Order to stain their Hands with the Blood of an Innocent Gentleman, and that in so treacherous a manner) All set upon him, and very manfully, being Four upon one, and he altogether surprised, threw him down and Strangled him. And this was done (as it is easie to imagine) without much Noise; so that I doubt not but many that were near the Place might be ignorant of it and did not hear it.

My Lord, Tho' the thing was done with a great Zeal, and a very good Will to dispatch him, yet it so happen'd, that when Mr. *Praunce* came back from keeping Sentinel at the Gate, there was some Life left in Sir *Edmund-bury Godfrey*, he did stir his Feet, and thereby they perceived that he was not quite dead. But to make thorough Work with him, *Green* (who begun, and was to give an accomplishment to this bloody Fact) takes hold of his Head and twists his Neck round, and stamps upon his Breast, the Marks of which outragious Cruelty did plainly appear in his Body after it was found.

My Lord, After they had thus kill'd him, *Girald* the Priest thought he was not yet dead enough, and was very willing to run him through with Sir *Edmund-bury's* own Sword, but that was not liked by the rest, lest it might be discovered by a great effusion of Blood in that place: and so they forbore it for that time. Having thus dispatch'd him, they remov'd him to the Chamber of *Hill*, where they kept him some time, and after that to another Chamber. I will not be particular herein because the Witness will give the best account of it. But after some time, (I desire it may be observed) 'twas on *Monday* Night (two Nights after the Fact was committed) they brought him into another Room and laid him there, with a Cloak thrown over him. And I mention this last so particularly, because he then happened to be seen by another Witness here present, who concurs as to his lying there dead, and that he saw him by the help of a Dark-Lanthorn, of which, and other Circumstances, I shall have occasion to make use hereafter.

My Lord, After he had lain in *Somerset-House* some Days, they thought it was high time to remove him, or rather to expose him: for having now kill'd him, they did endeavour to kill his Reputation, and lay the blame of this foul Murder upon this Innocent Gentleman, as if he had killed himself: And on *Wednesday* Night, which by computation was the 16th of *October*, they carried him out of *Somerset-House* in this manner: *Hill* having late in the Night procured a Sedan, they made a shift, by bending the Body to a fit Posture, to crowd him into it, and *Berry*, one of the Murderers and Porter of *Somerset-House*, was of all Men most proper to help them out with Privacy; and therefore it was agreed between them, that whenever a Man should come before and make an Hem, it should be a sign to *Berry* to open the Gate. And, my Lord, having put him into the Sedan, Mr. *Praunce* and *Girald* first carried him out in it to *Covent-Garden*, and there they rested, (being something wearied with their Burthen) and two more supplied their rooms, and carried him to *Long-Acre*. Then *Girald* and *Praunce* took him up again and carried him to the *Grecian* Church near *Soho*: And when they had him there, they got an Horse ready and mounted him upon it, and *Hill* was set behind him to hold him up; by which means they carried him to the place where he was found; and there, to accomplish the last part of their Design, which was to murder his Reputation, after they had killed his Body, they took

his own Sword and run him thro', and left him in such a manner, as that (according to the Weakness of their Understanding) the World should conclude he had killed himself. In that Condition was the Gentleman found. I have but little more at present to trouble you with, and that shall be to shew you what the Murtherers did after they had committed this Fact. They gave an Account of it the next morning to Mr. *Praunce*, who went no further than the Sedan went, which was to the *Grecian* Church: And the Priests were so far from any Remorse, and had so little of Humanity, (I believe there is none can think they had much of Divinity) that they did, in a Paper, set down a Narrative of this heroick Act: And I doubt not, but by this time it is sent to *Rome*, where it finds as great Approbation, and causes as great Joy as their other Acts of a like Nature have heretofore done. Some Days after the Fact was done, and to their everlasting Honour, thus by themselves recorded, some of these Priests had a meeting at the *Queen's-Head* at *Bow*, and there was the Paper produced and read; at which they were very merry, and were so loud, that some of the House overheard them; and do yet remember, that they read, and were merry at, a Paper which concern'd Sir *Edmund-bury Godfrey*.

My Lord, This will be the Course of our Evidence, and tho' your Lordship and the Jury will easily believe that most of these Particulars must arise from one who was Party to the Fact, yet, my my Lord, I will undertake, before I have done, so to fortify almost every Particular he delivers, with a concurrent Proof of other Testimony, and the Things will so depend upon one another, and have such a Connexion, that little Doubt will remain in any Man's Mind, that is come hither without Prepossession, but that Sir *Edmund-bury Godfrey* was murthered, at *Somerset-House*, and that the Persons who stand now Indicted for it were the Murtherers.

Mr. Recorder. My Lord, if your Lordship pleases, according as Mr. *Attorney* hath opened it, we desire we may call our Witnesses, and first we will call Mr. *Oates*.

Cryer. Mr. *Oates*, lay your Hand on the Book. The Evidence you shall give for our Sovereign Lord the King, against *Robert Green*, *Henry Berry*, and *Lawrence Hill*, the Prisoners at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth. So help you God.

Mr. Sol. Gen. (Sir *Francis Winnington*.) Pray, Mr. *Oates*, will you give my Lord and the Jury an Account what Transactions there were between you and Sir *Edmund-bury Godfrey*, and that, my Lord, is all we call him for.

Mr. Att. Gen. My Lord, I call this Gentleman to prove, what Examinations Sir *Edmund-bury Godfrey* had taken, and what was his own Opinion of himself about them.

L. C. J. Mr. *Attorney*, I suppose the Use you make of it is this, to shew, that that might be one of the Motives to these Persons to do this Act, because he was forward in the Discovery of their Plot.

Mr. Att. Gen. It is so, my Lord; and that it was his Opinion himself that he should have some Mischief from them for it.

L. C. J. Come, Mr. *Oates*, pray tell your Knowledge.

Mr. *Oates*. My Lord upon the 6th of *September* last, I did go before Sir *Edmund-bury Godfrey*, and there, upon Oath, gave in several Depositions, and after that I had made Oath of those Depositions, we took the Record along with us home again. And on the 28th of *September*, after we had taken two or three Copies of this Record, we went before Sir *Edmund-bury Godfrey* again, and Swore all the Copies we had taken, and so made them Records. My Lord, after that, the Business was made known to the Council by my self, and upon *Monday*, Mr. *Godfrey* came to me, which was, I think, the 30th of *September*, and did tell me, what Affronts he had received from some great Persons, (whose Names I name not now) for being so zealous in this Business. And, my Lord, he told me, That others, who were well inclin'd to have the Discovery made, did think that he had not been quick enough in the Prosecution, but had been too remiss, and did threaten him, that they would complain to the Parliament, which was to sit the 21st of *October* following. My Lord, that Week before Sir *Edmund-bury Godfrey* was missing, he came to me, and told me, that several Popish Lords, some of whom are now in the *Tower*, had threatned him, and asked him what he had to do with it. My Lord, I shall name their Names when time shall come. My Lord, this is all I can say, He was in a great Fright, and told me, he went in fear of his Life, by the Popish Party, and that he had been dogg'd several Days.

Mr. Att. Gen. Did he tell you that he was dogg'd?

Mr. *Oates*. Yes, he did; and I did then ask him, why he did not take his Man with him, he said, he was a poor weak Fellow: I then ask'd him why he did not get a good brisk Fellow to attend him? but he made no great Matter of it, he said, he did not fear them, if they came fairly to work; but yet he was often threatned, and came sometimes to me to give him some Encouragement, and I did give him what Encouragement I could, That he would suffer in a just Cause, and the like: but he would often tell me, he was in continual Danger of being hurt by them.

Mr. Att. Gen. We desire Mr. *Robinson* may be sworn. Which was done accordingly.

Mr. Recorder. Pray, Sir, will you tell the Court and the Jury, what Discourse you had with Sir *Edmund-bury Godfrey*, and what Apprehensions he had concerning this Business.

Tho. Robinson, Esq; (Chief Prothonotary of the Court of Common-Pleas.) My Lord, Sir *Edmund-bury Godfrey* and I were of a very ancient Acquaintance for above forty Years; we were bred up together at *Westminster*-School, and continued in that Acquaintance all along, except in the Times of the War, and were for many Years together in Commission for the Peace, both for this County and this City. We met at the Quarter-Sessions for *Westminster*, the 7th of *October*, which was *Monday*, as I take it, and meeting there, we went, after the Court was up, and Dined with the Head-Bailiff, as the Custom is; where Sir *Edmund-bury Godfrey* and I did discourse several things about this Plot; I said to Sir *Edmund-bury Godfrey*, I understand you have taken several Examinations about this Plot, that is now made publick: Truly, said he, I have; but I think I shall have little Thanks for my Pains, or some such Words: Saith he, I did it very unwillingly, and would fain have had it done by others. Why, said I, you did but what was your Duty to do, and it was a very good Act: pray, Sir, have you the Examinations about you, will you please to let me see them? No, I have them not, said he; I delivered them to a Person of Quality; but as soon as I have them, you shall see them.

them. But, said I, I should be very glad to understand, Sir *Edmund-bury*, that the depth of the Matter were found out. I am afraid, said he, of that, that it is not; but discoursing further, he said to me, *Upon my Conscience, I believe I shall be the first Martyr.* Why so, said I, are you afraid? No, said he, I do not fear them, if they come fairly, and I shall not part with my Life tamely. Why do not you go with a Man, said I, if you have that Fear upon you? Why, said he, I do not love it, 'tis a Clog to a Man. But, said I, you should do well to keep a Man; I observe you never go with one.

Mr. Att. Gen. But did he tell you, Sir, that he did believe he should be the first Martyr?

Mr. *Robinson.* Yes, he did say, Upon his Conscience, he did believe, he should be the first Martyr: and this is all I can say of this Business.

Mr. Att. Gen. Then, if your Lordship please, we will, in the next place, call Mr. *Praunce*, who was drawn in to be present at this Business, and who knew of all the Fact, and will give you an Account of the whole Matter.

Then Mr. *Praunce* was Sworn.

Mr. Att. Gen. Pray, Sir, begin at the very Beginning; the Meetings you had at the *Plow-Alehouse*, and the sending to Sir *Edmund-bury*'s House, and all the Story.

L. C. J. Mr. *Praunce*, Pray tell us the first Motives that were used to you to do this Thing, and the first Time it was mentioned; who they were that first mentioned it, and where.

Mr. *Praunce.* My Lord, it was about a Fortnight or three Weeks before he was murdered, we met several Times at the *Plow-Alehouse.*

L. C. J. With whom?

Mr. *Praunce.* With Mr. *Girald*, Mr. *Green*, and Mr. *Kelly*. *Girald* and *Kelly* did intice me in, and told me it was no Sin.

Mr. Recorder. *Girald* and *Kelly* did?

Mr. *Praunce.* Yes, *Girald* and *Kelly.*

Mr. Reccorder. What are they?

Mr. *Praunce.* Two Priests: And they said, it was no Sin, it was a charitable Act: They said he was a busy Man, and had done, and would do a great deal of Mischief, and it was a Deed of Charity to do it; and so they told the rest besides.

Mr. Att. Gen. Where was it they said thus?

Mr. *Praunce.* They said it at the *Plow*, and by the Water-side.

Mr. Recorder. Well said, how long was it before he died?

Mr. *Praunce.* A Week or a Fortnight before he was murdered, and *Green*, *Hill*, and *Girald* met there together.

Mr. Att. Gen. What Discourse had you then?

Mr. *Praunce.* There they resolved, that the first that could meet with him should give notice to the rest to be ready, and so in the Morning, when they went out on *Saturday* ——

Mr. Att. Gen. But before you come to that, do you know of any dogging of him into the Fields?

Mr. *Praunce.* Yes, it was before that, I heard them say, they would, and had dogged him into the Fields.

L. C. J. Who did you hear say so?

Mr. *Praunce.* *Girald*, *Kelly*, and *Green.*

Mr. Att. Gen. That *Green* is one of the Prisoners.

Mr. Recorder. Which way did they dog him? what Fields?

Mr. *Praunce.* *Red-Lyon-Fields*, and those by *Holbourn.*

Mr. Att. Gen. Why did they not kill him there?

Mr. *Praunce.* Because they had not Opportunity.

Mr. Att. Gen. Do you know of any sending to his House, or going to it?

Mr. *Praunce.* One Time I do know of, and that was *Saturday*-morning, Mr. *Kelly* came to give me notice, that they were gone abroad to dog him; and afterwards they told me, that *Hill* or *Green* did go to his House and ask for him, but the Maid told him, he was not up, and then went away, and said he would call by and by.

Hill. What time was that in the morning?

Mr. *Praunce.* It was about nine or ten a Clock in the morning.

Hill. And had we been there before or after?

Mr. *Praunce.* You had been there before.

Mr. Recorder. Pray stay till such time as we have done with our Evidence, you shall have all free Liberty to ask him any Question; but you must stay till we have done.

Mr. *Praunce.* As soon as they heard he was within, they came out and staid for his coming out, and dogg'd him.

L. C. J. Did all three of them go to his House?

Mr. *Praunce.* No, my Lord.

L. C. J. Who was it did go?

Mr. *Praunce.* Only one, either *Hill* or *Green.*

L. C. J. How do you know that?

Mr. *Praunce.* They told me so themselves, for they came to give me Notice.

L. C. J. Who told you so?

Mr. *Praunce.* It was *Girald* and *Green* both.

L. C. J. Did *Green* tell you that he had been there?

Mr. *Praunce.* He told me one of them, but I am not certain which. And so, my Lord, after that, when he came out they dogg'd him that Day up and down.

Mr. Justice *Jones.* Who dogg'd him?

Mr. *Praunce.* *Girald*, *Green*, and *Hill* dogg'd him into St. *Clements*; and about seven a Clock, *Green* came and gave me notice, that he was at St. *Clements*, and I came to *Somerset-House* as fast as I could.

L. C. J. Where were you?

Mr. *Praunce.* At my own House.

L. C. J. How far did you live from *Somerset-House*?

Mr. *Praunce.* I lived in *Princes-street*, not far from *Somerset-House.*

Mr. Recorder. Who was it gave you notice?

Mr. *Praunce.* It was *Green.* He told me, that *Girald* and *Kelly* were watching him, and that he was at St. *Clements.*

L. C. J. Where was he?

Mr. *Praunce.* At St. *Clements*, my Lord.

L. C. J. Where there?

Mr. *Praunce.* I was not there; they told me so, and no more: and about eight or nine a Clock, *Hill* came before, up the Street, and gave us notice that we must be ready. And so, my Lord, as soon as *Hill* had given us notice, he went up to the Gate, and staid there till Sir *Edmund-bury Godfrey* came by, and then told him, there were two Men a quarrelling, and desired him to come and try whether he could pacify them; he was very unwilling. But pray, Sir, saith *Hill*, you being a Justice of the Peace, may qualify them; and so he went down till he came to the bottom of the Rails; and when he came to the bottom of the Rails, *Green* twisted his Handkerchief, and threw it about his Neck, and threw him behind the Rails, and there throttled him, and punched him, and then

Girald would have thrust his Sword through him, but the rest would not permit him, for fear it should discover them by the Blood. And about a quarter of an Hour after, I came down, and found he was not quite dead; for I laid my Hand upon him, and his Legs totttered and shook, and then *Green* wrung his Neck quite round.

Mr. Att. Gen. Who was it that took him by the Neck?

Mr. *Praunce.* It was *Green*, my Lord.

L. C. J. Did you see him?

Mr. *Praunce.* No, but he did tell mè afterwards that he did it.

L. C. J. Who, *Green* himself?

Mr. *Praunce.* Yes, my Lord, for he boasted of it.

Mr. Att. Gen. Pray what did he do to him besides?

Mr. *Praunce.* He punch'd him with his Knee.

L. C. J. Did you see him do this? how do you know he did it?

Mr. *Praunce.* He and the rest told me so afterwards.

L. C. J. Where were you, at that time that the Handkerchief was twisted about his Neck?

Mr. *Praunce.* As soon as I came down I went towards the Gate.

L. C. J. Who ordered you to stand at the Gate?

Mr. *Praunce.* It was *Hill.*

Mr. Serj. *Stringer.* You watch'd the Water-Gate, who watch'd the Stairs?

Mr. *Praunce.* That was *Berry.*

Mr. Recorder. Pray give an Account what they did afterwards.

Mr. *Praunce.* Why afterwards——

Mr. Att. Gen. Who told you that *Green* twisted his Neck?

Mr. *Praunce.* All spoke of it.

Mr. Att. Gen. Did *Hill?*

Mr *Praunce.* Yes, he and the rest.

Mr. *Att. Gen.* How came you to understand that he punch'd his Breast?

Mr. *Praunce. Green* spoke of it himself, and so did the others.

Mr. Att. Gen. Who were about his Body when you came down to the Gate?

Mr. *Praunce.* All Four.

Mr. Att. Gen. Name them.

Mr. *Praunce. Hill, Green, Girald* and *Kelly.*

Mr. Att. Gen. Was *Berry* there?

Mr. *Praunce.* He came to them a while after.

Mr. Att. Gen. When?

Mr. *Praunce.* Before they carried him into the House.

Mr. Att. Gen. How can you tell that?

Mr. *Praunce.* Because he help'd them to carry him in.

Mr. Sol. Gen. Where was *Berry* before they carried him into the House?

Mr. *Praunge.* He was about the Stairs.

Mr. Recorder. Who was it that carried him up into the Room?

Mr. *Praunce.* We all did.

Mr. Recorder. Pray name all that were in the Company.

Mr. *Praunce.* There was *Girald, Green, Hill, Kelly, Berry,* and I.

Mr. Att. Gen. Who set their Hands to do it?

Mr. *Praunce.* We all did help; *Hill* went before and opened the Door, and we carried him into the Room.

Mr. Att. Gen. Whose Room was that?

Mr. *Praunce.* It was a Chamber of *Hill's*, in Dr. *Godwin's* House.

Mr. Recorder. Was *Hill Godwin's* man?

Mr. *Praunce.* Yes, he had been.

Mr. Just. *Jones.* Did *Berry* help to carry him in?

Mr. *Praunce.* Yes, *Berry* did.

Mr. Serj. *Stringer.* Was there any Discourse of a Sword to be thrust thro' him at that time?

M. *Praunce.* Yes, *Girald* said he would thrust a Sword thro' him, but they would not let him, for fear of Discovery.

Mr. Att. Gen. What became of the Body?

Mr. *Praunce.* It lay there till *Monday* Night, and on *Monday* it was removed into *Somerset-House*, and upon *Monday* Night *Hill* did shew me it with a dark Lanthorn.

Mr. Att. Gen. Who were in the Room then?

Mr. *Praunce. Girald*, and *Hill*, and *Kelly*, and all were there. And on *Tuesday* Night it was brought back again: Mr. *Hill* would have carried him into his own Lodging.

L. C. J. Whither did they carry him on *Monday* Night?

Mr. *Praunce.* Into *Somerset-House.*

Mr. Just. *Wild.* Is not *Hill's* Chamber in *Somerset-House?*

Mr. Serj. *Stringer.* Describe the Room, Mr. *Praunce*, as well as you can.

Mr. *Praunce.* I am not certain of the Room, and so cannot describe it.

Mr. Just. *Wild.* But was not *Hill's* Chamber in *Somerset-house?*

Mr. *Praunce.* 'Tis in the lower part of the House in a Court.

Mr. Att. Gen. When you saw him in this Room, pray, what was thrown over him?

Mr. *Praunce.* There was something, I cannot tell what; for I durst not stay long there.

Mr. Just. *Dolben.* What Light was there?

Mr. *Praunce.* Only a Dark Lanthorn.

Mr. Att. Gen. Who carried it?

Mr. *Praunce. Hill* carried it.

Mr. Just. *Dolben.* Are you sure you saw the Body there?

Mr. *Praunce.* Yes, I am certain of it.

Mr. Att. Gen. What became of it after that?

Mr. *Praunce.* On *Tuesday* Night it was carried to *Hill's*, the Chamber where he was first brought after he was murdered; but there was some body there, and so they could not carry it into the Room, but they carried him to a Room just over against, I think they were Sir *John Arundell's* Lodgings, I can't tell. There it lay till *Wednesday* Night, and about nine a Clock on *Wednesday* Night they were removing the Body into the Room where it first lay; and I happened to come as they were removing it, and they were affrighted, and run away: But I spoke, and *Berry* came back again, and got the Body up into the Room, and about Twelve a Clock they carried it away in the Sedan.

Mr. Att. Gen. Who brought the Sedan?

Mr. *Praunce. Hill* did.

Mr. Att. Gen. Who put him into it?

Mr. *Praunce.* We all set our Hands to it.

Mr. Att. Gen. Who carried him out first?

Mr. *Praunce.* I and *Girald.*

Mr. Att. Gen. Out of which Gate?

Mr. *Prannce.* The Upper-Gate of the Upper-Court.

Mr. Att. Gen. How came you to have the Gate opened?

Mr. *Praunce. Berry* opened it.

Mr. Att. Gen. How came he to open it?

Mr. *Praunce.* Some Body hem'd, and that was the Sign.

Mr. Att. Gen. Who was it that carried the Sedan firſt?

Mr. *Praunce.* I and *Girald.*

Mr. Att. Gen. Who went before?

Mr. *Praunce.* *Green* and *Kelly.*

Mr. Recorder. How far did you carry him?

Mr. *Praunce.* Into *Convent-Garden*; and there we reſted.

Mr. Att. Gen. And who took him up then?

Mr. *Praunce.* *Green* and *Kelly.*

Mr. Att. Gen. How far did they carry him?

Mr. *Praunce.* They carried him to *Long-Acre.* Then we took him up, and carried him to *So-ho* Church, and there *Hill* met us with an Horſe, and we help'd the Body up.

Mr. Att. Gen. Who was it that rid behind him?

Mr. *Praunce.* It was *Hill.*

Mr. Att. Gen. What did you do with your Sedan?

Mr. *Praunce.* We ſet it in a new Houſe till we came back again.

L. C. J. You ſay you ſaw him on Horſeback?

Mr. *Praunce.* Yes, my Lord, I did.

L. C. J. How, in what Poſture?

Mr. *Praunce.* Aſtride, his Leggs were forced open, and *Hill* held him up.

Hill. Did I hold him?

Mr. *Praunce.* Yes, you did.

L. C. J. Did the others go with him?

Mr. *Praunce.* Yes, my Lord.

L. C. J. Who did go with him?

Mr. *Praunce.* *Green, Hill, Girald* and *Kelly.*

Mr. Att. Gen. Pray, will you tell my Lord and the Jury, what Account they gave you the next Morning, concerning the Body, and how they had diſpoſed of it.

Mr. *Praunce.* They told me ———

L. C. J. Who told you?

Mr. *Praunce.* *Hill, Kelly,* and *Girald.*

L. C. J. What did they tell you?

Mr. *Praunce.* Firſt, that they had run him thro' with his own Sword; then thrown him into a Ditch, and laid his Gloves, and other things, upon the Bank.

Mr. Att. Gen. Pray tell now the Story of your meeting at *Bow.* What was the Houſe called you met at?

Mr. *Praunce.* It was the Sign of the *Queen's-Head.*

Mr. Att. Gen. Who was it that did meet there?

Mr. *Praunce.* They were Prieſts, I can't ſo well remember their Names, they are written down in this Paper.

Mr. Recorder. Look on the Paper your ſelf, you can read, I ſuppoſe.

Mr. *Praunce.* There was one *Luſon* a Prieſt, I think.

Mr. Att. Gen. Where did he live?

Mr. *Praunce.* He was with *Vernatt.*

Mr. Att. Gen. What was the occaſion of your meeting there?

Mr. *Praunce.* *Vernatt* told me only it was to be merry there.

Mr. Att. Gen. What was the Man of the Houſe his Name?

Mr. *Praunce.* One *Caſhes.*

Mr. Att. Gen. Did you dine there?

Mr. *Praunce.* Yes.

Mr. Att. Gen. What had you for Dinner?

Mr. *Praunce.* We had a Barrel of Oyſters, and a Diſh of Fiſh: I bought the Fiſh my ſelf.

L. C. J. What Day was it?

Mr. *Praunce.* The *Friday* after the Proclamation, That all the Papiſts were to be gone out of Town.

Mr. Recorder. Tell what Company you had there, and what Diſcourſe.

Mr. *Praunce.* There was Mr. *Vernatt,* and I, and Mr. *Girald,* and that other Prieſt, and one Mr. *Dethicke.*

Mr. Att. Gen. Who ſent for him?

Mr. *Praunce.* Mr. *Vernatt* ſent a Note for him by a Cobler.

Mr. Att. Gen. Did he come upon that Note?

Mr. *Praunce.* He came preſently. And when he was come, then they read all the Writing of the murder; for Mr. *Vernatt* ſhould have been one at the doing of it, but ſomething happen'd he could not.

Mr. Att. Gen. Mr. *Vernatt* was very ſorrowful at the reading of it, was he not?

Mr. *Praunce.* If he was, 'twas becauſe he was not there.

Mr. Att. Gen. How did he behave himſelf? Did he read it with any Pleaſure and Delight?

Mr. *Praunce.* We were all very merry.

Mr. Att. Gen. What can you ſay about any body's over-hearing you?

Mr. *Praunce.* There was a Drawer came and liſtned at the Door, and I hearing the Door a little ruſtle, went to the Door, and catch'd him liſtning, and ſaid I to him, Sirrah, I could find in my Heart to kick you down Stairs; and away he went.

Mr. Juſt. *Wild.* Was *Vernatt* with you there that Night he was murdered, the *Saturday* Night?

Mr. *Praunce.* No; there was only the Six I have named.

Mr. Juſt. *Jones.* You ſay that you met at the *Plow* the firſt Night?

Mr. *Praunce.* Yes.

Mr. Juſt. *Jones.* And there you were told, That it was a very charitable Act to kill Sir *Edmund-bury Godfrey?*

Mr. *Praunce.* Yes, I was ſo.

Mr. Juſt. *Jones.* Was it agreed there that he ſhould be kill'd?

Mr. *Praunce.* It was agreed there; and the firſt that met him were to give notice to the reſt.

Mr. Juſt. *Jones.* Who were there?

Mr. *Praunce.* *Girald, Kelly, Green* and I.

L. C. J. When came *Hill* and *Berry* into this Cauſe? How came they acquainted with it?

Mr. *Praunce.* They were in it before I.

L. C. J. Who told you they were in it?

Mr. *Praunce.* Mr. *Girald,* my Lord, told me ſo.

Mr. Juſt. *Jones. Hill* and *Berry* were not at the *Plow,* where did you firſt hear them ſpeak of it?

Mr. *Praunce.* *Girald* and I have been at *Berry's* Houſe divers Times.

Mr. Juſt. *Dolben.* But there were two meetings at the *Plow,* were there not?

Mr. *Praunce.* Yes, there were.

Mr. Juſt. *Dolben.* And *Hill* was at the laſt meeting, was he not?

Mr. *Praunce.* Yes, he was, my Lord.

Mr. Att. Gen. Now I would ask you this Queſtion, by the Favour of the Court, was there any Reward propoſed by theſe Prieſts for the doing of it?

Mr. *Praunce, Girald* and *Vernatt* did ſpeak of a great Reward that was to be given for it.

Mr. Att. Gen. Pray, how much?

Mr. *Praunce.* I do not remember what.

Mr. Att. Gen. Cannot you tell how much?

Mr. *Praunce.* There was to be a good Reward, from my Lord *Bellaſis,* as they ſaid.

Mr. Juſt.

Mr. Juſt. *Dolben.* You had ſeveral meetings, you ſay: Did you there reſolve what ſhould be the way of doing it?

Mr. *Praunce.* *Girald* was reſolv'd to kill him that Night; and if he could not get him into a more convenient Place, he would kill him with his own Sword, in the Street that leads to his own Houſe.

Mr. *Record.* Who was that, that reſolved ſo?

Mr. *Praunce.* It was *Girald.*

Mr. *Record.* The Prieſt, rather than fail, was reſolved to do that Act of Charity himſelf.

Mr. *Att. Gen.* I would now ask you a Queſtion, which though it does not prove the Perſons guilty, yet gives a great ſtrength to the Evidence. Do you know Mr. *Bedlow*, Mr. *Praunce*?

Mr. *Praunce.* I do now know him.

Mr. *Att. Gen.* Had you ever any Conference with him before you was committed to Priſon?

Mr. *Praunce.* Never, in all my Life.

Mr. *Att. Gen.* Were you ever in his Company in your Life before, that you know of?

Mr. *Praunce.* No, not that I remember.

Mr. *Att. Gen.* Well, you ſhall ſee how far he will agree with you.

Mr. *Record.* Now they may ask him any Queſtions, if they pleaſe, for we have done with him.

L. C. J. Let them if they will.

Hill. My Lord, In the firſt place I humbly pray that Mr. *Praunce*'s Evidence may not ſtand good againſt me, as being perjured by his own Confeſſion.

L. C. J. How?

Hill. I ſuppoſe, my Lord, it is not unknown to you that he made ſuch an open Confeſſion before the King.

L. C. J. Look you, Sir, I will tell you for that, I do not know that ever he made a Confeſſion to contradict what he had ſaid upon his Oath.

Hill. He was upon his Oath before.

L. C. J. Yes, he had accuſed you upon Oath, but afterwards, you ſay, he confeſſed that it was not true: but that Confeſſion that it was not true, was not upon Oath: How is he then guilty of Perjury?

Hill. My Lord, if a Man can ſwear a thing, and after deny it, he is certainly perjured.

L. C. J. If a Man hath great horrors of Conſcience upon him, and is full of Fears, and the Guilt of ſuch a thing diſorders his Mind, ſo as to make him go back from what he had before diſcovered upon Oath, you can't ſay that Man is perjured, if he don't forſwear it: But I believe no Body did believe his denial, becauſe his firſt diſcovery was ſo particular, that every Man did think his general Denial did only proceed from the diſturbance of his Mind. But have you any mind to ask him any Queſtions?

Mr. *Record.* We can prove, that immediately after he retracted his Recantation.

Mr. Juſt. *Dolben.* Try if you can trap him in any Queſtion.

Hill. Pray, what Hour was it that I went to Sir *Edmund-bury Godfrey*'s?

Mr. *Praunce.* About nine or ten a clock, I am not certain in the hour.

L. C. J. No, no, a man cannot be preciſe to an hour; but prove you what you can.

Hill. I have a great many Witneſſes beſides the Juſtice of my Cauſe, that I was not out of my Houſe that day.

L. C. J. You ſhall be heard for that, but the preſent matter is, Whether you will ask him any Queſtions or no?

Hill. My Lord, 'tis all falſe that he ſays, and I deny every word of it, and I hope it ſhall not be good againſt me.

L. C. J. Well, Mr. *Berry*, will you ask him any Queſtions?

Berry. Mr. *Praunce*, who was in my Houſe at that time you ſpeak of?

Mr. *Praunce.* There was your Wife there, and ſeveral other Perſons beſides.

Berry. Who were they?

Mr. *Praunce.* There were divers People, it is an Alehouſe.

Berry. But who? Can you name any of them?

Mr. *Praunce.* There was *Girald*, and *Kelly*, and I.

L. C. J. Why, did you not all know Mr. *Praunce*?

Berry. My Lord, I knew him as he paſs'd up and down in the Houſe.

L. C. J. Why, what an Anſwer is that? what do you mean by his paſſing up and down in the Houſe? Did you never drink with him?

Berry. Drink with him, my Lord? Yes.

L. C. J. Yes? Why People don't uſe to drink as they go along.

Berry. It was in other Company that came to my Houſe, no acquaintance of mine.

L. C. J. Was not Mr. *Praunce* known by you all three? Which of you can deny it? What ſay you *Hill*?

Hill. My Lord, I did know him.

L. C. J. What ſay you *Green*?

Green. Yes I did know him?

Mr. Att. Gen. But yet my Lord, we ſhall prove in the Courſe of our Evidence, that upon their Examinations, they did deny they ever knew him; But becauſe the Priſoners give us this Occaſion, I deſire *Mr. Praunce* may give an Account of one thing. He was concerned in this very Fact, and there was no other way to get any proof of it, than by the diſcovery of one among themſelves. He was once of that Religion, or elſe he had never been concerned in this thing. And your Lordſhip will find, that *Mr. Praunce*, while he was of that Religion, and not ſure of his Pardon, was under ſome Diſturbances and Fears, which prevailed with him to come before the King, and deny what he had Sworn. But, my Lord, which is very obſervable, this Gentleman that had made that denial before the King, was ſo far Convinc'd, that he had done amiſs in it, and ſo troubled that he had done it, that he deſired Capt. *Richardſon* (as ſoon as he returned back to Priſon) to carry him back to the King again: for he muſt go back, and make good that Confeſſion which he at firſt had made; For it was every word true. And being for the King, we deſire Capt. *Richardſon* may be Sworn.

Mr. Juſt. *Wild.* Can you tell where Sir *Edmundbury Godfrey* was dogg'd.

Mr. *Praunce.* No my Lord, I cannot.

Mr. Juſt. *Wild.* You ſay they did tell you, that they Dogg'd him up and down; Did not they tell you from whence they Dogg'd him, when they kill'd him;

Mr. *Praunce.* No they did not.

L. C. Juſt. Mr. Richardſon, were you by when Mr. *Praunce* denied all that he had confeſſed?

Capt. *Richardſon.* My Lord, upon the *Sunday* Night before the Prorogation of the laſt Parliament, I received a Letter from one of the Lords of the Council, to bring up Mr. *Praunce* before the Lords of the Committee for his Examination.

When

When I brought him thither, I found Mr. *Praunce* was diſturbed, and deſired to ſpeak with the King; and I carried him into the King's Cloſet, where he fell down on his Knees, and ſaid, *He was Innocent, and they were all Innocent*; and that was the Subſtance of all he ſaid. I then had him up to the Council, where he ſaid the ſame thing. The Lords asked him, Whether any body had been tampering with him, he anſwered, No. My Lord, when I came home, I was no ſooner got within the Doors, but he begg'd of me (for God's ſake) to go back to the King, and to acquaint him, not only that what he had now ſaid, *was falſe*; but that all which he had ſworn before, *was truth*. And if His Majeſty would ſend him a Pardon, he would make a great diſcovery. And, my Lord, more than that, he ſaid, It was Fear, that made him recant; and he gave a full ſatisfaction, that it was only out of an Apprehenſion that his Life was not ſecure, that his Trade would be loſt among the *Roman Catholicks*; and in caſe he had his Pardon, and were Saved, he ſhould have been in danger of being Murthered by them.

L. C. J. Now you have an Account Mr. *Hill* how he came to deny, and how ſoon he recanted his denial.

Mr. Juſt. *Jones.* You are upon your Oath Mr. *Praunce*, Is this all true that he hath ſaid?

Mr. *Praunce.* Yes, my Lord, it is.

Mr *Recorder.* How hath he behaved himſelf ſince that time?

Capt. *Richardſon.* As ſoberly as can be, ſince he had his Pardon.

Mr. *Att. Gen.* Pray, ſince that time, have you had any Diſcourſe with him? And how did he carry himſelf?

Capt. *Richardſon.* Very ſoberly.

Mr. *Att. Gen.* Did he expreſs any Abhorrence of the Practice of that Church?

Capt. *Richardſon.* Yes, my Lord, he did ſo.

Mr. *Att. Gen.* I hope it will make all People abhor and forſake them in time, if theſe be their Practiſes. In the next place, my Lord, we will call Mr. *Bedlow*, who, tho' he was not preſent at the Murther, yet he ſaw the Body after it was dead in *Somerſet-Houſe*, which goes to the Matter as to the Place; and he will give you ſome Circumſtances which will very much corroborate the Teſtimony of Mr. *Praunce.*

Mr. Juſt. *Wild.* What time was it before they carried him in, after they had kill'd him.

L. C. J. Brother, I think they ſay, between eight and nine they decoy'd him down thro' the Water-Gate. Was it not ſo?

Mr. *Praunce.* Yes, my Lord.

Mr. Juſt. *Wild.* How long had they kill'd him before they carried him into the Room?

Mr. *Praunce.* About a quarter of an Hour.

Mr. Juſt. *Wild.* Had he his Sword about him?

Mr. *Praunce.* Yes, it was found run thro' him.

Mr. Juſt. *Wild.* Did Sir *Edmund-bnry Godfrey* himſelf draw his Sword?

Mr. *Praunce.* No, he was ſtrangled by Surpriſe, by getting a Thing about his Neck, and prevented him of drawing his Sword.

L. C. J. They were Perſons that were ready prepared for him, they would not permit him to defend himſelf.

Mr. Serj. *Stringer.* My Lord, Before Mr. *Bedlow* be Sworn, I deſire a little to open what we call him to. My Lord, there were four Prieſts that did deſign this Murder; *Le Faire*, and *Welſh*, and *Girald*, and *Kelly*, beſides the other Prieſts; and they treated with Mr. *Bedlow* for Four Thouſand Pounds, to undertake to kill a Gentleman. My Lord, He did promiſe to undertake it, but failing of his Promiſe, afterwards *Le Faire* met him, and told him it was done: and told him he ſhould have half that Reward to help to carryhim off; and withal, carried him into the Room where the Body was. And he will tell you, that *Praunce* was in the Room when he ſaw him; and tho' he never knew *Praunce* before, yet when he met with him in the Lobby of the Lords Houſe, he knew him again, and charged him as the Man that committed this Fact. And he will acquaint your Lordſhip, that *Le Faire* ſaw the Body likewiſe, and gave Mr. *Bedlow* an account of the Murder, with the ſame Circumſtances that *Praunce* now relates it.

Then Mr. Bedlow *was Sworn.*

Mr. Recorder. Mr. *Bedlow*, Pray do you direct your Diſcourſe to the Jury.

L. C. J. Mr. Attorney, Pray do you ask him your Queſtions, that you may put him in that method you would have him take, to give his Evidence.

Mr. Att. Gen. My Lord, I would firſt ask him this Queſtion: What Conference he had with any Perſons, Prieſts or others, about murdering any Body?

Mr. Bedlow. My Lord and the Jury, I have at other Times, and in other Places, proved what Familiarity I have had with the Prieſts and Jeſuits; and if I have not ſatisfied the Court, and others, about it, yet I have done my Duty in endeavouring ſo to do. My Lord, I have been ſeveral times treated with, not only about the Plot, but be ſeveral Perſons about murdering of a Gentleman. They never told me who it was that was to be murdered; but if I would undertake it, they, that is, *Le Faire* and *Prichard*, and Mr. *Kaines*, and ſeveral other Prieſts, who diſcourſed with me about it, would find out ſome to aſſiſt me, and my Reward ſhould be very conſiderable.

L. C. J. When was this?

Mr. Bedlow. It was in *October* laſt, about the beginning, or latter end of *September.*

L. C. J. Well, Sir, Go on.

Mr. Bedlow. I did adhere to them all along, for I had a mind to Diſcover two Years ago, but was prevented; and I only drill'd them on, to know the Party, that I might prevent them. But they would never diſcover the Party.

Mr. Att. Gen. Prithee come to this particular part of the Story.

Mr. Bedlow. Afterwards they ſet me to inſinuate my ſelf into the Acquaintance of Sir *Edmund-Godfrey*, not telling me they had a Deſign upon him.

L. C. J. Who did?

Mr. Bedlow. Le Faire, and *Pritchard*, and *Welſh.*

L. C. J. *Girald* was not one, was he?

Mr. Bedlow. No, my Lord: But they told me, that afterwards they would have me introduce them into his Acquaintance: And I had been, I think, ſix or ſeven Days together with Sir *Edmund-bury Godfrey*, at his Houſe; and had got much into his Acquaintance.

Mr. Juſt. *Wild.* By what means did you get into his Acquaintance?

Mr. Bedlow. Why, I pretended to get Warrants for the Good Behaviour againſt Perſons, that there were none ſuch.

L. C. J. Well, and what then?

Mr. Bed-

Mr. Bedlow. This was the Week before the *Saturday* that he was kill'd; and I was there every Day but *Saturday:* On the *Friday* I went to the *Greyhound*-Tavern, and I ſent my Boy to ſee if Sir *Edmund-bury Godfrey* were at home: Sir *Edmund-bury Godfrey* was not at home then.

L. C. J. When was that?

Mr. Bedlow. The very Day before he was kill'd: If he had been at home, I would have gone over to him, and would have deſired him to go over to them.

L. C. J. Were the Prieſts there?

Mr. Bedlow. Yes, my Lord, there was *Pritchard*, and *Le Faire*, and *Welſh*, and *Kaines*, and another; five Jeſuits: And, as I ſaid, I ſent my Boy to ſee if he were at home, and he brought me word he was not; and if he had, I was to have gone to him, to have fetch'd him thither, that they might inſinuate themſelves into his Acquaintance: And indeed, they had Tongue enough to wheedle themſelves into any ones Acquaintance: So he not being at home, we came into the City, two of the Jeſuits and I.

Mr. Att. Gen. Which two?

Mr. Bedlow. Le Faire and *Welſh:* The next Morning *Le Faire* came to my Chamber, and I was not then within; but by accident I met him, about Four of the Clock in *Lincolns-Inn-Fields:* We went to the *Palſgraves-Head*-Tavern; where falling into Diſcourſe, he told me there was a Gentleman that was to be put out of the way; that was the Phraſe he uſed, he did not really ſay *murder* him; for they don't count it murder.

L. C. J. No, no, they put it into ſofter Terms.

Mr. Bedlow. They told me it was to be done to Night. I asked who it was, they ſaid it was a very material Man: For he had all the Informations that *Mr. Oates* and Dr. *Tongue* had given in; that ſeveral had been imployed in the doing of it, that ſeveral Attempts had been made, and that they had miſs'd ſeveral Opportunities, and had not done it till then; but if he ſhould not be taken out of the way, and the Papers taken from him, the buſineſs would be ſo obſtructed, and go near to be diſcovered, to that Degree, that they would not be able to bring this Deſign to paſs, but muſt ſtay till another Age before they ſhould Effect it. I asked him again, who it was, he ſaid he would not tell me, but it was a very material Man. I told him, that according to my Promiſe I would Aſſiſt; but in ſuch a Caſe, I ſhould need a great many Men to be with me, he being ſo conſiderable a Perſon. I asked him then, where the Mony was, that was formerly promiſed? he told me no worſe a Man was Engaged for it, than my Lord *Bellaſis*, and Mr. *Coleman* had order to pay it.

Mr. Juſt. *Jones.* What was that Reward?

Mr. Bedlow. Four Thouſand Pounds.

L. C. J. Who was it that firſt named this Gentleman to you to be Sir *Edmund-bury Godfrey?*

Mr. Bedlow. They never named him to me at all.

L. C. J. Let us know when you firſt knew it to be Sir *Edmund-bury Godfrey.*

Mr. Bedlow. I parted with him then, but came not according to my promiſe. I was to meet him at the Cloyſters at *Sommeſet-Houſe* that Night; but I knew their Deſign was to murder ſome Body, and I would not come. I ſaw him no more till *Monday* Night, then I met him in *Red-Lyon-Court*, where he put up his Cane to his Noſe; as who ſhould ſay, I was to blame in not keeping my Promiſe. And we went together to the *Greyhound*-Tavern in *Fleet-ſtreet*, where he charged me with my breach of Promiſe. I told him I was taken up by other Company, and unleſs they would tell me who it was I was to kill, I would have no hand in it: For I did not know but that it might be my own particular Friend. And I would not murder any private Perſon, unleſs I knew who it was, and for what Reaſon. Well, ſays he, we will tell you more anon if you meet me to Night at *Somerſet-Houſe*, at Nine a Clock. I did meet him exactly at that time in the Cloyſters, where we walk'd and talk'd a great while. And then he took me into the middle of the Court, and told me, you have done ill, that you did not help in this buſineſs; but if you will help to carry him off, you ſhall have half the Reward. Why, ſaid I, *Is he Murdered? Yes*, ſaid he; *May not I ſee him*, ſaid I? *Yes, you may*, ſaid he; and ſo took me by the hand, and led me into the Room through a dark Entry. In the Room were a great many, I can't tell who they all were.

Mr. Att. Gen. How many were there?

Mr. Bedlow. There might ſtand a great many behind one another. I ſaw Four or Five.

Mr. Juſt. *Jones.* What kind of Light had they, *Mr. Praunce?*

Mr. Praunce. It was a middle-ſized Lanthorn.

Mr. Juſt. *Jones.* Was it a ſmall Light, or a great Light?

Mr. Bedlow. It was a ſmall Light.

Mr. Juſtice *Jones.* Had they no Light but that Lanthorn?

Mr. Bedlow. No: And they did not open it till I had had a turn about the Room.

L. C. J. Did they diſcourſe of carrying him away then?

Mr. Bedlow. Yes, they did.

L. C. J. Did you know him, when he lay dead there?

Mr. Bedlow. Yes, your Lordſhip ſhall hear how I came to know him: One ſtep'd to the Body, and threw off the Thing that lay upon him, and I went and look'd upon him; and he had got about his Neck ſuch a kind of a faſhion'd Crevat as this about my Neck; and I went to try, and could not get my Finger in betwixt: So I ſaw him, his Boſom was all open, and I knew him preſently; For thoſe Jeſuits that were there, were not thoſe who had employed me to inſinuate my ſelf into his Acquaintance; and ſo they thought I had not known him. I asked who it was, they ſaid it was a Man that belong'd to a Perſon of Quality. I was mightily ſtruck and daunted when I knew him: I would fain have perſwaded them to have tied Weights at his Head and Feet, and thrown him into the River; and afterwards I would have dragg'd for him, and took him up there. But they did not think that ſo ſafe: *No* (ſaid they) *we will put it upon himſelf, there are none but Friends concerned.* I asked *Le Faire* how they would get him out? They ſaid, *In a Chair.* Then I asked them, which way they would get him into the Chair, and out of the Gate: They ſaid the Porter was to ſit up to let them out.

Mr. Recorder. What Porter?

Mr. Bedlow. The Porter of the Houſe.

Mr. Recorder. Who, *Berry?*

Mr. Bedlow. Yes. As for that *Hill*, or the Old Man, I do not know that I ever had any particular Knowledge of them; but only I looked upon them as ill-deſigning men, ſeeing them in the Chapel.

L. C. J. Did you ſee e'er a one of the three Priſoners there at that Time?

Mr. Bed-

Mr. Bedlow. No, my Lord: But I have ſuch a Remembrance of Faces, that I could tell, if I ſaw them again, any that I did ſee there, tho' the Light was but ſmall. They told me, *They had ſtrangled him*; but how, I did not know. When they preſs'd me to help to carry him out, I then Excuſed my ſelf, and ſaid, It was too early to carry him out yet; but about Eleven or Twelve a Clock would be a better Time. And I aſſured them I would come again. Said *Le Faire* to me, *Upon the Sacrament you took on Thurſday, you will be at the carrying off of this Man at Night.* I promiſed him I would. And he went away, and left me there. I made what Speed away I could, for I was very unſatisfied in my ſelf; having ſo great a Charge upon me, as the Sacrament of the Altar, which, after the Diſcovery of the Plot, was adminiſtred to me twice a Week to conceal it, I could not tell how to diſcover: I went then to *Briſtol*, but very reſtleſs and diſturbed in my mind; and being perſuaded by what God was pleaſed to put into my mind, calling to Remembrance, that ſome Murders had been already committed, and greater ones were daily intended, I was at laſt convinc'd, and could no longer forbear Diſcovery. I wrote to the Secretary of it, and went to the Parliament and gave in my Information. And one Day I met with Mr. *Praunce* in the Lobby, and knew him, and apprehended him.

Mr. Att. Gen. I will ask you one Queſtion, Had you any Diſcourſe with Mr. *Praunce* between the Time you ſaw him with the Body, and the Day he was apprehended?

Mr. Bedlow. No; I never ſaw him to this Day, to have any Converſe with him.

Mr. Juſt. *Wild.* Did not you ſee *Hill* that Night, when you were to have carried him away?

Mr. Bedlow. No, my Lord.

Mr. Juſt. *Wild.* Nor *Green*, nor *Berry*?

Mr. Bedlow. Green I did ſee about the Court, and *Berry*, I was told, was to open the Gate that *Monday* Night. But, my Lord, when they found I did not come again, they deſiſted that Night, and kept it off longer, for fear I ſhould come again to ſtop them.

Mr. Att. Gen. He did not refuſe to help them, but promiſed to do it, and failed: And they finding that he had failed them, would not let the Body lie where it was for fear of Diſcovery, but removed it back again.

Mr. Juſt. *Dolben.* VVhat did *Praunee* ſay, when you firſt took notice of him?

Mr. Bedlow. I underſtood afterwards that he was taken upon Suſpicion, becauſe at that time, his Maid had made a Diſcovery, that he was about that Time out of his Lodgings. And while he was there in the Conſtable's Hands, Mr. *Oates* came by, and he deſired to ſee him; and preſently after I came thither, and the Conſtable asked him, Mr. *Praunce*, will you ſee Mr. *Bedlow*? No, he ſaid, he would not: Then he put his Hat over his Eyes, that I might not ſee his Face, and kept it ſo. The Preſs being great, and being deſirous to be private my ſelf, I ſpoke to the Guard to put all out that had no Buſineſs there, and they cried out, that all ſhould avoid the Room, but Mr. *Bedlow* and his Friends. And when he was going out with the reſt, he lift up his Hat, to ſee his VVay; and tho' before I did not mind him, yet I happened at his paſſing by me to caſt my Eyes upon his Face, and preſently knew him, and cried, Oh! pray, Sir, ſtay; you are one of my Friends that muſt ſtay here. And I preſently charged my Guards to take Charge of him. Saith the Conſtable, he is my Priſoner: Is he ſo, ſaid I? Then you have a very good Priſoner, and pray look ſafe to him. And then when I went into the Houſe of Lords, I made out my Charge againſt him.

Mr. Recorder. Now if the Priſoners have any Queſtions to ask Mr. *Bedlow*, they may have free Liberty to do it.

Hill. I never ſaw him before in my Life.

L. C. J. Do you know any of them?

Mr. Bedlow. I know Mr. *Berry* and *Green* very well.

L. C. J. Pray, Mr. *Praunce*, was the Dark-Lanthorn at *Hill*'s Lodging, or at the other Place?

Mr. Praunce. At the other Place.

L. C. J. Look you here, Mr. *Praunce*, they carried him to *Hill*'s on *Saturday* Night, and he lay there till *Monday* Night: VVhat time on *Monday* Night was it that they removed him into *Somerſet-Houſe*?

Mr. *Praunce.* I was not there when they did remove him.

L. C. J. VVhat Time did you ſee him there?

Mr. *Praunce.* About Nine or Ten a Clock.

L. C. J. VVhat Time was it that you ſaw him there, Mr. *Bedlow*?

Mr. *Bedlow.* It was after Nine, my Lord.

Mr. *Praunce.* They had then removed him to *Somerſet-houſe*, and Mr. *Hill* asked what they intended to do with the Body? They ſaid, They would carry it out that Night; but they did not. But there the Dark-Lanthorn was, and on *Tueſday* Night they removed him back again.

Mr. Att. Gen. Now, my Lord, if you pleaſe, we ſhall go on to call ſome Witneſſes that were not preſent at the Murder; for direct Evidence, as to that, can come only out of the mouth of ſome that were concerned in it; but to corroborate, by concurrent Circumſtances, the Teſtimony which hath been already given. And firſt we ſhall call the Conſtable, to prove that he found Sir *Edmund-bury Godfrey* in the Fields, in the ſame manner which Mr. *Praunce* ſays they told him they left him.

L. C. J. Mr. Attorney, you promiſed you would prove, that when theſe Perſons were examined, they did deny before the Houſe of Lords that they knew *Praunce.*

Mr. Atten. Gen. My Lord, in that we were miſtaken, I underſtand now, it was only *Berry* denied that he did know *Girald.*

L. C. J. VVhy, did you never know Mr. *Girald*?

Berry. Never in my Life.

L. C. J. Mr. *Praunce*, have not you ſeen *Girald* with *Berry*?

Mr. *Praunce.* Yes, I have, but they uſually went by ſeveral Names.

L. C. J. Did you ever ſee *Girald* in *Hill*'s Company?

Mr. *Praunce.* Yes, that I have.

L. C. J. VVas there no Centinel ſet that *Monday* Night, that *Saturday* Night, and that *Wedneſday* Night?

Mr. *Praunce.* My Lord, I am not certain, I took notice of none; if there were any, they were at *Berry*'s Houſe, and he opened the Gate, when we came out with the Sedan.

Mr. Att. Gen. Mr. *Berry*, I ſuppoſe, could take Order with the Centinel, and give them ſome Entertainment in his own Lodge.

Then Mr. Brown *the Conſtable was Sworn.*

Mr. *Recorder.* Pray, in what Poſture did you find Sir *Edmund-bury Godfrey*?

Mr. *Brown.* I found him, my Lord, in a Ditch,

with his Sword through him, and the end of it was two Handfuls out of his Back.

L. C. J. Was he Bloody?

Mr. *Brown.* There was no Blood at all, there was no Blood in the Ditch.

L. C. J. VVas the Sword ſticking in his Body?

Mr. *Brown.* Yes, My Lord, but there was no Blood at all when it was taken out; they had run it into another place, but that happened to be againſt a Rib, and ſo it could not go thro'; but there was no Blood there.

Mr. Juſt. *Jones.* VVas there any Bruiſes on his Breaſt?

Mr. *Brown.* He did look black about the Breaſt.

Mr. Att. Gen. My Lord, I would ask, whether his Neck were broken?

Mr. *Brown.* Yes, I ſuppoſe it was.

L. C. J. How do you know it?

Mr. *Brown.* It was very weak, and one might turn his Head from one Shoulder to the other.

L. C. J. VVhere was his Stick and Gloves?

Mr. *Brown.* They were on the Bank-ſide.

L. C. J. VVhoſe Sword was it?

Mr. *Brown.* His Servants ſaid it was his own.

Mr. Att. Gen. Pray, had he any Money in his Pocket?

Mr. *Brown.* Yes; a great deal of Gold and Silver.

L. C. J. Ay, Ay, for they count Theft Sin, but not Murder.

Mr. Juſt. *Wild.* They left that, to let Men think he murdered himſelf.

L. C. J. Well, will you ask this VVitneſs any Queſtions before he goes?

Capt. *Richardſon.* They ſay they will ask him none.

Mr. Att. Gen. Then we deſire to call the Chirurgeons that view'd and opened the Body, Mr. *Skillard*, and Mr. *Cambridge*; both whom were ſworn.

Mr. Att. Gen. VVe begin with Mr. *Skillard*, Pray, Sir, inform my Lord and the Jury, Did you ſee the Body of Sir *Edmund-bury Godfrey*?

Mr. *Skillard.* Yes, I did view the Body.

Mr. Att. Gen. VVhen? what time did you ſee it?

Mr. *Skillard.* About Twelve of the Clock.

Mr. Att. Gen. VVhat Day of the VVeek was it?

Mr. Skillard. On *Friday*, the next Day after he was found.

Mr. Att. Gen. Did you obſerve his Breaſt? how was it?

Mr. *Skillard.* His Breaſt was all beaten with ſome obtuſe Weapon, either with the Feet, or Hands, or ſomething.

Mr. Att. Gen. Did you obſerve his Neck?

Mr. Skillard. Yes; it was diſtorted.

Mr. Att. Gen. How far?

Mr. *Skillard.* You might have taken the Chin, and have ſet it upon either Shoulder.

Mr. Att. Gen. Did you obſerve the Wound?

Mr. *Skillard.* Yes, I did: it went in at one place, and ſtopp'd at a Rib, the other place it was quite thro' the Body.

Mr. Att. Gen. Do you think he was killed by that Wound?

Mr. *Skillard.* No; for then there would have been ſome Evacuation of Blood, which there was not. And beſides, his Boſom was open, and he had a Flannel VVaſtcoat and a Shirt on; and neither thoſe, nor any of his Cloaths were penetrated.

Mr. Att. Gen. But are you ſure his Neck had been broken?

Mr. Skillard. Yes, I am ſure.

Mr. Att. Gen. Becauſe ſome have been of Opinion, that he hanged himſelf, and his Relations, to ſave his Eſtate, run him through; I would deſire to ask the Chirurgeon what he thinks of it.

Mr. Skillard. There was more done to his Neck than an ordinary Suffocation; the Wound went thro' his very Heart, and there would have appeared ſome Blood, if it had been done quickly after his Death.

Mr. Att. Gen. Did it appear by the View of the Body that he was ſtrangled or hanged?

Mr. *Skillard.* He was a lean Man, and his Muſcles, if he had died of the Wound, would have been turgid: And then again, all ſtrangled People never ſwell, becauſe there is a ſudden Deprivation of all the Spirits, and a hindring of the Circulation of the Blood.

Mr. Att. Gen. How long do you believe he might be dead before you ſaw him?

Mr. *Skillard.* I believe four or five Days. And they might have kept him a Week, and he never ſwell'd at all, being a lean Man. And when we rip'd him up, he began for to putrify, we made two Inciſions to give it vent, and the Liquor that was in his Body did a little ſmell. The very lean Fleſh was ſo near turned into Putrefaction, that it ſtuck to the Inſtrument when we cut it.

Mr. Recorder. My Lord, here is another Chirurgeon, Mr. *Cambridge*; Pray, Sir, are you Sworn?

Mr. *Cambridge.* Yes, I am.

Mr. Recorder. When did you ſee the Body of Sir *Edmund-bury Godfrey*?

Mr. *Cambridge.* Upon *Friday*, the very ſame Day the Gentleman did. I found his Neck diſlocated, and his Breaſt very much beaten and bruiſed. And I found two Punctures under his left Pap, the one went againſt the Rib, the other quite through the Body, under the left Pap.

Mr. Att. Gen. Do you believe that Wound was the Occaſion of his Death?

Mr. *Cambridge.* No, I believe it was given him after his Death.

L. C. J. And his Neck was broke?

Mr. *Cambridge.* His Neck was diſlocated, Sir.

Mr. Att. Gen. Why, that is broken. Now, my Lord, we ſhall call Sir *Edmund-bury Godfrey*'s Maid, *Elizabeth Curtis.* Swear her. Which was done.

Mr. Recorder. Your Lordſhip knows, that Mr. *Praunce* did ſay in the beginning, that they had been ſeveral times at his Houſe, enquiring for him: now we call this Perſon to tell you what ſhe knows about that.

Mr. Att. Gen. Elizabeth Curtis, look upon the Priſoners, and tell my Lord and the Jury whether you know any of them or no.

Elizabeth Curtis. This Man, that I now hear called *Green*, my Lord, was at my Maſter's about a Fortnight before he died.

L. C. J. What to do?

Eliz. Curtis. I don't know, but he asked for Sir *Edmund-bury Godfrey.*

L. C. J. What time of the Day was it?

Eliz. Curtis. It was in the Morning.

Mr. Att. Gen. What did he ſay?

Eliz. Curtis. He asked for Sir *Edmund-bury Godfrey*, and when he came to him, he ſaid, Good morrow, Sir, in *Engliſh*, and afterwards ſpoke to him in *French*, I could not underſtand him.

Mr. Recorder. I deſire ſhe may conſider well, and look upon him.

Eliz. Curtis. That is the Man.

Green. Upon my Soul I never ſaw him in all my Life.

Eliz. Curtis. He had a darker coloured Perriwig when he was there, and was about a quarter of an Hour talking with my Maſter.

Mr.

Mr. Att. Gen. Are you ſure this was the Man?

Eliz. Curtis. Yes, I am; and that other Man, *Hill*, was there that *Saturday* Morning, and did ſpeak with him before he went out.

L. C. J. That you will deny too?

Hill. Yes, I do.

L. C. J. How do you know he was there?

Eliz. Curtis. I was in the Parlour at that Time, making up the Fire.

L. C. J. Had you ever ſeen him before that Time?

Eliz. Curtis. No, never before that Time. I went into the Parlour to carry my Maſter's Breakfaſt, and brought a Bunch of Keys with me in, and there *Hill* was with him. And I went up Stairs about ſome Buſineſs, and came down again, wanting the Keys, which I had left upon the Table; and *Hill* was all that Time with my Maſter.

Mr. Sol. Gen. How do you know he was there?

Eliz. Curtis. I was in the Parlour, and ſtirred up the Fire, and he was there a good while.

Mr. Juſt. *Jones.* How long after did you ſee him again?

E. Curtis. Not till I ſaw him in *Newgate*.

Mr. Juſt. *Jones.* How long was that afterwards?

E. Curtis. A Month ago. But it is not the Man that brought the Note to my Maſter.

Mr. Att. Gen. What Note?

E. Curtis. A Note that a Man brought to my Maſter that Night before.

Mr. Att. Gen. What is become of that Note?

Eliz. Curtis. My Lord, I cannot tell, my Maſter had it.

Mr. Att. Gen. Prithee tell us the Story of it.

E. Curtis. There was a Man came to my Maſter's Houſe, and asked if Sir *Edmund-bury Godfrey* were within. He ſaid he had a Letter for him; and ſhewed it me, it was tied up in a knot. I told him my Maſter was within, but buſy; but, ſaid I, if you pleaſe, I will carry it in to him: he did ſo, and I gave it to my Maſter; when I went out again, the Man ſtaid and asked for an Anſwer: I went in again, and told my Maſter, that the Man required an Anſwer. Prithee, ſaid he, tell him I don't know what to make of it.

Mr. Juſt. *Wild.* When was that?

Eliz. Curtis. On *Friday* Night.

Mr. Juſt. *Wild.* When? The *Friday* Night before he was murdered?

Eliz. Curtis. Yes.

Mr. Att. Gen. But you ſwear that *Hill* was there the *Saturday* morning?

Eliz. Curtis. Yes, he was.

Mr. Sol. Gen. In what Cloaths was he then?

Eliz. Curtis. The ſame Cloaths that he hath now.

Mr. Juſt. *Wild.* Are you ſure they are the ſame Cloaths?

Eliz. Curtis. Yes.

Mr. Sol. Gen. Here is a great Circumſtance, my Lord. I asked her what Cloaths he was in, when he came to Sir *Edmund-bury*'s? and ſhe ſaith, the ſame that he hath now.

L. C. J. Have you ever ſhifted your Cloaths?

Hill. No indeed, I have not.

Eliz. Curtis. But for the Man that brought the Note, I cannot Swear it is he.

Hill. But ſhe did ſay, when ſhe came to ſee me in *Newgate*, that ſhe never ſaw me in my Life; and, my Lord, I hope I have ſufficient Witneſſes to prove where I was that Morning.

L. C. J. She ſays, ſhe cannot ſwear you were the Man that brought the Note.

Hill. My Lord, I deſire ſhe will tell me about what time it was I was there.

Eliz. Curtis. It was about nine or ten a Clock.

Mr. Att. Gen. That agrees with Mr. *Praunce*'s exactly in point of Time. Now, if your Lordſhip pleaſe, we will proceed, and call Mr. *Lancellot Stringer*, and Mr. *Vincent*.

Mr. Recorder. My Lord, we do call theſe Witneſſes to prove, that theſe Men had meetings with Mr. *Praunce* at the *Plow*.

Then was Lancellot Stringer *Sworn.*

Mr. Recorder. Pray tell my Lord and the Jury, whether you know Mr. *Praunce*.

L. Stringer. Yes, Sir, I do.

Mr. Recorder. Have you ſeen him at the *Plow* at any time?

L. Stringer. Yes, Sir, I have.

Mr. Recorder. In what Company there? Was Mr. *Green* there?

L. Stringer. Yes, he was.

Mr. Recorder. Which was he. *He points to him.*

Mr. Recorder. And who elſe?

L. Stringer. There was that *Hill*.

Mr. Att. Gen. How often?

L. Stringer. Several times.

L. C. J. How long before Sir *Edmund-bury Godfrey* was murdered?

L. Stringer. I cannot tell, my Lord.

L. C. J. Do you remember any other Company was with him?

L. Stringer. Yes, there were ſeveral other Company.

Mr. Recorder. Name them.

L. Stringer. There was Mr. *Fitz-Girald* and Mr. *Hill*.

Mr. Att. Gen. And yet *Hill* ſaith he never ſaw *Girald*.

L. Stringer. And there was *Kelly*, he was another of them, and *Praunce*.

L. C. J. Did you know *Vernatt*?

L. Stringer. Yes, my Lord.

L. C. J. How now? What ſay you to it, Mr. *Hill*, and Mr. *Green*? Were you never at the *Plow*, drinking with Mr. *Praunce*?

Hill. Yes, my Lord, ſeveral Times.

L. C. J. What ſay you, Mr. *Green*?

Green. I have drank with him there.

L. C. J. Do you know *Girald*?

Hill. I know one *Girald*.

Mr. Sol. Gen. Now will your Lordſhip pleaſe to let me prove, that at the Council he owned he knew *Girald* and *Kelly*, and now 'tis proved he hath been in *Kelly*'s Company, he ſays, he does not know *Girald*.

Hill. My Lord, that was a miſtake, for I do know *Kelly* by ſight, that is, I knew two Men that uſed the Chapel very much, and he was one of them.

L. C. J. But you, Witneſs, ſay you have ſeen *Girald* and them together?

L. Stringer. Yes, I have.

L. C. J. How many times?

L. Stringer. I cannot tell how many, my Lord, ſeveral Times.

L. C. J. Have you ſeen them twice together?

L. Stringer. Yes, I have.

Mr. Recorder. Now to ſettle it, I would ask him, with your Lordſhip's Favour, when he came to live with his Maſter. You, young Man, when did you come to live with your Maſter at the *Plow*?

L. Stringer. Why, I have been with him two Years?

Mr. Recorder. But when was it you came laſt to live at the *Plow*?

L. Stringer. In *Bartholomew*-tide laſt.

Mr. Recorder. It was but five Weeks before Sir *Edmund-bury Godfrey* was murdered.

L. C. J. Do you, *Green*, know Mr. *Girald*?

Green. Yes, I do.

Mr. Recorder. Then pray Swear Mr. *Vincent*. Which was done.

Mr. Recorder. Come, pray Sir, do you live at the *Plow*?

Vincent. Yes, Sir, I do.

Mr. Recorder. Then pray, do you tell my Lord and the Jury, if you know any of the Priſoners at the Bar, and which of them?

Vincent. I know Mr. *Green*.

Mr. Recorder. Do you know any body elſe?

Vincent. Yes, I know *Hill*, and I know Mr. *Berry*.

Mr. Recorder. Have you ſeen theſe Perſons at your Houſe?

Vincent. Yes, I have.

L. C. J. With whom?

Vincent. I can't tell every body with whom they were.

L. C. J. Were they there with *Praunce*?

Vincent. Yes, Sir.

L. C. J. Did you know one *Girald*?

Vincent. Yes, Sir.

L. C. J. Hath he been at your Houſe?

Vincent. Yes, Sir, he hath.

L. C. J. Who was with him?

Vincent. I can't tell juſtly.

L. C. J. Did you know *Kelly*?

Vincent. Yes, I did.

L. C. J. Hath he been there?

Vincent. Yes, he hath.

L. C. J. In what Company?

Vincent. With *Praunce*.

L. C. J. And with any of the Priſoners?

Vincent. Yes, but I can't tell particularly with whom.

Mr. Att. Gen. Now, my Lord, as theſe were meetings before the Fact was committed, to conſult how to do it; ſo we at the Beginning told you of a meeting after it was done, and that was at *Bow*. We ſhall therefore call ſome Witneſſes as to that; and they are *Richard Cary*, and *William Evans*. Firſt ſwear *Richard Cary*. [*Which was done.*

Mr. Recorder. Do you remember you were ſent of a meſſage from the *Queen's-Head* at *Bow*, and whither? Pray tell my Lord and the Jury.

Cary. I remember it very well; there were three Gentlemen that ſent for me to the *Queen's-Head*, and I being ſent for did come; and when I came up Stairs, they asked me if I knew *Poplar*, I ſaid, I knew it very well. Then they asked me, if I knew Mr. *Dethick*; I told them, I thought I did. Then ſaid they, you muſt carry this Letter to *George Dethick*, Eſq; at *Poplar*, and deliver it to his own Hands, and to no body elſe. Accordingly, away I went, and carried the Letter: I went to the Door, and asked if he were within; his Man ſaid he was above Stairs, but they would call him to me; and calling him to me, Sir, ſaid I, there are ſome Gentlemen at the *Queen's-Head* at *Bow*, that have ſent me with a Letter to you. So he looked upon the Letter, and, ſaith he, go and tell them I will be with them preſently. So, may it pleaſe you, my Lord, I came again, and when I came, the Gentlemen were there ſtill. Well, ſaid they, go and drink a Glaſs of Claret, which ſtood upon the Table, and they gave me Six-pence, and I went away.

Mr. Recorder. Pray look upon Mr. *Praunce*, can you remember whether that Man was there?

Cary. There were three of them, and he looks like one.

Mr. Recorder. Mr. *Praunce*, do you remember this was the Man you ſent?

Mr. *Praunce.* Yes, my Lord, this was the ſame Man that was ſent.

L. C. J. Well, call the other.

Then William Evans, *the Boy of the Houſe at the* Queen's-Head, *was ſworn.*

Mr. Recorder. Hark you, do you remember any Company that was at your Maſter's Houſe two or three Months agon?

W. Evans. Yes, I do.

Mr. Recorder. Do you remember that you heard them talk any thing there?

W. Evans. They pull'd out a Paper and read it.

L. C. J. You Boy, do you know Mr. *Dethick*?

W. Evans. Yes, I do.

L. C. J. Was he there?

W. Evans. He did come to them, my Lord.

Mr. Recorder. What had they to Dinner there?

W. Evans. They had Flounders.

Mr. Recorder. Who bought them?

W. Evans. One of them, I can't tell who.

Mr. Recorder. What had they elſe?

W. Evans. A Barrel of Oyſters.

Mr. Recorder. Pray give my Lord an Account what you obſerved and heard.

W. Evans. Sir, I know nothing but that they pull'd out a Paper, and read it, and named Sir *Edmund-bury Godfrey*'s Name. And while I was at the Door, ſome body came and threatned to kick me down Stairs.

L. C. J. He ſaith juſt as Mr. *Praunce* ſaid in every Particular.

Mr. Att. Gen. Now, if it pleaſe your Lordſhip, we deſire to call Sir *Robert Southwell*, to prove what Mr. *Praunce* ſaid before the Council, and how particular he was; and did, to ſome of the Lords who were ſent with him to *Somerſet-Houſe*, point out the Places.

Mr. Soll. Gen. We call him to ſhew, that when *Praunce* was examined before the King, he was ſent with ſome of the Lords, and Sir *Robert Southwell*, to *Somerſet-Houſe*, where he pointed with his Finger, and ſhewed the Places where all was done; and ſo we ſhall ſhew your Lordſhip and the Jury, how exact he was in every Thing.

Then Sir Robert Southwell *was ſworn.*

Mr. Recorder. Pray, Sir *Robert*, will you tell your Knowledge?

Sir *Robert Southwell.* My Lord, I was, upon the 24th of *December*, waiting upon His Majeſty in Council, and Mr. *Praunce* was ſent for, to ſpeak his Knowledge concerning this Murder, and he then gave a general Account of Things, which, becauſe it did relate to that Bench, and this Corner, and that Room, and that Paſſage, and that Gallery, it was not underſtood by the Board, and thereupon His Majeſty thought fit to appoint my Lord Duke of *Monmouth*, and the Earl of *Oſſory*, and Mr. *Vice-Chamberlain* to the Queen, to go thither, and take the Examination upon the Place, and Report it to the Board: And I, being Clerk of the Council, tho' not in Waiting at that Time, and having taken notice of what Mr. *Praunce* had there depoſed, I did wait upon thoſe Lords, and took the Examination upon the Place. And what I did take upon the Place, This was done here, and that there, I drew up into a Report, and the Report is ſigned by thoſe two Noble Lords, and was read that Afternoon

ternoon at the Board; and to that I refer my ſelf.

Mr. Att. Gen. Pray Sir *Robert*, Did he ſhew the particular places to thoſe Lords?

Sir Robert Southwell. Yes, he did. Firſt, the Bench whereon they were ſitting when Sir *Edmund-bury Godfrey* was coming down; then the Corner into which they drew him when they had ſtrangled him; then the place where one *Berry* went to ſtay, which was at the Stairs that lead to the Upper Court, then a little Door at the end of the Stables, which lead up a pair of Stairs, and at the head of the Stairs a long dark Entry, and at the top of thoſe Stairs, a Door on the left hand, which being opened, ſhew'd us eight Steps, which lead up to the Lodgings that were Dr. *Godwin's*; In which *Hill* was ſaid to be inhabitant for ſeven years before. And aſſoon as we were gone two Steps, there was a little Cloſet or Cabinet on the right hand, in which there was a Bed, and there he ſhewed my Lords, This is the place where we handed him up firſt, and here we left him, ſaid he, in the care of *Hill* for two Nights.

Mr. Juſt. *Wild.* You were there, Sir *Robert Southwell* upon the place, when he ſhew'd them theſe things?

Sir *Robert Southwell.* Yes Sir, I was there.

Mr. Juſt. *Wild.* Was it anſwerable to what he had declared to the King and Council?

Sir *Robert Southwell.* Yes, it was anſwerable to all things he had ſaid in the morning.

Mr. Juſt. *Jones.* And ſuitable to what he ſays now?

Sir *Robert Southwell.* Yes, ſuitable to what he ſays now, but only now he ſays more than he ſaid then. And as to what he ſays about the Chambers of Sir *John Arundel*, they could not be Sir *John's* Lodgings, for they were not capable of receiving a Perſon of that Quality.

Mr. *Praunce.* I ſaid, I did believe they did belong to Sir *John Arundel.*

L. C. J. They were Lodgings perhaps that belong'd to his Servants, tho' not to him.

Mr. *Att. Gen.* Sir *Robert*, I deſire to know, whether Mr. *Praunce*, when he ſhew'd theſe Places, and made theſe Deſcriptions, did he do it with any heſitancy, or did he do it readily?

Sir *Robert Southwel.* Hitherto, my Lord, he went directly and poſitively, as if any body ſhould walk to *Weſtminſter-Hall* Door. But afterwards, when the Lords did deſire to know whither the Body was carried, he ſaid, it was into ſome Room of the Houſe by the Garden; for this is an Outer part of the Houſe, which any body may do any thing in, without their knowledge that are within. And he undertook to lead them to the place as well as he could; and ſo away we went thro' the long dark Entry that leads into the Outer Court of the Great Houſe; and croſſing the Quadrangle, he leads us to the *Piazza*, and down a pair of Stairs, and ſo far, ſaid he, I am ſure I went; then, aſſoon as we were down the Stairs, there is a great Square Court, then he began to ſtagger, as if he did not know his way, but there was no way but to go on however, and on we went, and coming croſs the Court, we came into ſeveral Rooms, and going thro' them, we came up Stairs again, and ſo into ſeveral other Rooms again. Sure, ſaid he, we were here, but I can't tell, and he was in a Diſtraction what Room he ſaw the Body in; but, ſaid he, thus far, I am certain I am right; which was according to the Paper, and I refer my ſelf to that.

Mr. Juſt. *Wild.* But, you ſay, that what he had ſaid to the Lords in the Council, was the ſame that he ſaid when you were by upon the place.

Sir *Robert Southwel.* Yes.

L. C. J. His doubtfulneſs of the Room does aſſert, and give credit to his Teſtimony, and confirms it to any honeſt man in *England.* Here, ſaith he, I will not be poſitive, but having ſworn the other things which he well remembred, poſitively, he is made the more Credible for his doubtfulneſs of a thing which he does not remember, which a Man that could ſwear any thing would not ſtick at.

Mr. Juſt. *Jones.* Beſides, he was not there but by Night, and all the Light he had was a dark Lanthorn.

Mr. Sol. Gen. Now, Sir *Robert*, I would ask you one Queſtion, if you pleaſe, Do you remember that *Hill* was Examined at the Council about this matter?

Sir *Robert Southwell.* My Lord, theſe are the Notes that I took upon theſe Mens Examinations, if your Lordſhip pleaſes they may be read.

Mr. Recorder. Sir *Robert*, We ask you but as to one particular thing, therefore if you pleaſe to look upon it, and refreſh your Memory, you may read it to your ſelf, and tell us only the Subſtance; which he did.

Mr. Sol. Gen. Now Sir, if you pleaſe, Do you remember that *Hill* was there?

Sir *Robert Southwell.* Yes, I find he was Examined.

Mr. Sol. Gen. Did not he deny there that he knew *Kelly*, but that he knew *Girald*?

Sir *Robert Southwell.* Yes, I do find it here ſet down that he did deny he knew *Kelly*, but that he knew *Girald.*

Hill. I ſaid I knew one *Girald*, but not that.

Mr. Recorder. But before the Council he ſaid he knew *Girald*; not one *Girald.*

L. C. J. This way of Anſwering is like the Examination that was taken lately amongſt ſome of them. A Perſon was asked when he ſaw ſuch a Prieſt? He denied that he had ſeen him in fourteen days. But then comes one and proves to his face, that he was with him in company all Night, within a Week and leſs. I, ſays he, that's true, but I ſaid I had not ſeen him in Fourteen Days. And ſo they may take Oaths to ſerve the King faithfully all the Days of their Lives, but in the Nights they may murder him, and keep their Oaths for all that.

Mr. Juſt. *Dolben.* I would know, whether the *Girald* you know be a Prieſt or no?

Hill. He is not.

Mr. Juſt. *Dolben.* Then you do not know *Girald* the Prieſt?

Hill. No, I do not.

Mr. Recorder. Call Mr. *Thomas Stringer.* And he was ſworn.

Mr. Recorder. Pray Mr. *Stringer*, will you tell my Lord and the Jury what it was that Mr. *Berry* ſaid about any Directions he had to keep all Perſons out of *Somerſet-Houſe*, about the twelfth or fourteenth of *October* laſt?

Mr. *T. Stringer.* My Lord, npon his Examination before the Lords of the Committee, *Berry* did ſay he had Orders from the Queen, or in the Name of the Queen, That he ſhould ſuffer no Strangers, nor any Perſons of Quality to come into *Somerſet-Houſe.*

Mr. *Att. Gen.* When was it he was to keep them out?

Mr.

Mr. *T. Stringer.* The 12th 13th and 14th of *October.*

Mr. *Att. Gen.* What, three Days?

Mr. *T. Stringer.* Two or three Days. And he ſaid that the Prince did come, and he did refuſe him, and ſent him back again.

Mr. *Record.* Did he ſay he ever had any ſuch Directions before?

Mr. *T. Stringer,* No: he ſaid he never before had any.

L. Ch. Juſt. It was a very unlucky thing that he had it then.

Berry. The Prince might have gone in if he would.

Mr. *T. Stringer.* You ſaid you did refuſe him, you had Order to let none come in.

L. C. J. Had you any ſuch Order?

Berry. Yes, my Lord, I had ſuch an Order from the Queen's Gentleman-Uſher.

L. C. J. Had you never had ſuch before?

Berry. Yes, I have had before, ſince the Queen came to *Somerſet-Houſe.*

L. C. J. Mr. *Stringer* ſwears you ſaid you had not any before.

Berry. Yes, I had.

L. C. J. Why did you deny it then?

Beery. I did not deny it; beſides, there were ſeveral went in.

Mr. Recorder. We have proved indeed five or ſix did go in.

L. C. J. For how many Days had you that Order?

Berry. Two Days.

L. C. J. Which two Days?

Berry. The eleventh and twelfth, I think thereabouts.

Mr. Recorder. Did you ſay before the Lords, that you never had ſuch Orders before?

Berry. No, I did not.

L. C. J. Mr. Berry, When you were examined before the Lords, Did you not ſay you never had ſuch Orders before?

Berry. No, I did not ſay ſo, my Lord, as I know of; for they did not examine me about that.

L. C. J. You ſaid you would prove it under his own Hand. Prove that.

Mr. Att. Gen. Mr. *Stringer,* Did he write his Name to his Examination?

Mr. *T. Stringer.* Yes, he did to one Examination.

Mr. Att. Gen. Pray look upon that: Is that his Hand?

Mr. *T. Stringer.* This was read to him before he ſigned it, and then he did ſign it.

Mr. Att. Gen. I would fain ſhew it to him, to ſee whether he would own it or no.

Berry. Yes, that is my Hand.

Then the Clerk of the Crown read it.

Cl. of the Cr. This is ſubſcribed by *Henry Berry. The Information of* Henry Berry, *Porter at the Gate of* Somerſet-Houſe; *taken before the Right Honourable the Marquis of* Wincheſter: *This Deponent ſaith, That about the* 12th, 13th, *and* 14th *of* October *laſt, he had Order to tell all Perſons of Quality, that the Queen was private, and that they were not to come in: And this Deponent ſaith, The Queen continued ſo private for two Days.*

L. C. J. Where is that part of the Examination wherein he ſaid, he never had any ſuch Order before?

Mr. *T. Stringer.* He did ſay ſo, but it is not in that that hath his Hand to it.

Mr. Juſt. *Wild.* Pray, my Lord, obſerve this is a kind of reflecting Evidence, and I would have no more made of it than the Thing will bear.

L. C. J. They only bring it, and make uſe of it againſt *Berry,* as a pretence of his.

Mr. Juſt. *Wild.* But it is a very reflecting Evidence.

Mr. Att. Gen. Surely there is no body here that offers it as ſuch: We uſe it only to this purpoſe, to ſhew that *Berry,* who was a Party to this Murder, did uſe all the means that he could to keep it private; and endeavoured to prevent Strangers coming in that Night to diſcover it; and therefore pretended theſe Orders.

If he had any ſuch Orders, I ſuppoſe he will prove them, we do not ſay he had them; but 'tis a great Evidence, when he pretended to ſuch privacy, that he and his Fellows had ſomething to do that was fit to be known by every body.

Mr. Recorder. He may make uſe of any Body's Name, and pretend what he will; but I ſuppoſe he will prove it from the Gentleman-Uſher, if it be true.

Mr. Att. Gen. We have one Witneſs more to call, my Lord, and that is one *Farr.* Call *Stephen Farr.* Which was done, and he ſworn.

Mr. Att. Gen. He is a Neighbour to *Berry,* and will give your Lordſhip an Account what Applications have been made to him, to tamper with him for Money, to keep away, and not give Evidence in this Cauſe. Pray Sir, are you Mr. *Berry's* Neighbour?

Farr. Yes, Sir, I am.

Mr. Att. Gen. Pray then tell what you know.

Farr. I know him very well, his Wife hath been with me laſt Week, and asked me if I knew what time he was with me on *Wedneſday,* the 16th of *October.* I deſired time to recollect my ſelf: And ſhe called four or five times after, and I did recollect my Memory and told her, That I was not with him at all that *Wedneſday.*

L. C. J. Why, this was reaſonable, and fair enough to do.

Mr. Att. Gen. It was ſo, my Lord, but pray had you no Money offered you?

Farr. No Sir, none at all; and I told her I could not remember that I was with him that Day.

Berry. But you may remember it very well, when I came from the Queen I came to you.

Farr. My Lord, I was out of Town that *Wedneſday,* from Two a Clock in the Afternoon, till Nine at Night.

L. C. J. Well, well, this is nothing: The Woman was willing, if ſhe could, to have counterproved the Evidence, and what ſhe did was fair; ſhe offered no Money, nor did it in an indirect way.

Mr. Att. Gen. My Lord, We have now done with our Evidence for the King, and leave it till we hear what they ſay.

L. C. J. What do you ſay for your ſelves, you ſhall have all the free liberty you will deſire?

Hill. In the firſt place, I take God to be my Witneſs, that I am wholly innocent, as to the Matter that is charged upon me: And as to what is ſaid that I dogg'd Sir *Edmund-bury Godfrey,* I can prove that I went into my Lodging at Eight a Clock, and did not ſtir out.

L. C. J. Come, call your Witneſſes.

Hill. Mary Tilden, Katharine Lee, Mrs. *Broadſtreet,* and *Daniel Gray.*

L. C. J. Let them come in there.

Then Mary Tilden *was firſt examined.*

Mr. Att. Gen. This is Doctor *Godwin's* Niece, and his Houſekeeper.

L. C. J.

L. C. J. Well, what do you ask her?

Hill. I desire to know what you can say about my being in my Lodging, and not going out.

Mary Tilden. He hath lived in our Family Seven or Eight Years.

L. C. J. Your Family, What is your Family?

Mary Tilden. With my Uncle.

L. C. J. Who is your Uncle?

Mary Tilden. Doctor *Godwin:* we left him in the House always, when we were absent from it; he was always a trusty Servant, never kept ill Hours, always came home by Eight a Clock at Night.

Mr. Just. *Dolben.* Always; For how long?

Mary Tilden. Ever since we came over last into *England.*

Mr. Just. *Dolben.* When was that?

Mary Tilden. In *April* last.

L. C. J. Were you there that Night Sir *Edmund-bury Godfrey* was kill'd?

Mary Tilden. I was.

L. C. J. What Night was that?

Mary Tilden. I don't know, my Lord, I heard of it in the Town.

L. C. J. When did you first hear of it?

Mary Tilden. The *Thursday* that he was found.

L. C. J. Did you not hear of it on the *Wednesday?*

Mary Tilden. Yes, I did.

L. C. J. Who could tell you the *Wednesday* before?

Mary Tilden. Why, my Lord, in the Town it was said he was missing from *Saturday,* and a *Thursday* he was found.

L. C. J. What can you say concerning *Hill,* that he was not out after Eight a Clock that Night?

Mary Tilden. He was a very good Servant to my Uncle, and never kept ill Hours, but always came in by Eight a Clock, or before.

Mr. Just. *Dolben.* Were you not out your self that Night?

Mary Tilden. No not I, never out after that Hour.

L. C. J. Pray how can you give such an account of Mr. *Hill,* as if he was always in your Company?

Mary Tilden. He came in to wait at Table, and did not stir out afterwards.

L. C. J. Pray, what Religion are you of? are you a Papist?

Mary Tilden. I know not whether I came here to make a Profession of my Faith.

L. C. J. Are you a Roman Catholick?

Mary Tilden. Yes.

L. C. J. Have you a Dispensation to eat Suppers on *Saturday* Nights?

Mr. Recorder. I hope you did not keep him Company, after Supper, all Night.

Mary Tilden. No, I did not, but he came in to wait at Table at Supper.

L. C. J. I thought you had kept fasting on *Saturday* Nights.

Mary Tilden. No, my Lord, not on *Saturday* Nights.

Mr. Just. *Jones.* How many Dishes of Meat had you to Supper?

Mary Tilden. We had no Meat, though we did not fast.

L. C. J. Can you speak positively as to this Night, the *Saturday* that he was kill'd?

Mary Tilden. He was at home that Night.

L. C. J. And where was he the *Sunday?*

Mary Tilden. He was at home.

L. C. J. And you are sure he was at home every Night?

Mary Tilden. Yes, while we were in Town.

L. C. J. Where was you all that *Wednesday*-Night you speak of?

Mary Tilden. I was at home in my Lodging.

Mr. Just. *Wild.* How is it possible for you to say, that *Hill* who was not your constant Companion, did not go out afterwards?

Mary Tilden. No, he was not my constant Companion.

Mr. Just. *Wild.* How then can you charge your Memory that he was at home?

L. C. J. Come, you are to speak truth, tho' you are not upon your Oath. Can you charge your Memory to say that he came in constantly at Eight a Clock at Night?

Mary Tilden. Yes I can, because I saw him come in constantly; and when he came in, I always sent my Maid to bar the Door.

L. C. J. Maid, can you say that he was always at home at Night?

Mary Tilden. I can say he never was abroad after Eight at Night.

Mr. Recorder. Why, you did not watch him till he went to Bed, did you?

Mary Tilden. We were always up till Eleven a Clock at Night.

Mr. *Att. Gen.* Was he in your Company all that while?

Mary Tilden. I beg your Pardon; if your Lordship saw the Lodgings you would say it were impossible for any to go in or out, but that they must know it within. We were constant in our Hours of going to Supper; our Doors were never open'd after he came in to wait at Supper.

L. C. J. You may say any thing to a Heretick, for a Papist.

Mr. Just. *Delben.* This is a mighty improbable Business.

Mr. Just. *Wild.* Where was he a *Wednesday*-Night?

Mary Tilden. At home.

L. C. J. They have a general Answer for all Questions.

Mr. Just. *Jones.* Who kept the Key of your Lodgings?

Mary Tilden. The Maid.

Mr. Just. *Jones.* Hath *Hill* never kept the Key?

Mary Tilden. No, my Lord, the Maid.

Mr. Just. *Jones.* How do you know but that the Maid might let him out?

Mr. *Praunce.* My Lord, Mrs. *Broadstreet* said at first there was but one Key; but before the Duke of *Monmouth* she said there was six or seven Keys.

L. C. J. Look you what Tricks you put upon us to blind us: You come and tell us that he was every Night at home by Eight a Clock, and did not stir out, for there was but one Lock, and the Maid kept the Key; and yet there were three or four Keys to it.

Mary Tilden. There was but one Key to that which kept the Door fast.

L. C. J. Praunce, how many Keys were there?

Mr. Praunce. She confessed there were four or five.

Mr. Just. *Wild.* What time was it that you carried him out of *Somerset-House* on *Wednesday*-Night?

Mr. Praunce. It was about Ten or Eleven of the Clock. *Hill* went to fetch the Horse.

Mary Tilden. We had never been out of our Lodgings

Lodgings after Eight a Clock, ſince we came to Town.

Mr. Juſt *Jones.* When were you out of Town?

Mary Tilden. In *October.*

Mr. Juſt. *Dolben.* Nay, now, Miſtriſs, you have ſpoiled all; for in *October* this buſineſs was done.

Mr. Juſt. *Jones.* You have undone the Man, inſtead of ſaving him.

Mary Tilden. Why, my Lord, I only miſtook the Month.

L. C. J. You Woman (ſpeaking to Mrs. *Broadſtreet*) what Month was it you were out of Town?

Broadſtreet. In *September.*

L.C. J. 'Tis apparent you conſider not what you ſay, or you come hither to ſay any thing will ſerve the turn.

Mary Tilden. No, I do not, for I was out of Town in *September*, came to Town the latter end of *September.*

L. C. J. You muſt remember what you ſaid, that you came to *England* in *April* laſt, and from that time he was always within at Eight a Clock at Night.

Mary Tilden. Except that time that we were out of Town, which was in *September*, the Summer-time. And it is impoſſible but if the Body was in the Houſe, as *Praunce* ſaid it was, but I muſt ſee him, or ſome of us muſt. I uſed to go every day into that little Room for ſomething or other, and I muſt needs ſee him if he were there.

L. C J. You told me juſt now you were not upon Confeſſion; and I tell you now ſo, you are not. Then Mrs. *Broadſtreet* was examined.

Mr. Juſt. *Jones.* Well, Woman, what ſay you?

Broadſtreet. We came to Town upon a *Monday*, *Michaelmas*-day was the *Sunday* following; and from that time neither he nor the Maid uſed to be abroad after Eight a Clock: we kept very good hours, and he always waited at Supper, and never went abroad after he came in to wait at Supper: and the Lodging was ſo little, that nothing could be brought in, but they muſt know that were within.

L. C. J. This is a lower Room than the Chamber, is it not?

Mr. *Praunce.* 'Tis even with the Dining-Room, my Lord.

L. C. J. What ſay you, Sir *Robert Southwell?*

Sir *Robert Southwell.* My Lord, it is an extraordinary little Place; as ſoon as you get up eight Steps, there is a little ſquare Entry, and there is this Room on the one Hand, and the Dining-Room on the other. I think there is a pair of Stairs to go down at one Corner of the Entry, as I think, but the Body was laid in a little ſquare Room at the Head of the Steps.

L. C. J. And muſt you go into the Room to go to the Dining-Room?

Broadſtreet. No, 'tis a diſtinct Room; but the Key was always in the Door, and every Day ſome Body went into it for ſomething or another.

L. C. J. Will you undertake to ſay it was always in the Door?

Broadſtreet. Yes, it conſtantly was.

Mr. Juſt. *Wild.* For my own Part I will not judge you: but that his Body ſhould be carried there about Nine a Clock at Night a *Saturday* Night, and remain there till *Monday* Night, 'tis very ſuſpicious, that if you were in the Houſe, as you ſay you were, and uſed to go into that Room every Day, you muſt either hear it brought in, or ſee it.

Broadſtreet. But we did neither, my Lord.

Mr. Juſt. *Dolben.* It is well you are not indicted.

Broadſtreet. Mr. *Praunce*, you know all theſe Things to be falſe, Mr. *Praunce.*

Mr. *Praunce.* I lay nothing to your Charge; but you ſaid before the Duke of *Monmouth*, that *Hill* was gone from his Lodgings before that Time.

L. C. J. What ſay you, Sir *Robert Southwell?*

Sir *Robert Southwell.* There aroſe a little Quarrel between them, about the Time that Mr. *Hill* did leave thoſe Lodgings. *Praunce* ſaid it was a Fortnight after; *Hill* ſaid, when he was upon his Examination, that the ſame *Saturday* Night that Sir *Edmund-bury Godfrey* was miſſing, he was treating with his Landlord, and from that Time, to the Time he went to his new Houſe, it was about a Week or a Fortnight.

L. C. J. But he did pretend he was gone before?

Broadſtreet. No, my Lord, I did not.

L. C. J. Two Witneſſes upon Oath Sware it, and you ſaid it your ſelf, and gave it under your Hand.

Broadſtreet. My Lord? ———

L. C. J. Nay, you will not hear, but you will talk; you ſay one Thing now, and you ſet another under your Hand.

Mr. Att. Gen. Have you not a Brother that is in the Proclamation, one *Broadſtreet* a Prieſt?

Broadſtreet. I have a Brother, whoſe Name is *Broadſtreet.*

Mr. Att. Gen. Is he not a Prieſt, and in the Proclamation?

Broadſtreet. I hope I muſt not impeach my Brother here. I ſaid upon my Oath, he came to Town on *Monday*, and *Michaelmas* Day was the *Sunday* following, and *Lawrence Hill* went away a Fortnight after.

Sir *Robert Southwell.* She ſwore then, two or three Days after *Michaelmas* Day.

L. C. J. You muſt know we can underſtand you thro' all your Arts. It was not convenient for you at that Time to ſay, that Mr. *Hill* went away about a Fortnight after *Michaelmas*, for then the Thing that was charged to be done, part of it in your Houſe, would have been within the Fortnight, for it was the 12th of *October*, but then you ſaid only two or three Days.

Sir *Robert Southwell.* She did ſay, my Lord, that about *Michaelmas* two or three or four Days after he went away.

Broadſtreet. I beg your Pardon, I only ſaid, I could not tell the Time exactly.

L. C. J. Well, have you any more to ſay?

Mary Tilden. There was never a Day but I went into that Room for ſome thing or other, and if any Body came to ſee me, there was ſo little Space that the Footmen were always forced to be in that Room.

Mr. Juſt. *Dolben.* Were you there upon *Sunday?*

Mary Tilden. Yes, my Lord, I was.

Mr. Juſt. *Dolben.* Well, I will ſay no more; call another Witneſs.

Hill. Catharine Lee.

L. C. J. What can you ſay, Maid?

Lee. My Lord, I did never miſs him out of the Houſe at thoſe Hours.

L. C. J. May be you did not look for him.

Lee. I did go down every Night to the Door, to ſee if it were lock'd, and I went into the Parlour to ſee that Things were ſafe there.

L. C. J. You

L. C. J. You are a Roman Catholick, are you not?

Lee. Yes, I am.

Mr. Juſt. *Dolben.* Might not he go out of the Houſe, and you never the wiſer?

Lee. Yes, for I did not watch him continually.

Capt. *Richardſon.* All that ſhe ſays may be true by the Place. The Servants keep down a pair of Stairs in the Kitchin, and any one may come in, or go out, having ſo many Keys, and they not know it that are below.

Lee. I went into the Chamber every Morning, as I went to Market.

Mr. Juſt. *Wild.* Have a care what you ſay, and mind the Queſtion I ask you, Were you there on the *Sunday*, in that Room where they ſay Sir *Edmund-bury Godfrey*'s Body was laid?

Lee. I cannot ſay, that I was in that Room, but I called in at the Door every Day, and I was the laſt up every Night.

Mr. Juſt. *Wild.* I'll ſay that for thee, thou haſt ſpoke with more Care than any of them all.

Then Daniel Gray *was Examined.*

L. C. J. What can you ſay? What Queſtions do you ask him?

Hill. I deſire him to ſpeak what he can ſay, where I was thoſe five Days that Sir *Edmund-bury Godfrey* was miſſing.

Gray. I kept my Brother *Hill* Company, from the 8th of *October*, till he took his Houſe, which was about the 22d or 23d.

L. C. J. What Time did you uſe to go to Bed?

Gray. About Nine or Ten a Clock at Night.

L. C. J. What Time did he go?

Gray. When I did, but I did not ſee him go to Bed.

L. C. J. Where did you lie?

Gray. At my own Houſe.

L. C. J. And you went home about Eight or Nine a Clock at Night to go to Bed?

Gray. Yes, I did.

Mr. Juſt. *Jones.* You ſay he took his Houſe the 8th of *October*, when did he go thither?

Gray. Yes, he took his Houſe the 8th of *October*, but he did not go thither till the one or two and twentieth.

Mr. Juſt. *Dolben.* But you cannot tell what he did at Night.

Gray. No, not I.

Mr. Juſt. *Dolben.* But you were in his Company till Eight or Nine a Clock at Night?

Gray. Yes, my Lord, I was.

L. C. J. How far did you live off of him?

Gray. About a Bow's ſhoot.

L. C. J. Look you, Mr. *Hill*, he does you no Service at all, for he ſays he left you about Eight or Nine a Clock at Night, and he does not know what you did afterwards. Have you any more?

Hill. Robert How.

L. C. J. Come, what ſay you?

How. My Lord, I met with Mr. *Hill* the 5th of *October*, he asked me whither I was going? I told him, Home. I wiſh, ſaid he, you would go a little back with me; I am about taking of an Houſe, and I would have you view the Repairs; accordingly we did go, and treated in the Houſe about an Agreement; for ſaid he, I will not agree with you (to the Landlord) till we know what muſt be repaired. On *Tueſday* Morning we met again, about Eight a Clock.

L. C. J. What Day of the Month was that?

How. The 8th. And a *Wedneſday* about Noon we began to work for him, to repair his Houſe, and we wrought that Week every Day, and for twelve Days and an half in all, and he was every Day with us, looking after Coals or Beer or ſomething. On *Saturday* the 12th of *October*, we dined together, and parted with him about One or Two a Clock, and about Two a Clock I went back again to my Work, and he ſaid he was going towards *Covent-Garden* in St. *James's*, but he came back again, and I was gone firſt; I asked my Man whether he was gone or no, he ſaid, he was there, but did not ſtay.

L. C. J. What time was that?

How. A little before Night.

L. C. J. What Hour did your Man ſay that he was there?

How. About an Hour before they left Work.

L. C. J. What time was that?

How. About Four a Clock I think it was.

L. C. J. Can you ſay where he was that Night?

How. No, I cannot.

L. C. J. What Religion are you of, are you not a Proteſtant?

How. Yes, my Lord, I think ſo.

Mr. Recorder. My Lord asks you, are you a Proteſtant?

How. I was never bred up in the Proteſtant Religion.

Mr. *Praunce.* He is a Catholick, my Lord, he was the Queen's Carpenter.

Mr. Juſt. *Dolben.* Nay, now you ſpoil all; you muſt do Penance for this; what! deny your Church?

Hill. What time was it a *Saturday* Morning I was with you?

How. About Nine a Clock.

L. C. J. How long did he ſtay?

How. From Nine to Two.

L. C. J. Are you ſure 'twas Nine?

How. No Man can ſwear punctually to an hour.

L. C. J. What think you of Ten?

How. It was thereabouts.

Mr. Recorder. If I am rightly informed by the Clerks, he is Outlawed for Recuſancy.

L. C. J. Is he ſo? Pray let us know that.

Harcourt, (One of the Clerks of the *Crown-Office.*) My Lord, I have made out ſeveral Writs againſt him, for ſeveral Years together, and could never get any of them Returned.

Hill. He tells you, that I was with him from Nine a Clock on *Saturday* Morning, till One.

Mr. Juſt. *Jones.* But that is but as true as he is a Proteſtant, and how true that is, you know.

Hill. Here is another Witneſs; Mr. *Cutler.*

Tho. Cutler. Upon the 12th of *October*, *Lawrence Hill* did come into my Houſe, about Four or Five a Clock in the Evening, and he ſtaid there till between Seven or Eight, and then his Wife came for him, and ſaid ſome Gentlewoman was ready for her Supper, and ſo he went home; and I ſaw him no more, till the Day after he was taken.

L. C. J. Look you here, he ſpeaks only about Seven or Eight a Clock. Well, have you any thing more to ſay?

Hill. There is one *Richard Lazinby.*

Lazinby. My Lord, I was with him on *Saturday* the 12th of *October*, at the Door, about Twelve a Clock.

L. C. J. And you dined with him and *How.*

Lazinby. Yes, Sir.

L. C. J. But you did not ſee him afterwards?

Lazinby. Yes, I did ſee him on *Wedneſday* Night, from Five to Seven at Night.

L. C. J. What Time was he carried out of *Somerset-House*?

Mr. Att. Gen. About Eleven or Twelve a Clock at Night.

Lazinby. That is the last time I was with him.

L. C. J. Well, have you any more?

Hill. Here is one Mr. *Archbold*, my Lord.

Archbold. My Lord, I had occasion for a Taylor, and I came to this Man's House, to seek for one Mr. *Gray*, that had formerly wrought for me.

L. C. J. When was that?

Archbold. That was on *Monday* Night. And he having formerly wrought for me, I found him at this Man's House; so Mr. *Gray* asked me, what News? I told him, Very good News; for *Praunce* was taken for the Murder of Sir *Edmund-bury Godfrey*. Says *Hill*, I am glad of that; I wish they were all taken. I came the next Day after, and they told me he was taken out of his Bed, for the Murder of Sir *Edmund-bury Godfrey*.

L. C. J. Was it that very Night that you came, that he was taken?

Archbold. Yes, it was.

L. C. J. You said he spoke of it before you at Seven a Clock, and you left him about Nine, and he was taken that Night; what then?

Hill. Why, then I had Time enough to make my Escape, if I had thought my self Guilty.

L. C. J. As no doubt you would, if you had thought they would have been so nimble with you.

Archbold. He knew it the Day before.

L. C. J. Well, have you any more to say?

Mrs. *Hill.* There is Mr. *Ravenscroft*, my Lord.

L. C. J. What, that *Ravenscroft* that is sent away?

Mrs. *Hill.* Yes, my Lord.

L. C. J. Then the Marshal must send for him, if he be a Witness for the Prisoner. In the mean Time, what can you say for your self, Mr. *Green*?

Green. My Lord, I would call my Landlord and his Wife.

L. C. J. What are their Names?

Green. *James Warrier*, and his Wife.

L. C. J. Call in *Green*'s Wife, and all her Witnesses.

Then Mrs. Hill, *the Prisoner's Wife, offered a Paper to the Court, containing Observations upon the Indictment, which she desired them to read; but it was refused, and she bid to give it her Husband.*

Then James Warrier *was Examined.*

L. C. J. What say you to your Landlord?

Green. I ask him no Questions at all, but desire him to tell what he knows.

Warrier. I will say, that the 12th of *October*, he was at my House, half an Hour after Seven, and he was not out of my House till after Ten.

L. C. J. How can you remember that Day? what Day of the Week was it?

Warrier. It was a *Saturday*.

L. C. J. How do you remember it was so?

Warrier. I have recollected my Memory.

L. C. J. By what?

Warrier. By my Work, and every thing exactly.

L. C. J. When did you begin to recollect your self?

Warrier. A pretty while ago.

L. C. J. How long after Sir *Edmund-bury Godfrey* was murdered?

Warrier. A Month after.

L. C. J. What made you to recollect your self a Month after?

Warrier. Because he was in Prison in the *Gate-house*.

L. C. J. When was he taken up?

Warrier. He was taken up in *Somerset-House*, and not in my House.

L. C. J. But when did you recollect your self?

Warrier. When he was in Prison.

L. C. J. But I pray remember the Time when you did recollect your self, and the Occasion that made you recollect your self when he was taken up.

Warrier. I remember it very well, for he had been in my House but fourteen Days, before he was taken up.

Sir *Tho. Stringer.* He was not taken up for the Murder of Sir *Edmund-bury Godfrey*, till the 24th of *December*.

Mr. Just. *Wild.* Pray did you never think of this till he was in Prison?

Warrier. It was when he was taken up.

L. C. J. But pray when you came to recollect your self, how did you come to do it?

Warrier. I recollected it by my Work.

L. C. J. But what gave you Occasion to recollect your self since he was in Goal?

Sir *Tho. Stringer.* My Lord, he was put into Goal, for refusing to take the Oaths; but he was not at all charged with the Death of Sir *Edmund-bury Godfrey*, at that Time.

L. C. J. When was he put in for the Death of Sir *Edmund-bury*?

Sir *Tho. Stringer.* The 24th of *December*.

L. C. J. Then there is all the remaining part of *October*, all *November*, and the former part of *December*, was past, how could you recollect your self of the particular Day?

Warrier. I call'd it to mind by my Work.

Capt. Richardson. My Lord, I will rectify this Mistake: Since their Arraignment, I went to them, to know what Witnesses they had, and *Green* told me of his Landlord and Landlady; I then asked them, If they could say any thing as to this particular Day? and they said they could not do him any Good at all.

Warrier. I did not then call it to Memory.

L. C. J. When did you call it to Memory?

Warrier. I did say I could not do it then presently, as I have done since, in five or six Days.

L. C. J. How could you recollect it then?

Warrier. By the Time he came into my House, which was a Week before, and by the Work that was done.

L. C. J. What could the Work do as to this? Can you tell by that, any Thing that is done at any Time? where were you the 9th of *November* last?

Warrier. Truly I can't tell.

L. C. J. Why how came you then to recollect what you did the 12th of *October*, when you did not know where you were the 9th of *November*?

Warrier. I can tell a great many Tokens, he was but fourteen or fifteen Days in our House.

L. C. J. What did he do the 12th of *October*, that you remember so particularly that Day?

Warrier. Sir, I remember other Days besides that; but I say, I never knew the Man out after Nine a Clock, in my Life.

L. C. J. Have you any body else; for this Man I can't tell what to make on't.

Green. Here is the Man's Wife to give Evidence.

L. C. J. First consider what you say.

Mrs. Warrier.

Mrs. *Warrier.* To tell you the Truth, I thought the Man was ſo clear of this Fact, that I never troubled my Head with it; but when Captain *Richardſon* came to my Houſe, I told him, that he was never in our Houſe by Day-time, except being Cuſhion-layer in the Chapel, he uſed to come at half an Hour after Eleven, and many times he did deſire me, becauſe we were Proteſtants, to put in a little Fleſh Meat with ours; ſometimes he would ſit down and eat his Meat in the Kitchin, and his Wife with him; and his Wife would ſay to him, 'tis a troubleſome Time, pray ſee that you come home betimes. I did not at all remember the Day of the Month at the firſt, nor the Action; but my Husband and I have ſince remembred. We were deſired by them once to eat a Fowl with them; and my Husband did command me the *Sunday* after to invite them to Dinner with us, and I went in the Morning very early, I think, and bought a dozen of Pidgeons, and put them in a Pye, and we had a Loin of Pork roaſted; and when he was gone to the Chapel on *Saturday* in the Afternoon, his Wife came to me, and ſaid, my Huſband is not well, and when he comes home will ask for ſomething of Broath; and away ſhe went to Market to buy ſomething to make Broath of. While ſhe was at Market, her Husband came home, and asked where his Wife was? Why Mr. *Green*, ſaid I, ſhe is gone to Market: what an old Fool, ſaid he, is this, to go out ſo late, ſuch a Night as this is? But, ſaid he again, I will go to the Coffee-houſe, and drink a Diſh of Coffee, and pray tell my Wife ſo. In the mean time ſhe returned, and by that time ſhe had been above a little while, he came in again. And Mr. *Green* being there, my Husband came in, and called to me, prithee, Sweetheart, what haſt thou got for my Supper? prithee, ſaid I, Sweetheart, thou art always calling for thy Victuals when thou comeſt in. Then Mr. *Green* goes to the Stairs, and calls to his Wife, and bids her bring him down ſome Victuals, and ſhe brings down the Bread and Cheeſe, and he ſtayed there till it was Nine a Clock; and then ſaith Mr. *Green* to his Wife, let us go up, for there is a Fire.

L. C. J. What Day was this, all this while?

Mrs. *Warrier.* Why, it was the *Saturday* Fortnight after *Michaelmas* Day.

L. C. J. Why might it not be that Day three Weeks.

Mrs. *Warrier.* It was that Day he was miſſing.

Mr. Att. Gen. Why there was no Alarum taken of it a *Sunday*.

L. C. J. When did you begin to recollect what Day it was, that they ſaid he was miſſing?

Mrs. *Warrier.* On *Friday* Morning our Milkman came and told us, that one Mr. *Godfrey* was found murdered; now I knew one of the *Exchange* of that Name, and thought it might be he. And when we went up with him to his Chamber, we ſate there till the Tattoo beat.

L. C. J. All the Thing is, how do you know it was this *Saturday*?

Mrs. *Warrier.* It was the *Saturday* Fortnight after *Michaelmas* Day.

Mr. Juſt. *Dolben.* Are you ſure it was the *Saturday* Fortnight after *Michaelmas* Day?

Mrs. *Warrier.* Yes, we did look upon the Almanack, and reckon it ſo.

Mr. Juſt. *Dolben.* Then that was the 19th of *October*.

L. C. J. Why you told him, you could do him no Good, and indeed you do not.

Mr. Juſt. *Jones.* You and your Wife ſpeak of the ſame Time, don't you?

Warrier. Yes.

L. C. J. Have you any more, *Green*?

Capt. *Richardſon.* There is the Maid, let her come in.

L. C. J. What ſay you, Maid?

Maid. I can ſay, that he came in the *Saturday* Fortnight after Quarter-Day, pretty betimes.

L. C. J. Can you ſpeak of any other Time beſides that *Saturday* Fortnight?

Maid. I can tell he came in every Night before Nine a Clock.

Green. I can take my Oath, I was never out of my Lodging after Nine a Clock.

Hill. My Lord, here is Mr. *Ravenſcroft* now.

L. C. J. Mr. *Ravenſcroft*, what can you ſay?

Mr. Ravenſcroft. What I can ſay, my Lord, is this; This *Lawrence Hill*, I have known him Thirteen or Fourteen Years, and he ſerved my elder Brother ſo long, very faithfully. Afterwards he lived with Dr. *Godwin* towards the latter end of the two laſt Years, and he married my Mother's Maid.

L. C. J. What Religion are you of?

Mr. Ravenſcroft. My Father and Mother were Proteſtants.

L. C. J. But you are a Papiſt, are you not?

Mr. Ravenſcroft. I have not ſaid I am a Papiſt, yet.

Mr. Juſt. *Dolben.* In the mean Time, I ſay you are one.

Mr. Ravenſcroft. Do you ſo? then pray go to *Southwark* and ſee.

Mr. Att. Gen. My Lord, I think he hath taken the Oaths of Allegiance and Supremacy.

L. C. J. Well, pray Sir go on with your Story.

Mr. *Ravenſcroft.* If it pleaſe you, upon a *Saturday*, a little before *Chriſtmas*, there was ſomebody taken, I think it was one Mr. *Praunce*, for I never ſaw the Man, neither do I know him at all: And it was reported that he was taken upon the Death of Sir *Edmund-bury Godfrey*, and I was glad to hear it. My Houſe was in the *Savoy*, and my Father's Houſe is in *Holbourn*; and I uſed often to go and ſee my Father, and coming home again, I went to ſee the Maid at her new Houſe, ſhe had not been long there, and ſhe was ſtanding at the Door of the Houſe. I asked her what News? ſays ſhe, Here hath been a Man here that tells us, that *Praunce* hath diſcover'd ſeveral of the Murderers of Sir *Edmund-bury Godfrey*; and they talk up and down ſtrangely of it, and ask me whether my Husband be acquainted with him? Then ſaid I to her, Is he? She anſwered me, Very well, they have been often together; and ſo ſhe told me the People did mutter and talk of her Husband. But, ſaid I, what ſays your Husband to it? Says ſhe, He defies *Praunce* and all his Works. Said I, Where is your Husband? Said ſhe, He is within. I was very glad to hear it, for, ſaid I, he living in *Somerſet-Houſe*, and being acquainted with *Praunce*, I am glad to hear that your Husband can be ſo Courageous; ſo I went away, and came again thither the next Morning, and found he was taken the Night before. All that I ſay then, is, that it was a good Evidence of his Innocency, that when he had notice of it he did not fly.

L. C. J. So then your Diſcourſe was after *Archbold* had been there.

Mr. *Ravenſcroft.* *Archbold* was there before me, and had ſpoken this in their Company. I ſpake with her that Night, and the next Morning too;

too; and all that I ſay is, if Flight be a ſign of Guilt, as no doubt it is, *Adam ubi es?* and Couragiouſneſs is a ſign of Innocency, then this Man is innocent.

L. C. J. But you ſay, ſhe told you they were acquainted?

Mr. *Ravenſcroft.* My Lord, I have one Thing more to ſay. Upon the Occaſion of theſe Things, this Woman hath been often with me, and hath deſired to know of me what Defence ſhe ſhould make, for I ſaw *Hill*'s Wife and *Berry*'s Wife were all ſimple People, without Defence for themſelves, and they did deſire that I would examine and ſee ſome of the Witneſſes, and ſee how it was, and ſhe had gotten me ſome Papers, and I conferred them together, there are Witneſſes that will atteſt the Copy.

Mr. Att. Gen. What is all this to the Purpoſe? Only this Gentleman hath a mind to ſhew that he can ſpeak *Latin.*

Mr. *Ravenſcroft.* I thank God I can ſpeak *Latin* as well as any Man in the Court.

L. C. J. Well, all this is nothing.

Mr. *Ravenſcroft.* I declare it my ſelf, if this Man were guilty, rather than I would ſpeak for him, if there wanted a Hangman, I would do it my ſelf.

L. C. J. Well, *Berry*, what have you to ſay?

Berry. I deſire *Nicholas Trollop*, and *Nicholas Wright*, and *Gabriel Hasket*, and *Elizabeth Wilkes*, and Corporal *Collet* may be called.

Corporal William Collet *firſt Examined.*

Berry. Did not you place a Centinel on *Wedneſday* Night?

Collet. What *Wedneſday* do you ſpeak of Sir?

Berry. That Night the Queen went from *Somerſet-Houſe* to *Whitehall.*

Collet. Yes. This *Nicholas Trollop* I placed there firſt, the 16th. of *October.*

L. C. J. How do you remember that?

Collet. Becauſe I have been called to an Account before, and have given good Reaſons for it. Our Company was at *Somerſet-Houſe* when the King came from *New-Market*, and the Queen went to *Whitehall.* Afterwards we were bid to fetch our Centinels off about Three or Four of the Clock in the Afternoon.

L. C. J. Did you leave any Soldiers there?

Collet. No, we did not, all our Company went to *Whitehall.*

Mr. Juſt. *Dolben.* Are you ſure there were no Soldiers that Night there?

Collet. Yes, we were commanded with a Party to go thither again that Night.

L. C. J. What did you do then?

Collet. I placed the Centinels by the Porter's Order.

L. C. J. Who was that, *Berry?*

Collet. No, it was one that uſed to go about, and give Orders where we ſhould ſet them.

L. C. J. How did you place them?

Collet. This Man I placed from Seven to Ten, then *Nicholas Wright* relieved him at Ten, and ſtay'd till One.

L. C. J. At what place?

Collet. To the *Strand*-ward.

Mr. Juſt. *Wild.* That was the Gate they carried him out at.

L. C. J. Do you hear; whereabouts did you ſet the Centinels? within the Gate?

Collet. Yes, within the Wicket.

L. C. J. That way he was carried out.

Nicholas Wright. There was no Sedan came out in my Time.

Trollop. There was one came in in my Time, while I ſtood there.

L. C. J. Was it an empty Sedan?

Trollop. I ſuppoſe it was, but we had no Order to keep any out.

Mr. Juſt. *Wild.* But you might know whether it was an empty Sedan or no, by the going of it through the Wicket.

Collet. There is an empty Sedan that ſtands there every Night.

Trollop. It was ſet down within the Gate.

Mr. Juſt. *Jones.* If any Sedan had gone out, you would not have ſtaid them, would you?

Collet. No, my Lord, we had no Order to ſtop any.

Mr. Juſt. *Dolben.* How can you then be poſitive, that no one did go out?

Trollop. None did go out again in my Time.

Mr. Juſt. *Dolben.* Could not the Porter open the Gate, as well as you?

Collet. Yes, my Lord, he could, but I ſhould have ſeen him then: he did not open it in my Time.

Mr. Juſt. *Wild.* Let me ask you but one Queſtion; Did not you go to drink, nor tipple all that time?

Trollop. No, nor walk a Pike's length off the Place of Centry.

Mr. Juſt. *Wild.* Has not *Berry* an Houſe there, hard by?

Trollop. Yes, but I did not drink one drop.

Mr. Juſt. *Dolben.* How can you remember ſo particularly, ſo long ago?

Trollop. Why, I was twice before the Committee.

Mr. Juſt. *Dolben.* But how long ago was it that you were queſtioned about this thing, after this Night?

Trollop. A matter of a Month, or Six Weeks.

Collet. For we were examined before *Prance* was taken up.

L. C. J. You *Trollop*, Can you ſay whether it was the Sedan that uſed to be within?

Trollop. No, I cannot, but it was brought in in my Time, and did not go out again.

Then Gabriel Hasket *was examined.*

Berry. You ſtood there, Sir, from One to Four.

Hasket. Yes, after the Clock ſtruck One, I was put Centinel, and ſtood till Four.

L. C. J. What Night?

Hasket. That Night the King came from *Newmarket*, and the Queen went from *Somerſet-Houſe.*

L. C. J. What Day of the Month was that?

Hasket. The Sixteenth.

L. C. J. What Day of the Week?

Hasket. Wedneſday.

L. C. J. Did you not drink at *Berry*'s then?

Hasket. No, I did not.

L. C. J. Did you ſee *Berry* then?

Hasket. No, I did not.

L. C. J. He was gone before you came.

Berry. I was faſt enough a Bed at that time.

L. C. J. Well, what ſay you more?

Berry. Here is my Maid, *Elizabeth Minſhaw*, to give her Evidence where I was that Night the Queen went from *Somerſet-Houſe.*

Mr. Juſt. *Jones.* What can you ſay?

Minſhaw. May it pleaſe you, my Lord, my Maſter was within Doors, and about the Gate, when the Queen went away.

L. C. J. Who is your Maſter?

Minſhaw. Mr. *Berry.* He was about the Gates all the Forenoon.

L. C. J.

L. C. J. When was that?

Minſhaw. The 16th of *October*, *Wedneſday*. And as ſoon as the Queen was gone, my Maſter went out to Bowls; and when he came home again, he ſaid he had been at Bowls.

L. C. J. What Time did he come home?

Minſhaw. It was dusky, and he was not abſent all Night an Hour, till he went to Bed.

Mr. Juſt. *Wild.* When did he go to Bed?

Minſhaw. My Lord, I ſuppoſe he went to Bed about Twelve a Clock.

Mr. Juſt. *Wild.* They do not charge him with any thing, but what was done about the Gate.

Mr. Juſt. *Dolben.* What Time did you go to Bed that Night?

Minſhaw. Why I went to Bed about Twelve a Clock.

Mr. Juſt. *Dolben.* And you ſaw him no more that Night?

Minſhaw. No, my Lord, but he muſt go thro' my Room to go to Bed at Night, and therefore I ſuppoſe he was a Bed.

Mrs. *Hill.* I deſire Mr. *Praunce* may Swear why he did deny all this?

L. C. J. Stand up, Mr. *Praunce*; that Gentlewoman does deſire to know, what induced you to deny what you had ſaid.

Mr. *Praunce.* It was becauſe of my Trade, my Lord; and for fear of loſing my Employment from the Queen, and the Catholicks, which was the moſt of my Buſineſs, and becauſe I had not my Pardon.

Mrs. *Hill.* I deſire he may ſwear whether he were not tortured?

Mr. Juſt. *Dolben.* Anſwer her; were you tortured to make this Confeſſion?

Mr. *Praunce.* No, my Lord, Captain *Richardſon* hath uſed me as civilly as any Man in *England*; all that Time that I have been there, I have wanted for nothing.

L. C. J. See what he ſays; That he did not make this Confeſſion by any Torture, but he made his Recantation thro' Fear, and the Thoughts of Death, becauſe he had no Pardon; and fear that he might live in Want, by the Loſs of the Trade, prevailed with him to deny what he had confeſſed.

Mrs. *Hill.* It was reported about Town, that he was tortured.

Mr. Juſt. *Jones.* No, it was no ſuch Thing; it was only the Tortures of his Conſcience, for being an Actor in ſo great a Sin.

Mrs. *Hill.* There are ſeveral about the Court, that heard him cry out: And he knows all theſe Things to be as falſe, as God is true; and you will ſee it declared hereafter, when 'tis too late.

L. C. J. Do you think he would ſwear three Men out of their Lives for nothing?

Mrs. *Hill.* I deſire he may be ſworn to that particular Thing.

Mr. Juſt. *Jones.* He is upon his Oath already, and ſwears all this upon his Oath.

Mrs. *Hill.* Well, I am diſſatisfied; my Witneſſes were not rightly examined, they were modeſt, and the Court laugh'd at them.

Berry. The Centinels that were at the Gate all Night, let nothing out.

L. C. J. Why you could open the Gate your ſelf.

Berry. He ſays, he could have ſeen if the Gate had been open; and that, as he ſaw, the Gates were never open'd.

Mr. Juſt. *Dolben.* Well, the Jury have heard all, and will conſider of it.

Mrs. *Hill.* Here is another Witneſs, my Lord, Mr. *Chevins.*

L. C. J. Well, Sir, what ſay you?

Chevins. I have nothing to ſay, but that I heard Mr. *Praunce* deny all.

L. C. J. Why he does not deny that now. Well, have you any more?

Chevins. We have no more.

Mr. Att. Gen. My Lord, I muſt crave leave to ſpeak a word, or two; and the Evidence having been ſo very long, I ſhall be exceeding ſhort. I intended (when I began to open the Evidence) to have made ſome Obſervations after the Evidence ended; to ſhew how each part of it did agree, and how the Main was ſtrengthned by concurrent Circumſtances. But, in truth, the King's Evidence did fall out much better than I could expect, and the Defence of the Priſoners much weaker than I could foreſee. So that, I think, the Proof againſt the Priſoners is ſo ſtrong, and ſo little hath been alledged by them in their Defence, that it would be but loſs of Time to do what I at firſt intended. Only I will obſerve, that Mr. *Bedlow* doth agree with Mr. *Praunce* as far forth as is poſſible; that is, in thoſe Parts of the Fact, of which he pretends to have any Knowledge. Yet had they never any Communication one with another, as both have Sworn. And your Lordſhip will obſerve in how many Particulars they do agree; namely, as to the Dark-Lanthorn, as to the Covering of the Body in the Room; how they intended to carry the Body out in a Sedan, and the reſt. So that if they had laid their Heads together to contrive a Story, they could hardly have agreed in ſo many Circumſtances; and yet this they do, without diſcourſing with each other beforehand.

My Lord, I muſt likewiſe obſerve to you, that the Servants of the *Plow*-Alehouſe concur as to Meetings there: The Maid agrees as to the Priſoners coming to Sir *Edmund-bury Godfrey*'s Houſe, and to the Time, *viz.* that *Saturday* Morning; nay, to the very Hours of Nine or Ten a Clock; That the Conſtable's Relation of the Poſture in which the Body was found in the Field, doth perfectly agree with the Account that the Murderers gave thereof to Mr. *Praunce* the next Morning. The Chirurgeons do agree with Mr. *Praunce*, as to the manner of Sir *Edmund-bury Godfrey*'s being killed, the ſtrangling, the bruiſing of his Stomach, the twiſting of his Neck. And the Witneſſes from *Bow* make it out, that *Dethick* was ſent for; that they had a Dinner there. The Boy proves that he over-heard them reading ſomething about Sir *Edmund-bury Godfrey*, and that they were very merry; and that for his liſtning, he was threatned to be kick'd down Stairs.

So that, I think, there never was an Evidence that was better fortified with Circumſtances than this: My Lord, I ſhall be bold to ſay, here is certainly as much Evidence as the Matter is capable of. It is not to be expected, that they ſhould call Witneſſes to be by, when they do ſuch foul Facts; ſo that none can ſwear directly the very Fact, but ſuch a one as was an Actor in it. All Circumſtances relating to the Fact, both before, and after, are made out by concurrent Teſtimony. And, my Lord, I muſt obſerve, that this was a Murder committed thro' Zeal to a falſe Religion, and that Religion was a Bond of Secrecy. We all know, His Majeſty hath been grciouſly pleaſed, by his Proclamation, to propoſe a Pardon, and a Reward to

the

the Diſcoverers. And yet almoſt without Effect: Their Zeal to their falſe Religion, was a greater Obſtacle, than the Proclamation was an Incitement, to the Diſcovery. And I do believe, if Mr. *Praunce* had not had ſome Inclination to change his Religion, you had ſtill been without ſo clear a Diſcovery of this Work of Darkneſs, as now you have. I ſhall ſay no more, but conclude to the Jury with that Saying, that I remember in the Book of *Judges*, (in the Caſe of a Murder too, tho' of another Nature) *Judg.* xix. 30. *The People ſaid there was no ſuch Deed done, nor ſeen, from the Day that the Children of Iſrael came out of Egypt:* And I may ſay, there was never ſuch a barbarous Murder committed in *England*, ſince the People of *England* were freed from the Yoke of the Pope's Tyranny; and as 'tis ſaid there, ſo ſay I now, *Conſider of it, take Advice, and ſpeak your Minds.*

Mr. Sol. Gen. My Lord, I would only make one Obſervation to your Lordſhip, which is this; I do not find they do in the leaſt pretend to tax Mr. *Praunce*, that any Perſon hath bribed him to give this Evidence; nor, that there was the leaſt Reward ever propoſed to him to bear Witneſs againſt them, not ſo much as the hopes of that Reward contain'd in the King's Proclamation; yet Mr. *Praunce*, if he had had a mind to bear falſe Witneſs, might have laid hold of that opportunity; but ſo far was he from pretending to diſcover any thing, that he denied all when he was firſt apprehended. But after he was in Hold, and likely to be brought to Juſtice, and lying under the conviction of a guilty Conſcience, then, and not till then, does he diſcover it.

There is no Objection in the World to be made, but that ſince this Diſcovery, Mr. *Praunce* hath retracted what he ſaid before, but he gives you a very good account of it; the Terrors of Conſcience he then lay under, the Fears that he ſhould not be pardoned, and the Apprehenſions he had from the Threats on their Side, and the Danger of his utter Ruine, put him upon that Denial.

But, my Lord, he tells you likewiſe, That as ſoon as ever he was brought back to the Priſon, he owned all he had ſaid at firſt, and deſired he might be carried back again to teſtify the Truth of what he had firſt Sworn to. This, my Lord, he gives you an account of, and the ſame Account does the Keeper of the Priſon give too. I have nothing to ſay more, but only juſt to obſerve the many Circumſtances whereby Mr. *Praunce's* Teſtimony is fortified. Mr. *Bedlow* does agree with him in every Circumſtance, as far as his Knowledge went: The Maid of the Houſe agrees with his Teſtimony; that ſays, She ſaw *Green* at Sir *Edmund-bury Godfrey's* ſeveral Times, tho' here he denies he knew him. That ſhe ſaw *Hill* there that very Morning her Maſter was miſſed; That he talked with her Maſter a quarter of an Hour: That ſhe knew him by a very good Token; not only by his Face, but alſo that he had the ſame Cloaths on then he hath now.

Mr. *Praunce* hath likewiſe told you of another Circumſtaance, the meeting at the *Plow*-Alehouſe, where they laid the whole Deſign of Intrapping Sir *Edmund-bury Godfrey*: and herein he is Fortified by the coucurrent Teſtimony of the Maſter of the Houſe, and the Servant too, tho' they now deny that ever they had been in his Company there; or that they ſo much as knew *Girald*; tho' when they were Examined at the Council-Board, they ſaid, they knew *Girald*, but not *Kelly*: and now they are preſt with it here, *Hill* retreats to this, That he knows one *Girald*, but not *Girald* the Prieſt.

My Lord, I think the Matter is ſo fully, and ſo plainly proved beyond Exception, that there needs no Repetition in the Caſe: It is impoſſible that Mr. *Praunce* a Man of that mean Capacity ſhould invent a Story with ſo many Circumſtances, all ſo conſiſtent; if there were not Truth at the bottom of it. He ſhews you the particular places, from place to place, where they decoyed him in, and how they diſpoſed of him, to the time they carried him out. And in each of theſe Circumſtances, there is not the leaſt improbability or cauſe to disbelieve him. It hath been already ſo fully repeated, and the plainneſs of the Evidence is ſo convincing, that I need not make more Obſervations upon it; But ſubmit it to your Lordſhip and the Jury.

Then the Lord Chief Juſtice directed the Jury in this manner:

Look you, Gentlemen of the Jury, This is an Inquiſition for Innocent Blood that hath been ſhed, and your Buſineſs is to ſee if you can find out the Murderers.

We would not add Innocent Blood to Innocent Blood: but, on the other ſide, if you have received Satisfaction ſo much as the Nature of the Thing can bear, then the Land is defiled, unleſs this be ſatisfied.

Now for that I will urge the Witneſs and Teſtimony no further than it does appear; for you and We are all upon our Oaths to do uprightly, neither to Spare Murderers, nor Condemn the Innocent.

In the firſt place, We began with Mr. *Oates*, and he told you, that he had ſome Converſe with Sir *Edmund-bury Godfrey*, and that he was threaten'd by ſome, and had no good will for his pains, in taking thoſe Examinations he had taken, and he was afraid his Life was in danger. This he tells you was the Diſcourſe before-hand, and this is produced to lead you to conſider what ſort of Perſons they were, of whom he was likely to have theſe Fears; for his Fears did ariſe from his having done his part, as a Juſtice of Peace, in taking the Examinations upon Oath.

For the Teſtimony of the Fact they produce firſt Mr. *Praunce*, wherein you will do well to obſerve all the degrees that he goes by, before the Fact, and all the Circumſtances in the Tranſaction of that Affair, and the Parties by whom it was to be Acted: Firſt he tells you, how long it was before they could entice him to conſent to ſuch a Villany as this was, To Murder a Man; he tells you by whom he was thus enticed, which makes the Story more probable; that is, by *Girald* and *Kelly* (two Prieſts) and he tells it you ſtill more probably by their Doctrine, that it was no Sin; but it was rather an Act of Charity to kill a Man that had done, and was like to do them miſchief: So that if you conſider the Perſons that Preached to him, and the Doctrine they taught, it carries a great ſhew and preſumption of Truth in it ſelf. When they had met together at the *Plow* ſeveral times (which was deny'd by ſome of them, but is moſt manifeſtly proved by the Maſter of the Houſe, and the Boy) and the wiſh'd for time was come; for they were to watch the opportunity, and Mr. *Praunce* was to be at home, and they would call him to give his helping hand; he tells you, That Mr. *Hill* did go that Morning; for tho' he talks of an Errand before, yet to keep

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to that which is moſt preſſing in the Evidence, he went to Sir *Edmund-bury's* Houſe. This he ſeems to deny; but the Maid does Swear it expreſly upon him; and ſays, She came firſt to him, and went up Stairs, and then came back again, and ſtill he was there. And ſhe ſwears poſitively ſhe knows him by his Face, and by the Cloaths he then had on, which are the ſame Cloaths he hath on now, and that that is the Man that was with her Maſter; and this, which they cannot diſprove, half proves the matter.

What had he to do at Sir *Edmund-bury Godfrey's* Houſe? But that would be an hard puzling Queſtion to be put to him; What did you there? And therefore he is to deny it; but the Maid proves upon him, as well as *Praunce*. So that I would have you conſider how many Witneſſes you have to one thing or another, all conducing to this Point.

You have firſt Mr. *Oates*, that tells you the Diſcourſe that paſſed between Sir *Edmund-bury Godfrey* and him, the Maid tells you, that both theſe Men were there, one at one time, and the other at another; and you have Mr. *Praunce* that knew the whole Affair, who tells you ſo likewiſe, and that they were reſolved to do the Work that Day, in ſo much that if they could not do it, as they had before contrived it (and Sir *Edmund-bury Godfrey* was ſenſible that he was Dogg'd up and down) *Girald* did reſolve to dogg him to his own Door, and kill him in the Lane that leads to his Houſe, he would have run him thro' himſelf, and this *Girald* is one of thoſe Prieſts, whoſe Church counts it no ſin, but an Act of Charity, to murder a Chriſtian, to propogate Chriſtianity.

When they had way-laid him and watch'd his coming, from what place Mr. *Praunce* cannot tell; for he knows nothing but what they told him, and they only named in general, that he was Lodg'd in St. *Clement's*; and thereupon one comes to acquaint him, that they would intice him in at the Water-gate, by *Somerſet*-Houſe, and they would do it with art enough, for they never want a contrivance for ſo charitable an Act; and it was upon this pretence that there were Two Men a wrangling and fighting, and then he being a Juſtice of the Peace, was a Perſon that would part the Fray eaſily.

And it was a probable Invention: for Sir *Edmund-bury Godfrey* was a Man that was as willing to do all Acts of Juſtice as any one, and as little afraid to do it; for the Witneſs tells you before, that he ſaid, if they did do him a miſchief, they muſt do it baſely, for he did not fear the beſt of them upon fair play. Then when he was deſired to get himſelf a Man to follow him, he ſlighted the Advice: And we all know, that he was a Man of ſingular Courage, and therefore it was the eaſier to lay a trap for him. Then, ſaith *Praunce*, When he was got in, *Berry* and I were to have ſeveral Poſts, which we were to go to, I to one Place, and *Berry* to another; and I ſtaid, ſaith he, till *Green* threw the Cravat about his Neck, and was aſſiſted by *Girald* and the reſt that were there. And then, as ſoon as we could imagine the thing to be done, *Berry* comes in, and *Praunce* comes back from his ſtanding, and by ſome Motions finds that he was alive, and that till *Green* twiſted his Neck round; which the Chirurgeons ſay was plainly a Broken Neck, and nothing of the Wounds which were in his Body were given him while he was alive.

When they had done this, he tells you, they carried him to Mr. *Hill's* Chamber: *Berry*, *Girald*, *Kelly* and the reſt, all help'd him in, and there they leave him. Then *Praunce* goes away. This was on *Saturday*-Night. Then *Praunce* comes again on *Monday*-Night, and finds him removed to another Chamber hard by, where he ſaw him by the light of a Dark-Lanthorn, with ſomething thrown over his Face; and afterwards on *Tueſday*-Night following, they did remove him back to *Hill's* Lodgings, and there he lay till *Wedneſday*-Night, when they carried him out.

Saith *Praunce*, I ſaw him that Night; I was the Man that help'd to carry him out, for it was *Praunce* and *Girald* that carried him firſt, and it was *Green* and *Kelly* who went before, and took him up afterward. He tells you, they ſet him upon an Horſe-back, and *Hill* behind him. They carried him out in a Chair, which was a thing that uſed to come in and go out there, and ſo the leſs notice would be taken of it. I will obſerve to you afterwards, on the Priſoners behalf, what is ſaid for them to all this.

But as to *Praunce*, you ſee he hath given you an Account from the top to the bottom, from the firſt Tranſaction between them, from the Time of his being called by them to help in the Murder, and from his ſeeing the Handkerchief twiſted about his Neck, his Neck twiſted round; how they diſpoſed of his Body at firſt, what removes they made, and when they carried him out, who were in Company, who relieved them, and what became of him at laſt.

He ſays, he ſaw him ſet up before *Hill* on Horſeback, and they told him, they had thrown him in a Ditch, and *Girald* had run him through with his own Sword; and in that Poſture, and in that Place the Conſtable found him: The Chirurgeons tell you, that it was by the twiſting of his Neck, and the Strangling, that he was kill'd, and not by the Wounds; and the very Bruiſings which *Praunce* ſpeaks of, were found upon the view of the Body. So that here is not any one Thing, that is not back'd either in ſome particular Circumſtance or other; beſides Mr. *Praunce's* Teſtimony, who (alone) could give the Narrative of the Fact.

And it is no Argument againſt Mr. *Praunce* in the World, that he ſhould not be believed, becauſe he was a Party, or becauſe he after denied what he firſt ſaid: Firſt, Becauſe you can have no Body to diſcover ſuch a Fact, but only one that was privy to it: So that we can have no Evidence, but what ariſes from a Party to the Crime. And, in the next place, his Denial after he had confeſſed it to me, does not at all ſound as an act of Falſhood, but Fear. It is not a good Argument to ſay, that he is not to be believed, becauſe he denied what he once ſaid; for he tells you, he had not his Pardon, he was in great Conſternation; the horror of the Fact it ſelf, and the loſs of his Trade and Livelihood was enough to do it. But how ſhort was his Denial, and how quick was Recantation! for he denied it before the King, not upon Oath: He ſwore it upon Oath, but he denies it upon his Word only; but by that time he got home to *Newgate*, with Captain *Richardſon*, he fell down on his Knees, and begg'd him for God's ſake, to carry him back to the King, for what I did ſay at firſt, ſaid he, is true, and this Denial is falſe. And here could be no Tampering, no Contrivance made uſe of; no, 'tis plain there could be no Art uſed to make him retract

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from his first Testimony. And these are the Particulars, as to *Praunce's* Evidence.

Then comes Mr. *Bedlow*, and tells you, that he was commanded by *Le Faire*, and the Priests he was acquainted with, to insinuate himself into the Acquaintance of Sir *Edmund-bury Godfrey*; they did not tell him why; they themselves knew privately wherefore, and they did intend him as an Instrument to do it, as appears afterward. He tells you, he got into his Acquaintance, by pretending to go for Warrants for the good Behaviour and the Peace, as he knew Sir *Edmund-bury Godfrey* was willing to have the Peace kept; and he was with him every Day almost, for a Week or more.

Then the Priests come a little nearer, and tamper'd with him to kill a Man, an ill Man for their turn, and that Mr. *Bedlow* should be very well rewarded, he should have Four-thousand Pounds to kill that Gentleman; but still they kept the Name secret. He promised them fair, but broke his Word. Afterwards he meets this Companion that he had most confidence in, and being tax'd with his Breach of Promise, said he, I had Business, I could not come. Well, said his Companion, you should have been as good as your Word; but the Thing is done, the Person is killed, and I would have you help to carry him away. He promises to do it, and to meet him at *Somerset-House*; accordingly he comes upon *Monday* in the Evening, and about Nine or Ten of the Clock at Night Mr. *Bedlow* swears, that in this Chamber that *Praunce* says he was laid in, he did see the Body, by the help of a Dark-Lanthorn; and his Face was cover'd with a Cloak or Mantle, or some such thing thrown over him.

And these two Men, *viz.* Mr. *Praunce* and Mr. *Bedlow*, as the Council have observed, had not any Confederacy together, for they both swear, that they never had any Converse at all; and if it be so, then it is impossible for two Men so to agree in a Tale, with all Circumstances, if they never conversed together, but it must be true.

It is hardly possible for any Man to invent such a Story; for *Praunce* it is, I believe. I find it is no hard thing for the Priests to contrive such an Action; but for two Witnesses to agree in so many material Circumstances with one another, that had never conversed together, is impossible.

If all this had been a Chimera, and not really so, then *Praunce* must be one of the notablest Inventors in the World: And there must have been the mightiest Chance in the World, that Mr. *Bedlow* and he should agree so in all Things; and that the Maid should swear, that *Hill* was there that Morning; and that the Constable should find the Body, just as they told *Praunce* they had left him.

So that upon the Matter, you have two Witnesses almost in every Thing; for Mr. *Bedlow*, seeing him in the Place murdered, is a plain Evidence that the Thing was done; and all the other Witnesses, speaking to Circumstances both before and after, make the Evidence plain, that these were the Persons who did it. And I see nothing incoherent in all Mr. *Praunce's* Testimony.

I would not urge this so, if I was not satisfied in my own Conscience that the Relation is true. In the Prisoners Defence, there is but one Thing, that hath any sort of Weight; for the young Gentlewoman talking of his being constantly at home at Eight of the Clock, is nothing; for she says they always go to Bed about Nine a Clock, and they give no Answer to this, but that it could not be done in their House but they must know of it; but do not show how that must needs be; so that all their Evidence is slight, and answers it self, or else not possible to be true. All the Testimony that is considerable in this Matter, is that which *Berry* produces; and that is concerning the Centinels who kept the Guard that *Wednesday* Night the Body was carried out, and he says there was no Sedan carried out. And altho' this Evidence be produced but by one of them, yet 'tis to the Benefit of them all three; for if it were certain and infallibly true, that the Centinels did so watch at the Gate, that no Mortal could go out of the place, and if the Darkness of the Night might not hinder him from seeing what might go out, or that Mr. *Berry's* Voice being known to him, he might not call to him, and so Mr. *Berry* might open the Gate without any great Caution, or more particular Observation by the Centinel, so that this might escape his Observation or Remembrance, and yet that the Centinel be an honest Man, and speak true, as he thinks, to his best Remembrance, which I leave to your Consideration. But there is one Thing the other Centinel tells you, that about Eight or Nine a Clock (for he went off at Ten) there was a Sedan brought in, and he did not see it go out; and so says he that watched from Ten to One; and this is the only thing which hath any Colour in it, in Behalf of the Prisoners. But he that says there was no body went out, says also, that he never saw the Sedan; but the Centinel that was relieved, says, that he saw it go in. Now how far that single Testimony of *Nicholas Wright* the Centinel will weigh, who says that none went out, I leave with you, which may be mistaken, either by reason of the Darkness of the Night, or those other Particulars I have observ'd to you.

But this is all that can overthrow the whole Series of the Evidence that hath been given by Mr. *Praunce*, upon whom I find not the least Reflection, except you will call that one, which to me, as it is circumstanced, is rather an Argument for him, than against him, *viz.* his going off from what he said. And what Sir *Robert Southwell* says is regardable, that when he shewed them the Place where he was strangled, the House to which he was first carried, he did it very readily and confidently, but was puzzled to find out the Room where he was removed, when he saw him by the Dark-Lanthorn, and would not positively assert where it was; which shews the Integrity of the Man, who would else have gone thro' without boggling; for if all were a Lye, why should he stick at one Thing more than another, but have shewn some Room or other? but when he was confident, he appeared so, and when he was doubtful he appeared so, and so shewed himself an honest Man.

These are the particular Matters, and, as near as I can remember, all that hath been materially offered for the Prisoners, against the King's Evidence. For the Testimony of the Landlord, *Warrier*, and his Wife, it is plainly spoken of another Time, for it was the *Saturday* after the *Thursday* he was found, the 19th of *October*. So that they speak nothing but what is true, and yet nothing to the Purpose; for the Question is, of that which was done the 12th, but they speak of a Time when the Tragedy was passed, so that there is only the single Evidence of one Witness, the Centinel, which must be opposed to all the concurring Evidence given against them.

Berry.

Berry. There was Centinels placed at every one of the Gates.

L. C. J. That is nothing, for we ſpeak only of this Gate, the great Gate, but I will tell you what there is that does not ariſe from theſe Witneſſes, but from the Nature of the Thing they were about, and the Perſons that tranſacted it, that gives Credit to the Teſtimonies of the Witneſſes, ſo as to incline any one to believe them, as Things ſtand at this Day, in Reference to the known Deſign of the Prieſts to ſubvert our Religion, for they muſt juſtify one Ill by another, and the Miſchiefs they have done will not be ſafe, unleſs they do more.

And for the Prieſts being the Preachers of Murder, and your Sin, that 'tis Charity to kill any Man that ſtands in their Way; their Doctrine will make you eaſily believe their Practice, and their Practice proves their Doctrine. Such Courſes as theſe we have not known in *England*, till it was brought out of their Catholick Countries; what belongs to ſecret Stranglings and Poiſonings, are ſtrange to us, tho' common in *Italy*. But now your Prieſts are come hither to be the Pope's Bravo, and to murder Men for the Honour of his Holineſs: And as they are Inhumane, ſo they are Unmanly too; for Sir *Edmund-bury Godfrey* had not been afraid of two or three of your Prieſts, if they would have dealt fairly with him.

Berry. He was a Gentleman that I never ſpoke with in all my Life.

L. C. J. You muſt ſay and believe, as your Prieſt will have you, and in ſuch Actions as theſe, as your Prieſts ſuggeſt to you, ſo does the Devil to your Prieſts; if you are upon the Matter neceſſitated to what they will have you think; for tho' your Prieſts preach up Freedom of Will, yet they allow none to the Underſtanding. They hold you may do Good or Evil, but will not ſuffer you to underſtand Right and Wrong, for you cannot be perfectly theirs, if you have any thing of your own to guide your ſelves by.

I know that every Body of that Party is apt to ſay their Prieſts own no ſuch thing, but it is notoriouſly known to all the World, that they both Print it, and practice it. *What! ſhall any of you diſpute the Power of a Pope?* ſaith a Jeſuit: Or, *of a Pope and a Council?* ſay the moſt moderate Prieſts. Have you Power to ſay how far you will be a Papiſt, and how far not? You may as well bound the Sea, and bid it go thus far, and no farther, as limit the Pope's Authority. I wonder any Man ſhould be of that Perſuaſion, and yet keep his Reaſon; much leſs turn from our Religion to theirs, if he conſiders how they impoſe, and what Miſchiefs and Blood you are involved in by your Prieſts, that have allarmed the Nation. For I will affirm, the greateſt Miſchief the Papiſts have received, come from their Prieſts, who have ſuch unworthy and unmanly Ways of ſetting up their Religion: What! do they think it an Act of Charity to kill Men; or is the Chriſtian Religion or yours, to be promoted by ſuch Means as theſe? No, Gentlemen, 'tis the Fault of your Doctrine, and 'tis a monſtrous Miſtake in you, if you think that you have any Power of your own, whilſt you continue in their Perſuaſion.

I know ſome will aſcribe all to Conſcience that guides them, and that even theſe Miſchiefs are but the Effects of their Religious Obedience; but they are indeed the Conſequences of the Blindneſs of their Obedience. I wonder how any Man can have the Face, thus to diſorder a whole Nation, and yet pretend Conſcience for it. Let no Man tell me, O, Sir, we deſire none of theſe Miſchiefs you talk of: What, not if Religion requires it, or if the Pope ſays it does? Hath not the Council of *Lateran* decreed, That every Popiſh Prince ought to root out Hereſy upon Pain of Damnation? You muſt: Can you go and tell the Pope how far you will believe, or what you ought to do? You may as well tell me, that if he were once with us, and had the Power he once had, he would leave us to our ſelves, and that if he had the ſame Ability, he would not have the ſame Tyranny.

And therefore all the *Roman* Catholick Gentlemen in *England* would do very well to conſider, how much it concerns Chriſtianity not to give Offence; and if they cannot at this Time live in a Proteſtant Kingdom with Security to their Neighbours, but cauſe ſuch Fears and Dangers, and that for Conſcience ſake, let them keep their Conſciences, but leave the Kingdom. If they ſay, why ſhould not we ſtay here, while we do no Miſchief? alas, that's not in your Power. You cannot be quiet in your own Religion, unleſs you diſturb ours; and therefore, if to ſhew your Conſciences you acquit the Country, and let the Inconveniencies light on your ſelves only, I ſhould then think you had Zeal, tho' not according to Knowledge; and not aſcribe it to any Plot, but to the Simplicities of Underſtanding.

But, in ſhort, there is a monſtrous Evidence of the whole Plot it ſelf by this Fact; for we can aſcribe it to none, but ſuch Ends as theſe, that ſuch a Man muſt be kill'd; for it muſt be either becauſe he knew ſomething the Prieſts would not have him tell, or they muſt do it in Defiance of Juſtice, and in Terror to all them that dare execute it upon them; which carries a great Evidence in its ſelf, and which I leave to your Conſideration; having remembred, as well as I could, the Proofs againſt them, and all that is conſiderable for them. Add to this, the Condition that we are in at this Time, and the Eagerneſs of the Purſuit that theſe Prieſts make, to gain the Kingdom, that, for my own part, I muſt put it into my *Litany, That God would deliver me from the Deluſion of Popery, and the Tyranny of the Pope:* For it is a Yoke, which we, who have known Freedom, cannot endure, and a Burden, which none but that Beaſt who was made for Burden, will bear. So I leave it to your Conſideration upon the whole Matter, whether the Evidence of the Fact does not ſatisfy your Conſciences, that theſe Men are Guilty. And I know you will do like honeſt Men on both Sides.

Then the Jury withdrew, to conſider of their Verdict, and after a ſhort Space returned again.

Cl. of the Cr. Gentlemen, anſwer to your Names. Sir *William Roberts.*

Sir *Will. Roberts.* Here. *And ſo the reſt.*

Cl. of the Cr. Gentlemen, are you all agreed of your Verdict?

Omnes. Yes.

Cl. of the Cr. Who ſhall ſay for you?

Omnes. Our Foreman.

Cl. of the Cr. Robert Green, hold up thy Hand, (which he did). Look upon the Priſoner; how ſay you, is *Robert Green* Guilty of the Felony and Murder whereof he ſtands Indicted, or not Guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None, to our Knowledge.

Cl. of the Cr. Henry Berry, hold up thy Hand, (which

(which he did.) Look upon the Priſoner. How ſay you, is *Henry Berry* Guilty of the Felony and Murder whereof he ſtands Indicted, or not Guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None, to our Knowledge.

Cl. of the Cr. Lawrence Hill, hold up thy Hand, (which he did.) How ſay you, is *Lawrence Hill* Guilty of the Felony and Murder whereof he ſtands Indicted, or not Guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None, to our Knowledge.

Cl. of the Cr. Hearken to your Verdict, as the Court hath Recorded it. You ſay that *Robert Green* is Guilty of the Felony and Murder whereof he ſtands Indicted. You ſay that *Henry Berry* is Guilty of the Felony and Murder whereof he ſtands Indicted. You ſay that *Lawrence Hill* is Guilty of the Felony and Murder whereof he ſtands Indicted; and that neither they, nor any of them, had any Goods or Chattels, Lands or Tenements, at the Time of the Felony committed, or at any Time ſince, to your Knowledge. And ſo you ſay all.

Omnes. Yes.

L. C. J. Gentlemen, You have found the ſame Verdict that I would have found if I had been one with you; and if it were the laſt Word I were to ſpeak in this World, I ſhould have pronounced them Guilty.

At which Words the whole Aſſembly gave a great Shout of Applauſe.

Mr. Att. Gen. Will your Lordſhip pleaſe to give Judgment this Evening, I know it is not uſual the ſame Day.

Mr. Juſt. *Wild.* My Lord, I am ready.

L. C. J. No, Brother, I am to ſit at *Niſi prius* this Afternoon, and 'tis time we broke up the Court.

Cl. of the Cr. Capt. *Richardſon*, you ſhall have a Rule to bring them up to Morrow. And then the Court broke up.

On Tueſday *the* 11th *of* February, *the Priſoners were brought again to the Bar, in Order to receive their Sentence; and the Court proceeded thus:*

Mr. Recorder. MY Lord, as I was directed by Mr. Attorney, theſe Priſoners being Convicted of Murder, I do, for the King, pray Judgment upon them; but I muſt firſt acquaint your Lordſhip, that immediately after their Conviction, one of the Officers, a Tipſtaff, pretending it was his Fee, took their Cloaths off their Backs.

L. C. J. Who is that Officer?

Mr. Recorder. One *Aſhby.*

L. C. J. Call him. Why do you offer to meddle with theſe Mens Cloaths?

Aſhby. It hath been an ancient Cuſtom this Forty Years, ſome of us have known it, that the Marſhal hath the Upper-Garment of all Priſoners Tried at this Bar.

Speaking to a Clerk of the Crown-Office. *L. C. J.* Is there any ſuch Cuſtom, Mr. *Waterhouſe?*

Waterhouſe. No, my Lord, that I know of.

L. C. J. Here is Mr. *Waterhouſe*, that hath known the Practice of the Court this Threeſcore Years, ſays there is no ſuch thing. Either reſtore them their Cloaths, or we will take ſome other Courſe with you. Are they in your Cuſtody, pray?

Mr. Juſt. *Dolben.* I do not know that, my Lord, I think they always plead in Cuſtody of the Marſhal.

Mr. Juſt. *Wild.* But this ſeems a very barbarous Thing, to take their Cloaths off their Backs.

Mr. Juſt. *Dolben.* It doth ſo, Brother, and they muſt be reſtored.

L. C. J. Yes, yes, you muſt reſtore them.

Aſhby. They ſhall be, my Lord.

Mr. Recorder. I pray your Judgment.

L. C. J. Ask them what they can ſay to hinder Judgment.

Cl. of the Cr. Robert Green, hold up thy Hand, (which he did.) Thou haſt been Indicted of Felony and Murder, thou haſt been thereupon Arraigned, thou haſt pleaded thereunto Not Guilty, and for thy Trial thou haſt put thy ſelf upon God and thy Country, which Country hath found thee Guilty, what haſt thou to ſay for thy ſelf, why the Court ſhould not proceed to give Judgment of Death upon thee, and award Execution according to the Law?

Capt. *Richardſon.* What have you to ſay for your ſelf?

Green. I declare to all the World, that I am as innocent of the Thing charged upon me, as the Child that is in the Mother's Womb. I die innocent, I do not care for Death, I go to my Saviour, and I deſire all that hear me to pray for me. I never ſaw the Man, to my Knowledge, Alive or Dead.

Cl. of the Cr. Henry Berry, hold up thy hand, (which he did,) Thou haſt been Indicted of Felony and Murder, *&c.* What canſt thou ſay? *&c.*

Berry. I do declare, I am not guilty of any thing in the World of this.

L. C. J. We do not expect much from you, and it is no great matter; for your Confeſſion will do us little Good, but only for your ſelves. We regard it not otherwiſe, becauſe the Evidence was ſo plain, that all Mankind is ſatisfied, there is no Scruple in the Thing; and we know you have either downright Denials, or Evaſions, or equivocating Terms for every thing, yet, in plain-dealing, every one that heard your Trial hath great Satisfaction; and for my own Particular, I have great Satisfaction that you are every one of you Guilty.

Cl. of the Cr. Lawrence Hill, hold up thy Hand, (which he did,) Thou haſt been Indicted of Felony and Murder, *&c.* What canſt thou ſay? *&c.*

Hill. I have nothing to ſay for my ſelf, but that God Almighty knows my Innocence.

Cl. of the Cr. Cryer, make an O Yes.

Cryer. O Yes! Our Sovereign Lord the King doth ſtraightly Charge and Command all manner of Perſons to keep Silence whilſt Judgment is giving upon the Priſoners Convicted, upon pain of Impriſonment; Peace about the Court.

Then Mr. Juſtice Wild, *who, as ſecond Judge in that Court, pronounceth the Sentence in all Criminal Matters, (except High Treaſon) ſpoke to the Priſoners thus:*

Mr. Juſt. *Wild.* You that are the Priſoners at the Bar, you have all Three been Indicted for a deteſtable Murder, and thereunto have pleaded, Not Guilty, and put your ſelves, for your Trial, upo

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your Country, and your Country, upon a clear and pregnant Evidence, I believe to the Satisfaction of all good Men, that were indifferent, have found you Guilty. I have little Comfort to ſay any thing to you, becauſe I obſerve your Obſtinacy at the Bar; but it is ſo generally among you all, you will confeſs nothing to the Death.

Green. God forbid, Sir.

Mr. Juſt. *Wild.* But tho' I am of another Perſuaſion than you, and know you have no Charity for me, yet I have Charity for you. And if I ſhall ſay any thing, it is out of a zealous Affection I have for your Souls; God knows, I ſpeak it upon no other Grounds; tho' the Offence be horrid, yet I commiſerate your Perſons.

For the Nature of your Offence, it is Murder: *He that ſheds Mans Blood, by Man ſhall his Blood be ſhed;* for *in the Image of God created he him.* So ſaith God to *Noah*, intimating and declaring thereby, That the Intention of God Almighty, in the making of that Law, was, the Preſervation of Mankind; and that he will not admit or ſuffer his Image to be defaced or deſtroyed. If it ſhall be accounted Treaſon againſt Earthly Princes to deface their Images, is it not much more Treaſon againſt the great God of Heaven and Earth, to deface his Image, who is the *King of Kings, and Lord of Lords.* The Greatneſs of this Sin ſtruck ſuch a Damp and Horror upon the Soul of *Cain*, that it made him cry out, *His Puniſhment was greater than he could bear*; or, as our Bibles have it in the Margin, *His Iniquity was greater than could be forgiven*; *and it ſhall come to paſs, that whoſoever meeteth me, ſhall ſlay me:* Being conſcious to himſelf, that it was juſt and lawful, that whoſoever did meet with him ſhould ſlay him. And God himſelf doth ſet forth the heinouſneſs of this Offence, when he tells him, *His Brother's Blood cryed to him*; that is, cried unto God from the Earth, for Vengeance. Blood, it is of a crying Nature, and will never ceaſe crying, till it find out the Man-ſlayer.

It is an Offence ſo heinous in the Eye of God, that he will not endure it in a Beaſt; God ſaith, he will require it of a Beaſt. And doth God require Blood of a Beaſt, a bruitiſh Creature void of all Reaſon, and will he not require it much more of Man, whom he hath endued with thoſe two great Faculties of Reaſon and Underſtanding? And certainly, if Murder in general be enquired after, I may well ſay this of yours, there hath not been committed a more impudent and barbarous Murder in this Civiliz'd Nation, by one Subject upon another. And obſerve how you did effect this Murder, with Baſeneſs enough. See the Baſeneſs of it; As the Devil was the Father of Lies, ſo he was a Murderer from the Beginning; and you firſt begun your Murder with an helliſh, ſtudied, and premeditated Lye. Knowing that this Gentleman was a Perſon very vigorous in the Execution of his Place, that would omit no Opportunity of doing his Office; you pretend you have occaſion for him, and by this Means draw him into your Snare; where what you do, you do cowardly and baſely, firſt diſarm him, then fall all upon him, and murder him; as the Prophet *David* ſaith of the Ungodly Man, *firſt gets the Righteous Man in his Net, and then raviſheth him.*

Had ſuch a Thing as this been acted by us Proteſtants in any Popiſh Country in the World, I doubt there would ſcarce have been one of us left alive. They would not have taken this Courſe that hath been taken with you, to admit us to a fair Trial; no, they would have made their own Hands their Avengers: But, God be praiſed, we are of another Religion, and of another Perſuaſion. We leave Vengeance to God, and, under him, to the Magiſtrate, *who beareth not the Sword in vain*, as you now find.

If I could abſtract Folly from Wickedneſs, certainly it was one of the greateſt Pieces of Folly and Sottiſhneſs in the World: For what could be your End in it? Did you think, that all the Magiſtrates in *England* were lodged in Sir *Edmund-bury Godfrey*? That, if he were taken out of the Way, there were not Men of Spirit and Courage, as faithful and diligent as he was? Trouble not your ſelves, nor let thoſe of your Perſuaſion trouble themſelves, there are a numerous Company of Magiſtrates in this Kingdom, that will do the ſame thing, and act in, and execute their Offices with the ſame Courage.

And as to the Manner of the Murder, whom have you deſtroyed? A Magiſtrate: For what? For the Execution of his Office. One that was a Conſervator of the Peace; and whoſe Study it was to preſerve you in Peace, on him you have violated the Peace, and nothing leſs would ſatisfy you than his precious Life: An Affront to the Law, to the Magiſtrate, to the King, to the Nation; yea, to God himſelf, upon whom an higher Affront could hardly have been put. For the Magiſtrate is God's Ordinance, God hath ſet him up to avenge himſelf upon the Wicked, and to reward the Good; *and he doth not bear*, as it is a ſign by you he hath not born, *the Sword in vain.*

I might ſay much more concerning the heinouſneſs of this Offence; but had I the Tongue of Men and Angels, I could not ſay enough to ſet out the Horror of it. And now, let me tell you, I do not ſpeak this to inſult and domineer over you; I praiſe God I am of another Spirit; he knows I have another End in what I ſay, and my End is meerly this, to perſuade you from the Foulneſs of your Fact, to make a good Uſe of it; that the horridneſs of your Sin, may make the greater and deeper Impreſſions on your Spirits; and ſo make your Repentance more ſincere and efficacious. Had you as many Years to live as you have Hours, it were little enough to bewail this horrid Offence. But, on the other ſide, as that will be little enough, yet let me give you this Comfort, you have Time enough, if you make a good Uſe of it, to make your Peace with God.

Pray let me dehort you from one Thing; and that is this, Do not be of the Opinion of thoſe wicked Miſcreants the Jeſuits, that have put you upon this Matter; for I have ſo much Charity for you as to believe, they made it a Matter of Religion to you, and juſtifiable upon that account. Do not think ſo, for the Law of God is indiſpenſible, and no Power under Heaven can Licenſe to murder. So that though the Offence in them is abominable, yet in you 'tis an Offence too, and an horrid one. And when you have conſider'd it as ſuch, I then deſire you to take a right Courſe to make your Peace with God: For you muſt paſs under another Judgment than that of Man, and that ſhortly you muſt ſtand before the Judge of Heaven and Earth. And therefore, if by this Means you can prevent that future Judgment, you will have juſt Cauſe to thank God that you had your Puniſhment here on Earth. Therefore let me adviſe you to ſpend every Minute you have left, in a free Acknowledgment of all your Offences: For certainly ſome Sin went before, or this had never come after. One Sin doggs another,

ther, and makes way for the Commiſſion of another.

And what muſt you rely upon? not upon any Traſh or Trumpery, not upon any Merit of your own, there is but one Saviour and Mediator, the Lord Jeſus Chriſt. And I would adviſe you, in the Words of that Great Cardinal, one that was one of the greateſt Men of your Religion, *Bellarmine* I mean, who having made a Scrutiny, which was the ſafeſt Way for ſecuring Heaven, made the Concluſion thus, *To Truſt only upon the Lord Jeſus Chriſt for Life and Salvation.* Which I adviſe you to do.

I have now done what I intended to ſay to you; and what I have ſaid, I ſpoke to deliver my own Soul, and upon no other Account. I now pronounce the Judgment which the Law hath appointed to paſs upon ſuch Malefactors; and that is this:

That you go from hence to the Place from whence you came, and from thence to the Place of Execution, where you ſhall be ſeverally hanged by the Neck, till you are ſeverally dead; and the Lord have Mercy upon your Souls.

Hill. I humbly beg one Favour, that I may have the Privilege to ſee my Wife and Children, and my Brother, before I die, ſometimes.

L. C. J. God forbid elſe.

Hill. Any Day I hope, my Lord.

L. C. J. Captain *Richardſon*, let them have the liberty of ſeeing their Friends, but do it with Care and Caution.

Mr. Juſt. *Wild.* And I will ſay this more to you, if you will have any Religious Proteſtant Divines to come to you, they ſhall be ſent you; but none of your Prieſts.

Hill. I deſire only my Relations.

Mr. Juſt. *Wild.* You ſhall have them, and we offer you the others.

Green. I have no Relations that are Catholicks, but two, and they are not Prieſts. God bleſs the King: and I deſire all good People to pray for us.

L. C. J. Mr. *Aſtry*, let the Rule be entred for their Execution on *Monday* next.

Clerk of the Cr. Captain *Richardſon*, you ſhall have the Rule for their Execution on *Monday* next.

Then the Keeper carried away the Priſoners to the Goal, to be reſerved till their Execution.

On *Friday* the 21*ſt* of *February* following, the Priſoners, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, were Executed, according to the Sentence pronounced againſt them.

The Tryal of the Lord Conwallis.

AFTER my Lord High Steward was aſcended to the High Chair of State, and ſate down therein, the Commiſſion was delivered by the Clerk of the Crown in the Chancery, to my Lord, on his Knees, who delivered it to Sir *Thomas Fanſhaw*, Clerk of the Crown in the King's-Bench-Office, and he received it kneeling.

Then Proclamation was made by the Serjeant at Arms, who was Crier for the Day.

Serjeant. O Yes! O Yes! O Yes! My Lord High Steward of *England* ſtrictly chargeth and commandeth all manner of Perſons here preſent, upon pain of Impriſonment, to keep ſilence and give Ear to His Majeſty's Commiſſion, To my Lord High Steward of *England*, to his Grace directed.

The Clerk of the Crown with his Face to my Lord High Steward reads it thus:

Clerk of the Crown. Charles Rex Carolus Secundus, &c.

All which time my Lord and the Peers ſtood up bare.

Serjeant. God ſave the King.

Cl. Cr. Make Proclamation.

Serjeant. O Yes! The King at Arms, and the Uſher of the *Black Rod* on their Knees deliver the White Staff to my Lord, who re-delivered it to the Uſher of the *Black Rod*, who held it up all the time before him.

Cl. Cr. Make Proclamation.

Serjeant. O Yes! My Lord *High Steward* of *England* ſtrictly chargeth and commandeth all Juſtices and Commiſſioners, and all and every Perſon and Perſons to whom any Writ or Precept have been directed for the certifying of any Indictment, or of any other Record before my Lord *High Steward* of *England* to certifie and bring the ſame immediately according to the Tenor of the ſaid Writs and Precepts unto them, or any of them directed on Pain and Peril as ſhall fall thereon.

The Lord Chief Juſtice of the King's-Bench return'd his *Certiorari*, and the Record of the Indictment by the Grand Jury of *Middleſex*, which was read by the Clerk of the Crown, *in hæc verba.*

Cl. Cr. Virtute, &c.

L. H. Stew. Call the Conſtable of the *Tower* to return his Precept and his Priſoner.

C. Cr. Make Proclamation.

Serjeant. O Yes! Conſtable of the *Tower* of *London*, return the Precept to thee directed, and bring forth the Priſoner *Charles* Lord *Conwallis*, on Pain and Peril as will fall thereon.

The Lord Lieutenant of the *Tower* brought in the Priſoner on his left hand, with the Axe before him, born by the Deputy Lieutenant, which he held with the Edge from him, and returned his Precept *in hæc verba.*

Cl. Cr. Virtute, &c.

L. H. Stew.

L. H. Stew. Call the Serjeant at Arms to return his Precept.

Cl. Cr. Make Proclamation.

Serjeant. O Yes! *Roger Harſnet* Eſq; Serjeant at Arms to our Sovereign Lord the King, return the Precept to thee directed, with the Names of all the Lords and Noblemen of this Realm, Peers of *Charles* Lord *Conwallis*, by thee ſummoned, to be heard this day, on Pain and Peril as will fall thereon.

He delivered his Precept return'd with a Schedule annexed thus;

Cl. Cr. Virtute, &c. Make Proclamation.

Serjeant. O Yes! All Marqueſſes, Earls, Viſcounts, and Barons of this Realm of *England*, Peers of *Charles* Lord *Conwallis*, which by Commandment of the Lord *High Steward* of *England*, are ſummoned to appear this Day, and to be preſent in Court, and to anſwer to your Names, as you are called, every one upon Pain and Peril as will fall thereon.

Then the Panel was called over, the number of Peers ſummoned were 35. in order as followeth,

Thomas Earl of *Danby*, Lord *High Treaſurer* of *England*, &c.

All that appeared, anſwered to the call, ſtanding up bare.

Then my Lord *High Steward* made a Speech to the Priſoner at the Bar thus;

Lord High Steward. *My Lord* Conwallis, *The violation of the King's Peace, in the chief Sanctuary of it his own Royal Palace, and in ſo high a manner, as by the Death of one of his Subjects, is a matter that muſt be accounted for. And that it may be ſo, It hath pleaſed the King to command this High and Honourable Court to Aſſemble, in order to a ſtrict and impartial Enquiry.*

The Wiſdom of the Law hath therefore ſtyled it the King's Peace, becauſe it is his Authority that commands it, it is his Juſtice that ſecures it, it is he on whom Men do rely for the ſafety of their Liberties, and their Lives; in him they truſt that a ſevere Account ſhall be taken of all the Violences and Injuries that are offered to them, and they that truſt in the King can never be deceived.

It is your Lordſhip's great unhappineſs at this time to ſtand Priſoner at the Bar, under the weight of no leſs a Charge than an Indictment of Murder; and it is not to be wondred at, if ſo great a misfortune as this be attended with ſome kind of confuſion of Face; when a Man ſees himſelf become a ſpectacle of Miſery in ſo great a Preſence, and before ſo Noble, and ſo Illuſtrious an Aſſembly; But be not yet diſmay'd, my Lord, for all this, let not the Fears and Terrors of Juſtice ſo amaze and ſurpriſe you, ſo as to betray thoſe ſuccours that your reaſon would afford you, or to diſarm you of thoſe helps which good diſcretion may Adminiſter, and which are now extreamly neceſſary.

It is indeed a dreadful thing to fall into the hands of Juſtice, where the Law is the Rule, and a ſevere and inflexible meaſure both of Life and Death. But yet it ought to be ſome comfort to your Lordſhip, that you are now to be tried by my Lords your Peers, and that now you ſee the Scales of Juſtice are held by ſuch Noble hands, you may be confident they will put into them all the Grains of allowance, either Juſtice or Honour will bear.

Hearken therefore to your Indictment with Quietneſs and Attention, obſerve what the Witneſſes ſay againſt you without Interuption; and reſerve what you have to ſay for your ſelf, till it ſhall come to your turn to make your Defence, of which I ſhall be ſure to give you notice; and when the time comes, aſſure your ſelf you ſhall be heard, not only with Patience, but with Candor too.

And then what Judgment ſoever my Lords will give you, your ſelf will (and all the World) be forc'd to acknowledge the Juſtice and Equity of their Judgment, and the Righteouſneſs of all their Lordſhips Proceedings.

Read the Indictment.

Cl. Cr. Charles *Lord* Conwallis, *Thou ſtandeſt Indicted in the County of* Middleſex, *by the Name of*, &c. How ſayeſt thou *Charles* Lord *Conwallis*, Art thou guilty of this Felony and Murder whereof thou ſtandeſt Indicted, Or not guilty?

Lord Conw. Not Guilty.

Cl. Cr. How wilt thou be try'd?

Ld Con. By God and my Peers.

Then my Lord *High Steward* addreſſed himſelf to the Lords thus;

L. H. Stew. *My Lords, Your Lordſhips have here a Member before you of your Noble Body, expoſed to the ſhame of a publick Arraignment, and (which to a Man of Honour is much leſs) to the hazard, both of his Life and Eſtate; All that he hath and ever hopes to have, his Wealth, his Fame, his Poſterity. All that is valuable to him in this World intirely depends on your Lordſhips Judicature, who are now his Peers, and on whom he doth freely put himſelf.*

My Lords, The Priviledge of this kind of Tryal and Judicature is a Part of the true greatneſs of the Engliſh Nobility: It is an eminent and an illuſtrious Priviledge. It is a ſolid Point of Honour and Dignity. It is a Priviledge that no Neighbour Nation ever had, and a Priviledge this Nation never was without.

It is not a Priviledge Created by the Great Charter, but confeſt and acknowledged by it. They look but a little way that find this in the ſteps of the Norman *Conqueſt, for it is to be found even in the footſteps of the* Saxon *Monarchy, when* Godwin *Earl of* Kent *was Tried by Earls and Barons. And it is no improbable conjecture of theirs, who do think the Wiſdom of this Conſtitution was taken from that Law amongſt the* Romans, *whereby it was made unlawful for any Man to ſit upon a Senator, that was not himſelf of the ſame Order; a Priviledge, that (as learned Civilians tell us) continued with them during the Reign of many of the* Roman *Emperors. But, my Lords, as this is a Priviledge as aneient as Monarchy, ſo we have found by many old Experiences, that it cannot be taken away without the diſſolution of that Government: Therefore this is one of thoſe many tyes by which the Intereſt of the Nobility, as well as their Duty, have obliged them to the Service of the King.*

In the exerciſe of this Priviledge at this time; I know your Lordſhips will weigh the Fact with all the Circumſtances, whereby it is to recieve its true and its proper Doom. Your Lordſhips are too juſt, to let pity make any abatement for the Crime, and too wiſe to let Rhethorick make any Improvement of it: This only will be neeeſſary to be obſerved by all your Lordſhips, that the fouler the Crime is, the clearer and the plainer ought the Proof of it to be. There is no other good reaſon can be given, why the Law refuſeth to allow the Priſoner at the Bar Council in matter of Fact, when his Life is concerned, but only this, becauſe the Evidence by which he is condemned, ought to be ſo very evident and ſo plain, that all the Council in the World ſhould not be able to anſwer it: upon this ground it is, that the Law hath truſted your Lordſhips with the Tryal of your Fellow Peers; no truſt can be more nobly lodged, nor no Judicature had ever more true ſubmiſſion made to it: Therefore it would be in me ſome want of reſpect to this Auguſt and Noble Aſſembly, ſhould I go about to put your Lordſhips in mind of your Duty: no doubt you will obſerve the Evidence carefully, weigh it diligently, and when that is done, it is impoſſible but the Judgment you will give, muſt be

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Right and Honourable, and worthy of ſo wiſe and ſo great a Body; Therefore I will not detain your Lordſhips any longer, from hearing the Evidence that is ready to be offered unto you.

Cl. Cr. Make Proclamation.

Serj. O Yes! if any will give Evidence for our Sovereign Lord the King, againſt *Charles* Lord *Conwallis*, Priſoner at the Bar, let him come forth, and he ſhall be heard; for the Priſoner ſtands at the Bar upon his deliverance.

The Indictment was again read to the Peers.

Then Serjeant Maynard, *the King's Serjeant at Law, began thus:*

May it pleaſe your Grace, my Lord High Steward of *England* and this Great and Noble Aſſembly; The Priſoner at the Bar, *Charles* Lord *Conwallis*, ſtandeth Indicted of a great Crime, that he together with *Charles Gerrard* and *Edward Bourne*, not having in his Heart the fear of God, but inſtigated by the Suggeſtions of the Devil, the 18th of *May* laſt, did Feloniouſly and of his Malice forethought, aſſault one *Robert Clerk* in *Whitehall*, and that Mr. *Gerrard* took him up in his Arms, flung him down, and broke his Neck, of which he inſtantly died; to this he hath pleaded not guilty: It lies upon us who are Council for the King, in this caſe to proſecute it, and prove it to you.

Sir William Jones, *the King's Attorney General, then ſpake thus:*

Mr. Attorney Gen. May it pleaſe your Grace, my Lord High Steward of *England*, and my Lords ſummoned for the Tryal of the Priſoner at the Bar: This Noble Lord ſtands Indicted for Murder; an offence, my Lord, which is the firſt and greateſt that is forbidden by the ſecond Table, and an offence of that nature, that the Law of God hath by a moſt peremptory Sentence condemned and decreed, that whoſo ſheddeth Man's Blood, by Man ſhall his Blood be ſhed. Whether this Noble Lord be guilty of it, remains upon your Lordſhips to try, and I ſhall very ſhortly ſtate the matter of Fact, which we ſhall prove, and then let the Evidence be offered to you. We do not pretend, my Lords neither doth the Indictment lay it, that this great Offence was committed by the hand of my Lord *Conwallis*.

For I know your Lordſhips have obſerved the Indictment, by which it is alledged, that the hand of Mr. *Gerrard* did the Fact: But, my Lords, if we ſhall make it out that my Lord *Conwallis* did concur to this Act, and had in himſelf at that time an Intent to be a Murtherer; then it will be declared by his Grace my Lord High Steward, and my Lords the Judges, that tho' his hand did it not, yet he is equally guilty as if it had.

Now, to make out the Charge againſt him, our Evidence will be ſhortly thus:

On the 18th of *May* laſt, early in the Morning, between the Hours of One and Two, came down two Gentlemen with three Footmen behind them, out of the Gallery at *Whitehall*, by the Stairs that lead down to the Park: I call them two Gentlemen, becauſe it was not then diſcovered who they were, or of what Quality; but your Lordſhips will perceive, by the courſe of the Evidence, they were my Lord *Conwallis* and Mr. *Gerrard*, coming down at that unſeaſonable Hour; the firſt Queſtion they ask'd the Centinel (who watch'd at the Foot of the Stairs), was the Hour of the Night; and from him had account that it was ſo much.

The Priſoner and Mr. *Gerrard* were ſomewhat diſtemper'd with Drink, and made him a Reply, that he Lyed, with great Oaths accompanying it. At that time they did no more but go by him into the Park, where, after they had continued by the ſpace of an Hour, back they return'd to the Stairs, and the Centinel demanding, according to his Duty, who came there? They anſwe'd him in very obſcene and uncivil Language, and threatned they would kill the Centinel, who only did his Duty in enquiring who came by him at that time of Night. And we ſhall make it appear, they were in a kind of Contention among themſelves who ſhould kill him; for, as I am inform'd, (I know if it be not prov'd, your Lordſhips will obſerve it) one deſired, *Pray let me kill him*; and the other deſired, *Pray let me kill him*; and threatned no leſs than to run him through.

My Lords, the Centinel being of a good Reſolution, was not affrighted from his Place, but kept them off; and when they ſaw they could not win upon the Centinel that way, one of them delivered away his Sword, which he held in his hand not drawn, and then was pleaſed to come to the Centinel, and deſired to kiſs him, and ſwore he would do that: but that the Centinel did equally refuſe; and then they did uſe the ſame Threatnings again, and ſeemed to be in a Contention who ſhould run him through. My Lords, after ſome time, being now come to the top of the Stairs, and there ſtaying, it happen'd there came to the Stair-foot two Youths, and theſe young Men, were, it ſeems, going to Bed to their Lodging, which was very near, and did make it their Requeſt to the Centinel (one of them did) to call him up very early the next Morning, becauſe he was to go of a Meſſage out of the Town. My Lord *Conwallis* and Mr. *Gerrard* remaining on the top of the Stair-Caſe being (as we ſaid) in diſorder (which is the ſtrength of the King's Evidence, if proved) both of them ſaid, before they went thence they would kill ſome or other, which Evidence will go a great way to ſhew the concern that Noble Lord the Priſoner at the Bar had in the Buſineſs.

It happen'd as theſe Boys were making their Requeſt to the Centinel, my Lord and Mr. *Gerrard* took notice of it, and ſeem'd to be concern'd that they ſhould command the King's Soldiers, and bid the Centinel ſhoot him, who told them he conceiv'd the Boy had done him no wrong in asking a civil Kindneſs from him; they again call'd to ſhoot him, and they would bare him out; which he ſtill refuſed to do, finding no reaſon for it: then one of the two took occaſion to ſwear a great Oath, he would kick his Arſe to Hell; to which the Boy that ask'd the Centinel made ſome reply; wherein the word *Arſe* was repeated: now (whether they underſtood it as an Interrogation, *Why kick my Arſe to Hell?* as he intended it; or in a worſe ſence, *Kiſs my Arſe*) one of the Gentlemen in a Rage came running down the Stairs, and that Boy that in truth ſpoke the Word ran away, and the other poor Innocent Boy, truſting in his own Innocency, remained there, until the Perſon came to him, and did on his Knees (in a manner) deſire not to be miſtaken, he was not the Perſon that uſed any ill Words, and cry'd out, *O my Lord it was not I, indeed my Lord it was not I*; but ſuch, at that time, was the Intemperance and Wrath of the Perſon, who in ſuch a Fury deſcending the Stairs, that (whether with the Blow or the Fall) the Boy receiv'd his Death. We find by our Information

formation of the Evidence, that he who did the Thing was, in truth, Mr. *Gerrard*, who is not yet taken; but whether my Lord, the Priſoner at the Bar, did not concur in it, and had not an Intention to kill ſomebody, is the Queſtion left for your Grace and theſe Noble Peers to decide? This is the nature of the Fact; only I deſire to obſerve, that it is true here was ſome diſtance between the place where my Lord *Conwallis* ſtood, and the place where the Boy was killed. Of what conſequence that may be, I leave to your Grace's and theſe Noble Lords Conſideration: It was the diſtance of the Stairs; but, I think, as every one knows, they are not ſo many, but what is done below may be eaſily ſeen at the top.

We ſhall now, without detaining your Lordſhips any longer, call the Witneſſes, and prove what hath been opened: The Soldier prov'd the Fact, as it was open'd by Mr. Attorney General, except that part about both ſwearing they would kill one or other, which Paſſage was heard but by one of them, and was ſpoken but by one of the Gentlemen.

They could not ſwear, who were the Perſons, becauſe of the darkneſs of the time.

The Boy who was the Companion of him that was ſlain, and that uſed the Words that cauſed the Perſon to come down, ſwore them to be a Repetition only, by way of Interrogation, *Why kick my Arſe to Hell?*

Then Mr. Attorney deſired to call my Lord *Conwallis*'s own two Footmen, who had been Indicted and acquitted at the *King's-Bench-Bar.*

Lord High Steward. My Lords the Judges, is there any Queſtion, whether a Perſon acquitted of an Offence be a good Witneſs againſt another charged with the ſame Offence?

Judges. None at all: when he is acquitted he ought to be admitted.

Then the Copy of the Acquittal (proved by a Clerk in the Crown Office) was read, and then were Sworn; who fixed it upon the Perſon of Mr. *Gerrard*, and ſwore that my Lord *Conwallis* was all the while upon the top of the Stairs, but after the Fact committed, haſted away for fear of being knock'd down by the Soldiers: And there ended the King's Evidence.

L. High Stew. Now, my Lord, is the time come for your Defence. You hear what is charg'd on you, Pray ſpeak what you have to ſay for your ſelf.

Lord Conwallis. Then the Priſoner at the Bar confeſſed himſelf to have been in the Company that Night when this Accident happen'd, which he hop'd would be a warning to him to ſhun ſuch Diſorders hereafter; but that he had no evil Intention, and but one Witneſs ſwore that both of them would have kill'd the Centinel, that he was not conſcious to himſelf to have had a hand in it, and therefore withdrew not himſelf, but yielded himſelf to the Coroner the next Day, (which he prov'd by the Coroner himſelf) and did therefore, in truſt of his Innocency, ſubmit himſelf to the Judgment of His Grace and his Peers.

Which being done, Sir *Francis Winnington*, the King's Sollicitor General, ſumm'd up the Evidence in this manner:

May it pleaſe your Grace, my Lord High Steward of *England*, and my Noble Lords the Peers of the Priſoner at the Bar. According to the Duty of my Place I am to repeat the King's Evidence, and ſtate it to your Grace and theſe Noble Lords, and ſubmit it to your great Judgments, how far it will go for the Proof of this Crime; wherein I ſhall obſeve the Duty of all honeſt Men, which is to do nothing either to wreſt any thing in diſadvantage of the Priſoner out of the King's Evidence, to go farther than it ought, nor ſhall omit any thing that ſhall require your Grace and the Noble Lords Juſtice; for we come to ſeek out the Truth, and we queſtion not but by this Honourable Trial it will be brought to light. But I beſeech your Favour, to take notice, in the firſt place, what Crime this Noble Lord ſtands accuſed of, and it is for Murder; wherein our Law takes notice, that Murder is where a Man unlawfully kills another under the King's Peace, with Malice forethought. Now that here is a Murder committed, I dare with all Humility averr. By whom? that is the Queſtion: For this *Robert Clerk*, the Perſon killed, doth appear, by the courſe of the Evidence, to have been doing his Duty, attending the Place his Employment required; gave no Offence to any whatſoever; but when the Perſon came down and fell upon him, the poor Youth cried, *Indeed, my Lord, it was not I*; yet, my Lords, the Hands of Violence ſeiz'd him and kill'd him. Let us then ſee how the Evidence brings it home to the Noble Lord the Priſoner at the Bar; wherein I muſt confeſs we have no expreſs Evidence (nay, we have Evidence to the contrary) that it was not his Hand that did the Fact actually, for it is by two Witneſſes; the Footmen ſwore that it was Mr. *Gerrard* who came down and gave the unfortunate Blow: But we have that which we think, with humble ſubmiſſion, may reach this Noble Lord: For I know your Grace and my Lords remember, that after they had been an Hour in the Park, both returning, did with horrid Oaths ſwear they would kill the Centinel; there the Evidence fixeth it, not upon one only, but upon both: it was at that time ſo dark they could not be diſtinguiſhed, but by the Voice: The Centinel hath given you an account how he perform'd his Duty, and in what Straight he was, he had much ado to ſave his own Life, or to prevent killing them: But when they came upon the Stairs, theſe two Boys came there in order to deſire the Centinel to call one of them the next Morning. Then one on the Stairs (no Man can tell who it was) with horrid Execrations, ask'd, *Will you command the King's Soldiers? Shoot him, Centinel, we'll bear you out.* But all this while it was Duſk, no diſtinction of Perſons could be made; whereupon it will fall out to come to this Caſe, If ſeveral Perſons intend to kill one, and happen to kill another, whether this be not Murder in them? For the urging of this, as to the Matter in Law, I leave to him that comes after me. The Centinel ſwears one of them did ſwear he would kill one or other; who it was took up that cruel Reſolution, is left to you to judge: But at that time they were both together upon the top of the Stairs; and my Lord doth not ſeem to give one tittle of Evidence, that ſhews any Endeavours of the Priſoner at the Bar to prevent the other, or diſprove of his Actions: If he had given an account of that, he had ſilenced Juſtice; but when they were all together, he not endeavouring to ſtop his hand, it is as much in Law as if he had ſtruck the Stroke.

The other Soldiers give you a particular Account to the ſame purpoſe.

The two laſt Witneſſes do bring it to the Perſon of my Lord, the Priſoner at the Bar, and Mr. *Gerrard*, who, they ſwore, came down the Stairs,

Stairs, and his Man followed him to the bottom, and there ſtaid at ſome diſtance, till the Fact was done, and they all fled.

This I take to be the matter of Fact faithfully proved, before your Grace, and the Lords the Peers; and I would not trouble your Grace longer, becauſe I would not miſreport any thing, whereby I might do wrong, either to the Priſoner or the King's Cauſe; and becauſe I know your Grace and the Noble Lords will diſtinguiſh and find out where the Truth is. I muſt ſay it is a great Comfort to all the Subjects of *England*, that Crimes of this Nature are ſo carefully preſented, that whatſoever Honours and Dignities our Gracious Sovereign doth confer on any Perſon, it doth not exempt him from the Juſtice of the Law: It is not only a Comfort to this Aſſembly, but to the whole Nation, to ſee the King tender of his Subjects Perſons and Lives, in that he hath cauſed this ſtrict Courſe to be taken, where the Enquiry hath gone from the Grand Jury of the County, till the Bill came to this great Tribunal; where I doubt not but your Grace, and theſe Noble Lords, will give a righteous and juſt Judgment.

Then Serjeant Maynard *concluded thus.*

May it pleaſe your Grace, my Lord High Steward of *England*, and my Noble Lords the Peers.

I, according to the Duty of my Place, come now to conclude the Charge on the King's behalf; ſome Things are fit to be obſerved upon the Evidence, that may produce a Queſtion for the deciſion of the Fact, of what nature it is, that a Murder is committed, is upon Evidence without all Queſtion; and not only the Death of a Man, here is a Child ſlain, without any Provocation in the World given by him, to that Perſon that did it; and that did it too, notwithſtanding the Deprecations of the Boy, affirming his own Innocency, and that with as full Circumſtances as a Chriſtian almoſt could a thing: theſe came from the King's Palace-walk in the Park; call the Centinel Rogue, and when he doth his Duty, ſwear to murder him; with Oaths that a Chriſtian would bluſh at, and be afraid to hear: *God damme* oftentimes reiterated; and he that ſaith that Word, doth beg of God to hate him, and affirm that he doth hate God. The Obſcenity that they uſed I ſhall not mention again; theſe are Circumſtances of the Caſe; that all were guilty of much, is no doubt; but who of the Murder, is the Queſtion. And I humbly conceive, it is manifeſt, that this Noble Lord was concern'd in it. For it is not requiſite to make a Murder, that he who kills a Man hath conceiv'd a Malice againſt him; for if I have a Malice againſt any Man, and the effect of that fall upon another, it is Murder.

I apply it thus; If it be a Murder in Mr. *Gerrard*, if this Noble Lord partake with him in the Deſign which made it ſo; to wit, the Malice againſt the Centinel, he is as guilty, as if his Hand had been as much upon him as was Mr. *Gerrard*'s; as in that known Caſe of the Man that poiſon'd an Apple, with an Intention to kill his Wife, and ſhe not knowing of the Poiſon, gave ſome of it to her Child, of which it died; tho' he had no deſign to kill the Child, yet the Malice he had conceiv'd againſt his Wife ſuppli'd the Defect of an expreſs Malice to make it Murder; and he was hang'd therefore. So if a Man aſſault a Maſter, in the preſence of his Servant, who defends his Maſter, and is ſlain, tho' the other had no purpoſe to kill him, yet it is Felony in him, for which he ſhall die; the Law implying a Malice. Then here was clearly a Malice to the Centinel; how near it comes to the Boy will come in Queſtion afterwards. I find the Objection made in my Lord's Caſe, That at the particular Time wherein the Fact was committed, my Lord was not with Mr. *Gerrard*: But that will be no Objection in the Caſe; for if he did partake in the Deſign of the other, I will anſwer it with the Caſe of my Lord *Dacres* of the South, who, with ſome others, went unlawfully to ſteal Deer, and the Keeper coming, ſome fled, among whom, my Lord was one: the Keeper was kill'd, my Lord *Dacres* being at that time without the Pales, a Mile off from the Place, and yet was found guilty of the Murder, and left both his Lands and his Life for it. But here, my Lord *Conwallis* was preſent, for the Witneſs ſwears the diſtance was not ſo great but it might be diſcern'd. Now whether he was aiding or aſſiſting, is the next thing in queſtion. What occaſion had they of Malice, Revenge, or Injury to the Centinel? They both ſwore they would kill him: Had there been any excuſe for the other, if one of them had killed the Centinel? that could not be. Well, they did not kill the Centinel, but at the ſame time take up a cauſeleſs Offence againſt another, and kill him. I argue, That the Malice againſt the Soldier was diffuſive to the Boy; and one of the Witneſſes proves, that one of them ſwore he would kill ſome Body: now, no one ſpeaks to any thing of my Lords reproving Mr. *Gerrard*. Thus ſtands the Caſe before your Grace and my Lords: It is a Caſe of Blood, and it cries loud: How far this Noble Lord and Priſoner at the Bar is guilty thereof, you are to enquire, and without all doubt will give a clear Verdict, according to Juſtice and Honour.

Sanders's *Caſe in* Plowden, *fol.* 473.

Anno 33 H. 8. Coke, 3 *Inſt. fol.* 211.

Lord High Stew. My Lords, you have heard the Evidence of your Lordſhips; Pleaſe, to go and conſider of it, you may.

Then the Priſoner withdrew into his own Apartment, with the Lieutenat of the Tower. The Lords went into a Room behind the Court of *Chancery*, and after a ſtay of two Hours, return'd, and being all ſate; the Earl of *Danby*, Lord High Treaſurer of *England*, who was the firſt of the Jury, addreſſed himſelf to my Lord High Steward, and ſaid;

Earl of *Danby*. *My Lord High Steward* there is a queſtion in Law, of which ſome of my Lords deſire to recieve ſatisfaction, before they can give in their full Verdict: and we deſire to know of your Grace, whether it be proper here to ask the Queſtion of your Grace, or to propoſe it to the Judges.

Lord H. Stew. If your Lordſhips doubt of any thing, whereon a Queſtion in Law ariſeth, the latter Opinion, and the better for the Priſoner is, that it muſt be ſtated in the preſence of the Priſoner, that he may know whether the Queſtion be truly put. It hath ſometimes been practiſed otherwiſe; and the Peers have ſent for the Judges, and have asked their Opinion in private, and have come back, and given their Verdict, according to that Opinion; and there is ſcarce a Preſident of its

Cooke's Inſt. fol. 3, 9. Paſch 20 Hen.

its being otherwiſe done; but there is a latter Authority in Print, that doth ſettle the Point ſo as I tell you; and I do conceive it ought to be followed; and it being ſafer for the Priſoner, my humble Opinion to your Lordſhips, is, that he ought to be preſent at the ſtating of the Queſtion.

Call the Priſoner to the Bar. Who being come, my Lord ſpake thus to him:

Lord High Steward. My Lord *Conwallis*, My Lords the Peers, ſince they have withdrawn, have conceived a doubt, in ſome matter of Law ariſing upon the matter of Fact in your Caſe; and they have that tender regard of a Priſoner at the Bar, that they will not ſuffer a Caſe to be put up in his abſence, leſt it ſhould chance to prejudice him, by being wrong ſtated; therefore, your Lordſhip will do well to attend the Queſtion that is raiſed; and, my Lords, will you pleaſe to propound your Doubts?

Earl of Danby. It was taken notice of here, that by opening the matter by Mr. Solicitor, the matter of Murder was explained, to be meant by having a prepenſed Malice, and in that Caſe it was opened to us, that any Perſons then preſent, and that had in any ſort contributed to the Diſorders, they were as equally guilty, as they whoſe hand had ſhed the Blood of the Perſon killed.

Now the doubt of ſome of my Lords is, whether if it be found but Man-ſlaughter, thoſe are equally guilty, that are preſent (and have proved to contribute to the diſturbance) of that Crime, as they are in Murder; becauſe ſome of them have not the ſatisfaction that they are the ſame.

Lord High Steward. My Lords the Judges, I take it, the Doubt propoſed to you, is this; whether or no, thoſe that are preſent, and have contributed to the Diſorders, whereby ſuch an accident doth enſue, as proves to be Man-ſlaughter, be as culpable, as he that doth the immediate Fact, as it is in the Caſe of Murder?

After a little Pauſe and Conference, the Judges returned this Anſwer.

Judges. We have had Conference of this Caſe, and our humble Opinion is, If ſundry Perſons be together, aiding and aſſiſting to an Action, wherein a Man-ſlaughter doth enſue, as in Caſe of a ſudden buſineſs without Malice prepenſed, they are equally guilty with the Man-ſlaughter, as they are in the Caſe of Murder prepenſed.

Earl of *Danby*. The Lords deſire to withdraw once more, which they did, and after a ſhort ſpace returned; and being called over, anſwered to their Names, and all appearing, my *Lord High Steward*, took their Verdict *ſeriatim*, beginning at the Puiſne Lord in the following orders, they anſwering, ſtanding bare with their Hands on their Breaſts.

Lord High Steward. My Lord *Duras*, Is *Charles* Lord *Conwallis* guilty of the Felony and Murder, whereof he ſtands Indicted, or not guilty?

Lord *Duras*. Not guilty.

The ſame Queſtion he demanded of each; who anſwered thus:

Lord
- *Butler*, not guilty.
- not guilty.
- *Maynard*, not guilty of Murder, but guilty of Man-ſlaughter.
- *Paget*, not guilty.
- *Berkly*, not guilty of Murder, but guilty of Man-ſlaughter.
- *Newport*, not guilty.
- *Hallifax*, not guilty.
- Viſcount *Cambden*, not guilty.
- *Guilford*, not guilty.
- *Aliſbury*, not guilty of Murder, but guilty of Man-ſlaughter.
- *Craven*, not guilty.
- *Bath*, not guilty.
- *Clarendon*, not guilty.
- *Sunderland*, not guilty.
- *Peterborough*, not guilty.
- *Devonſhire*, not guilty.
- *Northampton*, not guilty.
- *Bridgwater*, not guilty.
- *Dorſet*, not guilty.
- *Suffolk*, not guilty.
- *Bedford*, not guilty.
- *Derby*, not guilty.
- *Kent*, not guilty.
- *Oxford*, not guilty.
- *Arlington*, not guilty.
- *Brereton*, not guilty.
- *Lindſey*, not guilty of Murder, but of Man-ſlaughter.
- *Dorcheſter*, not guilty.
- *Angleſey*, not guilty of Murder, but of Man-ſlaughter.
- *Danby* not guilty of Murder, but of Man-ſlaughter.

Lord High Steward. Call the Priſoner to the Bar.

Then the Priſoner came to the Bar, and the Deputy Lieutenant of the *Tower* held the edge of the Axe towards him, while my Lord High Steward ſpake thus unto him;

Lord High Steward. My Lord *Conwallis*, you have been Indicted for Murder, pleaded not guilty, put your ſelf upon your Peers; and your Peers upon conſideration of the whole matter, have acquitted you, and found you not guilty, ſo you are to be diſcharged.

Cl. Cr. Make Proclamation.

Serj. O Yes! my Lord High Steward of *England* willeth and commandeth all Perſons, to depart hence in God's Peace and the King's; for my Lord High Steward of *England* His Grace doth diſſolve his Commiſſion.

God ſave the King.

At which words my Lord High Steward holding the white Staff (which was delivered him by the Uſher of the Black Rod on his Knees) in both Hands over his Head, ſnapt in two, and the Aſſembly broke up.

The Tryal of David Lewis, *a Jeſuit, at* Monmouth *Aſſizes.*

THE 28th of *March*, 1679. the Aſſizes began at *Monmouth*, Sir *Robert Atkins* being ſole Judge, a Grand Jury of Gentlemen was Returned by the Sheriff, and called, againſt ſeveral of whom Mr. *Arnold* and Mr. *Price* excepted, and ſo put by, as ſuch they conceived might befriend me, a Challenge not known before; for in the Caſe between the Marquis of *Worceſter*, and the Tenants of *Wentwood*, upon a Riot, *Henry Williams*, Eſq; and others, would have excepted againſt ſome of that Grand-Jury, the ſame Judge *Atkins* then poſitively ſaid, It was ridiculous, and not uſual to Challenge out of a Grand-Jury. At laſt a Jury was Sworn, and an Indictment drawn up againſt me, upon the Statute of the 27th *Eliz.* and preferred to the Grand-Jury. That Evening, being *Friday*, I was Arraigned upon that Bill, to which I pleaded, Not Guilty. The next Day, about Ten of the Clock in the Morning, the Judge came from the *Niſi prius* Side, and ſate at the Crown Side, and I at the ſame Time being brought to the Bar, the Cryer made Proclamation for Silence, that a Jury for Life and Death might be Impanelled, and I made my Challenges; preſently a Jury from the other Bar was called, which was not uſual, and I to Challenge, the Judge telling me, I might Challenge without Hindrance; by gueſs I Challenged three; but out of that *Niſi prius* Jury called to the Crown Bar, and that by Mr. *Arnold*'s own Suggeſtion, who had a ſtrong Influence upon the Judge, as being his Kinſman, and ſitting at his Right Hand, divers were excepted by Mr. *Arnold*; whereupon, to make up the Jury, the Judge commanded the High-Sheriff to call in ſome, and he called many, and of thoſe, ſtill Mr. *Arnold* excepted, as either being of my Neighbourhood, or Acquaintance, for there being many in the Country; the Sheriff ſeeing ſo many of his calling excepted, he deſired Mr. *Arnold* himſelf ſhould call whom he pleaſed; whereat the Judge checked the Sheriff, and ſaid he was ſawcy: At laſt, with much Difficulty, a Jury was Impanelled, a Jury now contriv'd, of none but ſuch as pleaſed Mr. *Arnold*, principal Proſecutor againſt me, which was very hard, and an ignorant Jury it was withal: The Jury being Impanell'd, it was ſworn, the Indictment read, and Witneſſes called, thus:

Clerk of the Aſſizes. *David Lewis*, hold up thy Hand.

Here thou ſtandeſt Indicted of High Treaſon, by the Name of *David Lewis*, for that thou, being a Natural Subject of the King of *England*, haſt paſt beyond the Seas, and haſt taken Orders from the Church and See of *Rome*, and haſt returned back again into *England*, and continued upwards of forty Days, contrary to the *Statute* 27 *Eliz.* in that Caſe made and provided, which, by the ſaid Statute, is High Treaſon. What haſt thou to ſay for thy ſelf? Art thou Guilty, or not Guilty?

Priſoner. Not Guilty.

Clerk. By whom wilt thou be Try'd?

Priſoner. By God and my Country.

Clerk. God ſend thee a good Deliverance.

Clerk. Cryer, call *William Price*, *Dorothy James*, *Maney Trott*, *John James*, *Catharine Thomas*; he calls them, and they all appear. Then ſays the Clerk to the Cryer, Swear them: And he ſware them all.

Judge. (Sir *Robert Atkins.*) *William Price*, Look on the Priſoner, do you know him?

Price. Yes, my Lord, I do know him.

Judge. What have you to ſay of him?

Price. My Lord, about a Year and a half ago I ſaw him at Mrs. *Bartlet*'s Houſe, at a Place called *Caſtle-Morton* in *Worceſterſhire*, and there I heard him read Maſs, I was at Confeſſion with him, and I received the Sacrament from him, according to that Way.

Judge. Was there any Altar, or any Crucifixes, or Coapes?

Price. Yes, my Lord, that there were.

Judge. How many Times did you ſee him?

Price. But that once, my Lord.

Judge. Were you of that Way then?

Price. Yes, my Lord, upwards of Eighteen Years.

Judge. What are you now?

Price. A Proteſtant, my Lord.

Judge. Well, Mr. *Lewis*, what have you to ſay to this?

Priſoner. With your Lordſhip's Leave, I will anſwer all together.

Judge. Very good, you do well, it will be ſo much the ſhorter. *Dorothy James*, look on the Priſoner, do you know him?

Dorothy. Yes, my Lord.

Judge. What have you to ſay of him?

Dorothy. My Lord, I ſaw him ſay Maſs, take Confeſſions, give the Sacrament, Marry, Chriſten, and heard him Preach in the *Engliſh* and *Welch*.

Judge. Were there Altar and Crucifixes?

Dorothy. Yes, my Lord, Altars, Crucifixes, Chalices, and ſuch other Things belonging to that Way.

Arnold. Did you ſee him give that they call *Extream Unction*?

Dorothy. Yes, that I did, to my Uncle, my Father's Brother.

Judge. Do you know what Extream Unction is?

Dorothy. Yes, that I do, it is anointing ſick People with Oil, when they are dying.

Judge. It's right, that's another Sacrament of their Church, grounding themſelves upon theſe Words of St. *Paul*, as I take it, *If any be ſick among you, let him be anointed:* But that was in Times of Miracles only.

Arnold.

Arnold. Did he take upon him to free Souls from Purgatory?

Dorothy. Yes, that he did, and he had of me, Eight Pounds in Silver, and one Piece of Gold, to free my Father's Soul.

Priſoner. God is my Witneſs, to my beſt Knowledge, I never had one ſingle Piece of any Money from her, or her Husband, upon any Account whatſoever.

Judge. Have you any more to ſay?

Dorothy. No, my Lord: And with that ſhe laughed at the Bar.

Judge. How now, Woman! do you make a laughing Game of it? Carry your ſelf more modeſt, for the Gentleman is for his Life, and it is no jeſting Matter. Well, *William James*, look upon the Priſoner, do you know the Priſoner, and what have you to ſay of him?

William James. Yes, my Lord, I do know him, and I have ſeen him read Maſs many Times, and take Confeſſions, and give the Sacrament, and Chriſten, and Marry.

Judge. Have you any more to ſay?

William James. No, my Lord.

Judge. Mr. *Trott*, what have you to ſay of the Priſoner, did you ever hear him read Maſs, was he reputed commonly a Jeſuit, or Popiſh Prieſt?

Trot. Yes, my Lord, he was commonly reputed ſo, and I heard him often read Maſs; and I ſaw him Marry Mr. *Gunter*'s Daughter to Mr. *Body*.

Judge. Were you then of that Religion?

Trot. My Lord, I was deluded by my Wife out of the Proteſtant Religion, and was a Papiſt during her Life-time.

Judge. Are you of that Religion ſtill?

Trot. No, my Lord, when I ſaw their wicked Deſigns to kill my Gracious King, I abhor'd their Traiterous Proceedings, and left them, and am now a Proteſtant, in which I ſhall continue.

Judge. You do well.

Arnold. My Lord, there is Mr. *Roger Sayes*, a very material Witneſs.

Judge. Cryer, ſwear him. Mr. *Sayes*, what have you to ſay againſt the Priſoner?

Sayes. My Lord, I was employed, with others, on the 16th of *November* laſt, to go and ſearch for him, and we found him, and took him, with ſeveral Popiſh Things, which we carried away, *&c.*

Judge. Did you ſee him at Maſs?

Sayes. No, my Lord.

Judge. Then ſit down. What have you to ſay, *John James*? What, are you dead, or afraid to be whipt? Look upon me, and ſpeak out.

John James. He married me and my Wife.

Judge. Is that all you know? did you ſee him at Maſs?

John James. I know no more.

Judge. *Catharine Thomas*, did you ſee him at Maſs? why do not you ſpeak, Woman? ſpeak, Woman.

Catharine Thomas. Yes. I have no more to ſay, do what you pleaſe with me.

Arnold. My Lord, there is one *Cornelius* in Court, I ſee him, who was Clerk.

Judge. Cryer, call him, ſwear him. Well, *Cornelius*, did you ever ſee the Priſoner at Maſs?

Cornelius. I am an ignorant Fellow, I know not what Maſs is.

William James. My Lord, he was his Clerk.

Cornelius. No, I was his Servant.

Judge. Well, ſit down. Mr. *Lewis*, now what have you to ſay to all theſe Witneſſes, for your ſelf?

Priſoner. My Lord, my Indictment was, That being a natural Subject of the King of *England*, I was Ordained beyond the Seas, by a Juriſdiction derived from the See of *Rome*, and returned back again into *England*, &c. contrary to the Statute in that Caſe made and provided, 27 *Eliz.* Under your Lordſhip's Favour, I conceive, that there has not been here any one Witneſs, who hath proved the Indictment, or any Part thereof.

Judge. What then? Do you expect that we ſhould ſearch the Records at *Rome*, or ſhould bring Perſons to prove, that they ſaw you Ordained there? No, Sir, it is enough that you have exerciſed the Function of a Prieſt, in Copes and Veſtments uſed in your Church, and that you have read Maſs, taken Confeſſions, given Abſolutions, Married, and Chriſtned; if all this will not make you a Prieſt, what will? I have Tryed ſeveral Popiſh Prieſts, but never met with ſo full a Proof as this now.

Priſoner. All theſe Things ſuppoſed proved, will not make me a Prieſt, unleſs proved to be performed by me, as one Ordained beyond the Seas, by the Juriſdiction derived from the See of *Rome*; for the very Miniſtry of the Church of *England* take ſpecial Confeſſions, and give formal Abſolutions; many, in Caſe of Neceſſity, Chriſten, tho' no Prieſts, and lately, the Country knows it, one, no Popiſh Prieſt, ſolemnly married a Couple; neither can one prove to have ſeen me read Maſs, unleſs it be proved firſt, That I was Ordained beyond the Seas, by a Juriſdiction derived from the See of *Rome*; for, no ſuch Ordination, no Prieſt; and, no Prieſt, no Maſs.

Judge. To diſprove all theſe Witneſſes, by ſaying, it cannot be proved you were Ordained beyond the Seas, by a Juriſdiction derived from the See of *Rome*, is as much as that ſaying, *Bellarmine* thou lyeſt.

Priſoner. My Lord, Were it proved that I read Maſs, that were not Treaſon in me, for I am inform'd, that it were but the Forfeiture of 200 Marks, by a Statute of 23 *Eliz.*

Judge. 'Tis true, who hears Maſs, forfeits one Hundred Marks, *But he that uſes to read it, commits Treaſon*: But theſe are the Tricks of you all, yet all will not do: Have you any thing elſe to ſay?

Priſoner. With your Lordſhip's Leave, now I deſire to ſpeak ſomething to the Evidence of every particular Witneſs.

Judge. Speak then.

Priſoner. My Lord, as to the firſt Witneſs, *Price*: As I hope to be ſaved, to the beſt of my Memory, I never ſaw him, till this very Day, before. I never knew or heard, before now, of that Mrs. *Bartlet*, or of that Place *Caſtle-Morton*; I never was in that Place all my Life-time; nay, I never was in *Worceſterſhire*, or in any Houſe in *Worceſterſhire*, but twice, the laſt Time whereof was about five Years ago; and that was but at my Inn in *Worceſter* Town, where, with a Servant, I alighted, beſpoke my Supper, went to the Coffee-houſe, drank two Diſhes of Coffee, read the Gazette, returned to my Inn again, Supped, went to Bed, next Morning bought ſome few Books at the Stationers, Dined, took Horſe, returned Home again: This is all the being I ever was in *Worceſterſhire*.

Judge. Look upon him, do you know him?

Price. Yes, my Lord, he is the Man.

Judge. Have you any more to ſay?

Priſoner. Yes, my Lord, Mr. *Trot* was married to a Kinſwoman of mine, and ſhe was a conſiderable Fortune to him, which he having ſpent very idlely,

idlely, and ſhe dying, he went to *London*, where finding an Imployment at Court, and there having done ſome unhandſome Things, he was baniſhed the Court, and now lives upon the Charity of Gentlemen and Friends for his Bread; ſo that with good Reaſon it may be believed, it is rather Poverty and hope of Gain, than any thing elſe, that brings him here to accuſe me.

He was a Dwarf. *Judge. Paupertas ad Turpia Cogit.* Little Gentleman, what can you ſay to this?

Trot. My Lord, I was over with the King, and he commanded me to attend him at *White-hall* on his Reſtoration, where I came when I returned, and I was received into his Service, but was never baniſhed the Court, only I came away upon Diſcontent, and ſtill I may go there when I pleaſe: My Lord, I am deſirous to do my King and Country good Service, but I am in danger of my Life amongſt them, and muſt look to my ſelf.

Judge. Ay Mr. *Trot*, have a care of yourſelf, you do well. Mr. *Lewis*, have you any more to ſay for your ſelf?

Priſoner. My Lord, *Dorothy James*, and *William James* her Husband, their Evidence is grounded upon plain Malice, and that Malice thus grounded; They pretending I owed them Money, they ſued me in *Chancery*; but, after a conſiderable Charge at Law, finding themſelves not like ſo to prevail, then they fell to threatning me, that they would have me in Hand, that they would make me repent, that ſhe would never give over to proſecute againſt me, till ſhe had waſhed her Hands in my Heart's Blood, and made Pottage of my Head.

Judge. Can you prove that?

Priſoner. Yes, my Lord, that I can.

Judge. Call your Witneſſes then.

Priſoner. Cryer, call *Richard Jones*, *Anne Williams*, *Anne James*, and *Catharine Cornelius*.

Judge. What can you ſay, *Richard Jones*?

Richard Jones. I heard *William James* ſay, he would make Mr. *Lewis* repent.

Judge. *Anne Williams*, what can you ſay?

Anne William. I heard from ſeveral Perſons, that *Dorothy James* ſaid to ſeveral Perſons, in and about *Carlion*, that ſhe would waſh her Hands in Mr. *Lewis* his Blood, and that ſhe would have his Head to make Pottage of, as of a Sheep's Head.

Catharine Cornelius. My Lord, and I heard the ſame.

Judge. *Anne James*, what can you ſay?

Anne James. I heard *Dorothy James* ſwear, that ſhe would waſh her Hands in Mr. *Lewis*'s Heart's Blood.

Judge. Where did you hear her ſay ſo?

Anne James. I heard her ſay ſo in her own Houſe, at the Fire-ſide, when I lived with her.

Judge. Well, Mr. *Lewis*, all this will not do, all will not excuſe you from being a Prieſt, or were you a Hypocrite?

Priſoner. My Lord, I am a Native of this Country.

Judge. What, of this Country?

Priſoner. Yes, my Lord of this Country, and thoſe Years I lived in this Country, I lived with the Reputation of an honeſt Man, amongſt all honeſt Gentlemen and Neighbours.

Judge. Well, Mr. *Lewis*, have you any more to ſay?

Priſoner. My Lord, Mr. *Sayes* was one ſworn Witneſs againſt me, I deſire to ask him one Queſtion.

Judge. Do ſo.

Priſoner. Mr. *Sayes*, when you took me, was there a Juſtice of Peace with you, at taking of me?

Sayes. No.

Priſoner. My Lord, with this Opportuuity I humbly beg leave to clear my ſelf from a foul Aſperſion, wherewith I am calumniated over the whole Nation in a Printed Pamphlet, which Pamphlet I can here produce; and wherein there is not one Line of Truth. For it ſays at the end of it, that I was taken by a Juſtice of Peace, and others, in a Place cunningly contriv'd, under a Clay-Floor, which Mr. *Sayes* knows to be untrue; and whereas it alledges, That I cheated a poor Woman of Thirty Pounds, to redeem her Father's Soul out of Purgatory, the Pamphlet names neither the Woman nor her Husband, nor her Father, nor the Place nor Time, when nor where.

Judge. Does it not?

Priſoner. No, my Lord; ſo that the whole Pamphlet is one entire Lye, deviſed by ſome fooliſh Malice.

Judge. Mr. *Lewis*, I, for my part, do not believe it to be true. Have you any more to ſay?

Priſoner. No more, my Lord.

Judge. Then withdraw and repoſe. Gentlemen of the Jury, Here he ſtands Indicted, *&c.* (and ſumm'd up the whole Evidence;) if you believe what the Witneſſes ſwore, you muſt find the Priſoner guilty of High Treaſon; you have heard what was proved againſt him, therefore go together.

Priſoner. My Lord, before the Jury go, I deſire to ſpeak ſomething, which now occurs unto me, and is material againſt the Evidence of *Price*.

Judge. Jury, ſtay.

Priſoner. This very Morning that *Price* came to my Chamber, with the Goaler, (it ſeems it was to view me,) he took a Turn about the Room, all the Time eying me; at his going out, he was ask'd by the Goaler, whether I was the Man he meant? and he anſwered, If I was he, I was much changed, and if I was he, I had black ſhort curled Hair.

Judge. Can you prove that?

Priſoner. Yes, my Lord.

Judge. Where are your Witneſſes?

Priſoner. Cryer, call *Elizabeth Jones*, and *Charles Edwards*.

Judge. Woman, what can you ſay to this?

Eliz. Jones. My Lord, *Price* this Morning, after he had view'd the Gentleman in his Chamber, as he was going out, he ſaid, If he be the Man, he is much changed, and hath black curled ſhort Hair. Which is not ſo.

Judge. *Charles Edwards*, what can you ſay?

Edwards. I heard *Price* ſay the ſame Words ſhe relates.

Judge. Where is *Price*? Cryer, Call him. But he was not to be found, being gone out of the Hall. (This was the Trick of *Coleman*, to aſperſe the Witneſſes.)

Here the Jury went out, and immediately returned again.

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſpeak for you?

Jury. Foreman.

Clrk.

Clerk. *David Lewis*, hold up thy Hand. Do you find the Priſoner Guilty, or not Guilty?

Jury. Guilty.

Judge. Have you any more to ſay?

Priſoner. No more, my Lord.

Clerk. *David Lewis*, hold up thy Hand.

Judge. Give me my Cap: *David Lewis*, thou ſhalt be led from this Place, to the Place from whence thou cameſt, ſo the Lord have Mercy on thy Soul.

Priſoner. I made a low Bow to the Judge, and the Court aroſe.

The Tryal of Nathaniel Reading, *Esq;*

ON *Wedneſday* the 16th of *April*, 1679. His Majeſty's Commiſſioners of *Oyer* and *Terminer* did meet at *Weſtminſter-Hall*, in the Court of *King's-Bench*, when and where the Commiſſion was read; and Proclamation for Attendance being made, and the Grand Jury ſworn, Sir *James Butler*, His Majeſty's Attorney General, and Chief Commiſſioner that then appeared, gave them their Charge thus:

Gentlemen,

His Majeſty, upon the Addreſs of the Honourable Houſe of Commons, hath been pleaſed to give Order for this Commiſſion of *Oyer* and *Terminer* that hath been read, to iſſue out; and the Court thereby hath Authority to inquire of, hear and determine ſeveral other Offences: Yet, at this preſent, you ſhall have no other in Charge than the particular Offence recited in the Indictment in my Hand. It is a Crime of an unuſual and rare Nature: The Indictment is againſt *Nathaniel Reading*; it ſets forth the Plot againſt the King, the Government, and the Religion eſtabliſhed here by Law, the horrid and pernicious Miſchiefs and Conſequences of it: It ſets forth likewiſe, that ſeveral Perſons, (and names them) as *Coleman*, *Ireland* and *Grove* were Tried, Condemned, and Executed for the ſame: That ſeveral Lords in the Tower do ſtand Impeached in Parliament, of the ſaid High Treaſon, and other High Crimes and Miſdemeanors, that this was well known to Mr. *Reading*, and that notwithſtanding he hath ſo misbehaved himſelf, in endeavouring to leſſen and ſtifle (as much as in him lay) the King's Evidence, that, if it had not been happily prevented, might have been of moſt miſchievous Conſequence. I ſhall not take upon me to recite the whole Indictment to you, being very long, and not ſeen or peruſed by me till now; but you ſhall have the ſame along with you, it ſhall be read to you. Your Duty is, to examine and conſider of the Evidence to be offered you, on the Behalf of the King, for the Proof of the Charge againſt the Offender, if you find it amount to a Proof of what is laid therein: Nay, I muſt tell you, if you have but probable Evidence, you ought to find the Bill, becauſe your Preſentment and Verdict is not a Conviction, but in the Nature of an Accuſation, in order to bring the Priſoner to a fair Trial: And if you do not find the Bill, he ſhall never be brought to his Trial, but if you, (having probable Evidence) find it, he ſhall receive his Trial by the petty Jury; and upon the Merits, be either Acquitted or Convicted. This is as much as I think is fit for me to ſay to you at this Time, upon this Occaſion. You may pleaſe to go together, and take the Witneſſes along with you.

Then the Witneſſes were ſworn, and the Grand-Jury withdrew, and after the Space of about half an Hour, returned, finding it Billa Vera. *After which, the Court adjourned to* Thurſday, *the* 24th *Day of* April, *at Eight a Clock in the Morning, in the ſame Place.*

On which Day the Commiſſioners hereunder named being met, viz.

Sir *Francis North*, Knight, Lord Chief Juſtice of His Majeſty's Court of *Common-Pleas*.

William Mountague, Eſq; Lord Chief Baron of His Majeſty's Court of *Exchequer*.

Sir *William Wylde*, Kt. and Bar. one of His Majeſty's Juſtices of the *King's-Bench*.

Sir *Hugh Wyndham*, Kt. one of His Majeſty's Juſtices of the *Common-Pleas*.

Sir *Robert Atkins*, Knight of the *Bath*, another of the Juſtices of the *Common-Pleas*.

Sir *Edward Thurland*, Kt. one of the Barons of the *Exchequer*.

Vere Bertie, Eſq; another of the Juſtices of the *Common-Pleas*.

Sir *Thomas Jones*, Kt. another of the Juſtices of the *King's-Bench*.

Sir *Francis Bramſton*, Kt. another of the Barons of the *Exchequer*.

Sir *William Dolben*, Kt. another of the Juſtices of the *King's-Bench*.

Sir *William Jones*, Kt. His Majeſty's Attorney General.

Sir *James Butler*, Kt. one of the King's Council, and the Queen's Attorney.

Sir *Philip Matthews*, Bar.

Sir *Thomas Orby*, Kt. and Bar.

Sir *Thomas Byde*, Kt.

Sir *William Bowles*, Kt.

Sir *Thomas Stringer*, Serjeant at Law.

Sir *Charles Pitfield*, Kt.

Thomas Robinſon, *Humphrey Wyrley*, *Thomas Haryot*, and *Richard Gower*. } Eſquires.

Proclamation was made for Attendance, and the Grand Inqueſt being called, Sir Francis North, *Lord Chief Juſtice of the* Common Pleas, *(the Lord Chief Juſtice being out of Town) ſpoke to them thus:*

Lord Chief Juſtice North. You of the Grand Jury, This Seſſion is upon a particular Occaſion, and that which lay upon you was to find the Bill, and that

that you have done, and we do not see any thing further for you to do, and therefore the Court discharges you from any further Attendance this Session.

Then Mr. Reading *was sent for, and brought to the Bar, by Captain* Richardson, *the Keeper of* Newgate, *and Silence being Proclaimed, the Clerk of the Crown read the Indictment to him.*

Clerk of the Crown. Mr. *Reading*, hearken to your Indictment.

You stand Indicted, by the Name of Nathaniel Reading, *late of the Parish of St.* Margaret Westminster, *in the County of* Middlesex, *Esq; That whereas* Edward Coleman, William Ireland, *and* John Grove, *and other (unknown) false Traitors against our most Serene Lord King* Charles II. *the* 24th *Day of* April *in the Thirtieth Year of his Reign, at the Parish of St.* Margaret's Westminster, *in the County of* Middlesex, *had Traiterously, among themselves, Conspired, Consulted, and Agreed, our said most Serene Lord the King to bring and put to Death, and final Destruction; and to move War against him our Lord the King, within this Realm of* England, *and the Religion in the same Kingdom rightly and by the Laws of the same Realm Established, to Change and Alter to the Superstition of the Romish Church, and the Government of the same Kingdom to Subvert; for which certain most wicked Treasons, and Traiterous Conspiracies, Consultations, and Agreements aforesaid, They, the said* Coleman, Ireland *and* Grove, *in due Manner, and according to the Laws of this Kingdom of* England *afterwards were Attainted, and had therefore undergone the Pains of Death: And whereas* William *Earl of* Powis, William *Viscount* Stafford, John *Lord* Belasis, Henry *Lord* Arundel *of* Warder, William *Lord* Petre, *and Sir* Henry Tichburn, *Bar. the* 30th *Day of* November *in the aboveſaid* 30th *Year of the Reign of our said Lord the King, at the said Parish of St.* Margaret's Westminster, *in the County aforesaid, were of the aforesaid Treasons in a lawful manner Accused, and thereupon, according to the due Form of Law, to the* Tower *of* London (*being the Prison of our said Lord the King*) *were Committed, there safely to be kept, to Answer the aforesaid Treasons, whereof the same* William *Earl of* Powis, William *Viscount* Stafford, John *Lord* Belasis, Henry *Lord* Arundel, *and* William *Lord* Petre *in Parliament, by the Commons in the same Parliament assembled, are Impeached: But you, the said* Nathaniel Reading, *the aforesaid Premises sufficiently knowing, and being Devilishly affected against our most Serene Lord the King, your Supreme and Natural Lord, and devising, and with all your Might intending, to Disturb the Peace and common Tranquility of this Realm, and the Government of the same Kingdom, and the sincere Religion of God in the same, rightly and by the Laws of the said Realm Established, at your Will and Pleasure to Change and Alter; and the State of this Kingdom, thro' all its Parts well Instituted and Ordained, wholly to Subvert; and to obstruct, hinder and stifle the Discovery of the said Treasons, and, as much as in you lay, the due Course of Law in that Part to shift off, and retard in the Prosecution of Justice against the said* William *Earl of* Powis, William *Viscount of* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn: *You, the said* Nathaniel Reading, *the* 29th *Day of* March, *in the* 31st *Year of our said Lord the King, at the said Parish of St.* Margaret's Westminster, *in the County aforesaid, on the Part of the aforesaid* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *und Sir* Henry Tichburn, *falsely, advisedly, corruptly, and against the Duty of your Allegiance, did unlawfully solicit, suborn, and endeavour to persuade, one* William Bedlow, (*who, on the* 29th *Day of* March, *in the said* 31st *Year, in due Manner did give Information of the said Treasons; and whom You, the said* Reading, *the Day and Year last aboveſaid, did well know the Information of the said Treasons as aforesaid, to have given, on the Part of our Lord the King*) *upon the Tryal of the aforesaid* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn, *for the Treasons aforesaid, to be had, to lessen and stifle, and to omit to give in Evidence the full Truth, according to his Knowledge, of the aforesaid Treasons, against Them, the said* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn, *and to give such Evidence, as You, the said* Nathaniel Reading, *should direct: And You, the said* Nathaniel Reading, *sooner, and more effectually to persuade the aforesaid* William Bedlow, *to lessen and stifle, and to omit to give in Evidence the full Truth, according to his Knowledge, against the said* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn, *upon their Tryals, and to give such Evidence as You, the aforesaid* Nathaniel Reading, *would direct: You, the said* Nathaniel Reading. *afterwards, on the said* 29th *Day of* March, *in the* 31st *Year aboveſaid, at the aforesaid Parish of St.* Margaret's Westminster, *in the said County, falsly, advisedly, corruptly, and against the Duty of your Allegiance, unlawfully did give to the same* William Bedlow, *Fifty six Pieces of coined Gold of this Kingdom, called* Guineas: *And also falsly, advisedly, corruptly, unlawfully, and against the Duty of your Allegiance, the Day and Year aboveſaid, at the aforesaid Parish of St.* Margaret's Westminster, *in the said County of* Middlesex, *did promise to the said* Bedlow, *that He, the said* Bedlow, *within a certain Time, by You, the aforesaid* Nathaniel Reading, *to the said* Bedlow *proposed, should have and receive, divers other great Sums of Money, and other great Rewards, for lessening and stifling, and omitting to give in Evidence the full Truth, according to his Knowledge, of the aforesaid Treasons, against the said* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn, *and for giving such Evidence, as You, the said* Nathaniel Reading, *to the said* William Bedlow *should direct, to the great Hindrance, Obstruction, and Suppression of Justice, in manifest Contempt of the Laws of this Realm, to the evil and pernicious Example of all others in the like Case offending; and against the Peace of our Lord the King, his Crown and Dignity,* &c.

How say you, Mr. *Reading*, are you Guilty of this Trespass and Misdemeanor, or not Guilty?

Mr. *Reading*. Not Guilty, in Thought, Word or Deed.

L. C. J. Not Guilty, is your Plea?

Mr. *Reading*. Yes, my Lord.

Cl. of the Cr. Cryer, make Proclamation. You good Men of this County of *Middlesex*, summoned to appear here this Day, to try the Issue joined between our Sovereign Lord the King, and *Nathaniel Reading*, answer to your Names, and save your Issues.

Then the Pannel was called over, and Proclamation for Information in usual Form was made.

Cl. of the Cr. Mr. *Reading*, look to your Challenges. Will your Lordship please to have Sir *John Cutler* to be Foreman?

L. C. J. Yes.

Mr. *Reading*. My Lord, I have a very great Honour for this worthy Person, Sir *John Cutler*; he is in Commission of the Peace, I do therefore humbly desire he may be excused at this Time.

L. C. J. Mr. *Reading*, you cannot challenge him

him peremptorily in this Case, it not being for your Life; and therefore you must shew cause if you have any, he is not in this Commission at all: and for his being in Commission of the Peace, that signifies nothing, for we oftentimes in the Circuits take them off the Bench to be Jury-Men; but if you can shew any cause of Challenge, it must be allowed you.

Mr. *Reading*. My Lord, I look upon my self Indicted for Treason; (I desire God to give me Strength, and I am sure of your Lordship's Patience,) and I look upon the Indictment which hath been read to me, and upon which I have been arraigned, to be expresly Treason; and I do humbly pray your Lordship's Judgment in it, whether it be so or not: For, my Lord, (if your Lordship please) if it be so, as I understand my own Innocency, so your Lordship understands my Charge better then I do. And God knows I have neither strength of Body, nor presence of Mind to manage my own Defence; but my Happiness is, that I am alive at this Day, and am to be Tryed here before so Honourable a Bench. My Lord, I have not had the Advantage of any Council to assist me, nor the benefit of any Common Friend, no not my Wife to come to me. I have not been able to help my self thro' the great Indisposition which I have been under, reduced to it by that barbarous and illegal usage which I have had: For (my Lord) I hope I may say I am the first *English*-man that in my Circumstances hath ever been used as I have been; and my hopes are, whatsoever becomes of me, (the Lord's Will be done,) I shall be the last that ever shall be so used. My Lord, upon the weakness of my own apprehension, I do take it, that 'tis as high a Treason, nay a greater Treason, and that in the words of the Indictment, than ever Mr. *Coleman* or any of the others that have been Executed, dyed for; or the Lords now in the *Tower* stand Charged with; and therefore, my Lord, I pray your direction in it, if it is but a Misdeameanor, (for truly what the Crime is I know not,) but in construction of Law, admitting the Indictment true, the whole does contain in it the blackest Treason that ever Villain was guilty of. If it is so in your Lordship's Judgment, whatever should become of it now, I may be Indicted for it again; and should this Indictment be found upon me, I am as certainly in the Eye of the Law a dead Man, as thro' the Mercy of God I am now alive: And (my Lord) if it be so, I desire your Lordship's Judgment, whether I may not be allowed a peremptory Challenge.

L. C. J. Mr. *Reading*, You speak in due time, for 'tis pertinent to the matter of peremptory Challenge, to consider whether this be an Indictment of Treason; for if it be, the Law does allow in favour of your Life a peremptory Challenge to such a Number; and I will tell you, your apprehensions have something in them: That the Fact as 'tis laid in the Indictment, might have been laid so as to have made it an Indictment of Treason; and if you are Guilty of this Fact, and not Indicted for Treason, but only for a Misdemeanor, 'tis a favour to you, and that of which you cannot take Advantage or complain of. I'll now shew you that this Indictment is not an Indictment of Treason, nor can the Judgment of Treason be given upon you for it; and so thereby your Life is not in danger. First, here is not the word *Proditorie*, which is necessary in all Indictments of Treason: Next, you must observe that all Treasons are expresly particularized in the *Statute* of 25 *Ed.* 3. And nothing is Treason but what is contained in that Act, *as Compassing the Death of the King, Levying War against the King*, and other Facts mentioned in that *Statute*. Now if this Fact had been here laid as an Overt Act for the Evidencing of the Imagination of your Heart in Compassing the Death of the King, and the destruction of the Realm, there it had been an Indictment of Treason: But being there is no Treason formally laid, nor the word (*Proditorie*) which is necessary in all Indictments of Treason, 'tis only a Misdemeanor you stand Charged with; which I must tell you is a great ease and favour to you in such Circumstances as we are now; and if it be so, you must shew cause if you Challenge any Juror.

Mr. *Reading*. If I may (with your Lordship's favour) I am very highly disposed for the taking of the least of Favours that can be shew'd me, with the deepest acknowledgement that an Innocent Man, and one in Distress can make: But (my Lord) among the greatest of Misfortunes, this I own as my Happiness, that I am now on my Tryal before your Lordship. But pray (my Lord) may not I (having this favour shew'd to me, and should it be only found a Misdemeanor) afterwards be Indicted for Treason: And pray (my Lord) does there want any one Circumstance of the formality of an Indictment for Treason in this against me, but that one of *Proditorie*?

L. C. J. No, it is not laid that you did Compass the death of the King.

Mr. *Reading*. Then (with Your Lordship's Pardon,) I do not understand it; for the Indictment does set forth: *That* Coleman *and others did Conspire the Death of the King, Levying War, the Altering of Religion, and Subversion of the Government; for which they justly suffered Death.* And further, as to the several Lords in the Indictment mentioned, they are Accused for the same Treason; *And justly, and according to Law sent to the Tower, to Answer what they stand justly impeached of by the Commons:* And it sets forth further, that I *præmissa prædicta satis sciens*, did so and so: Were there no other Expression, that, my Lord, is expresly Treason, or no doubt Misprision of Treason; for, my Lord, it does Charge me that I am *satis sciens* particularly, sufficiently well apprised of those Treasons they were Executed for, these Accused. And that I did not this out of the weakness of my own Apprehension, but falsly, advisedly and maliciously. My Happiness is, I shall have your great Judgments to determine this matter for me.

L. C. J. Mr. *Reading*, you exercise great Elocution and Eloquence; but if I do apprehend you aright, what you say is this: That the Indictment sets forth, that you *satis Sciens* of those Treasons did so and so, which will amount to a Misprision of Treason. I must tell you, there is a difference between the knowledge of a Treason that is secret, for the concealing of that, and endeavouring to stifle the Evidence, is Misprision of Treason, but the knowing of a Treason that is revealed and discovered is knowing no more than all the World knows; and not laid as a Fault, but to aggravate the Fault afterwards charged. This Discourse is nothing to the Matter; if you would have our Opinion, whether you may afterwards be question'd for Treason, 'tis that we are not to give you; answer the Indictment as now it is: You have favour enough that it is laid this way, and not the other. An Indictment of Treason or Misprision

must

muſt not be laid ſo as that the Crime muſt be collected out of the Matter of Fact only, but it muſt be formally laid. How you ſhall be Proſecuted hereafter, muſt depend upon the Juſtice of the Kingdom: We ſit here now to determine upon what Matter lies before us, and ſo cannot grant you a peremptory Challenge in this Caſe, which is only allowed in Matters Capital in favour of Life.

Mr. *Reading*. My Lord, I do deſire to know whether this be Treaſon or no, *That being deviliſhly affected to the King my Supreme and Natural Lord, and intending to levy War in the Kingdom, and to change the Government, and to alter the Religion, and ſubvert the Peace of* England; whether that be not Treaſon?

L. C. J. Mr. *Reading*, We will anſwer none of thoſe Queſtions: But this I will ſay to you, no Judgment of Treaſon can be given upon you upon this Indictment; and tho' theſe Acts (if formally laid) might have been Treaſon, yet it not being ſo, we muſt proceed as it lies before us: And therefore if you have any particular Cauſe to challenge Sir *John Cutler*, ſhew it, and we will hear you.

Mr. *Reading*. My Lord, I have this Cauſe, I have been but a little time acquainted with this worthy Gentleman; but, my Lord, I have ſeen him in Company with Mr. *Bedlow*, mine Accuſer, I know there is not a common Intimacy and Friendſhip between them: I am very certain, my Lord, that Sir *John* hath too much Honour to do me wrong; but I do humbly deſire that he may have his Eaſe, and be excuſed at this time: not that I do diſtruſt his Juſtice, but for the Reaſons I have humbly offered.

L. C. J. Look you, Mr. *Reading*. your Accuſers are Witneſſes for the King, and are neither to gain nor loſe by your Trial; and therefore cannot be preſumed to make any Party for your Conviction. And do you challenge a Juryman becauſe he is ſuppoſed to know ſomething of the Matter? for that reaſon the Juries are called from the Neighbourhood, becauſe they ſhould not be wholly ſtrangers to the Fact. If you can ſhew that he hath already given his Verdict by his Diſcourſe, and that you are already condemn'd in his Opinion, that may be ſome cauſe of Challenge; but that he hath diſcourſed with Neighbours as others do, it may be he believes it, and may be does not believe it, he is now to give his Verdict upon what he hears upon Oath.

Mr. *Reading*. My Lord, I was very glad to ſee Sir *John Cutler* here, for I did intend to have his Evidence for me.

L. C. J. That you may have tho' he be Sworn.

Then the Jury were ſworn, and their Names were as followeth, viz.

Sir *John Cutler*.	*Thomas Caſſe*, Eſq;
Joſhua Galliard, Eſq;	*Rainsford Waterhouſe*, Eſq;
Edward Wilford, Eſq;	*Matthew Bateman*, Eſq;
Thomas Henſlow, Eſq;	*Walter Moyle*, Eſq;
Thomas Earsby, Eſq;	*Richard Paget*, and
John Serle, Eſq;	*John Haynes*, Eſq;

L. C. J. If Sir *John Cutler* deſires Pen, Ink and Paper, or any other Convenience, let him have it.

Cl. of the Cr. Gentlemen of the Jury hearken to the Indictment. He ſtands Indicted by the Name of *Nathaniel Reading* ——

L. C. J. You need not open the Indictment, let the Council do that.

Then Edward Ward, *Esq; being of Council for the King in this Cauſe opened the Indictment.*

May it pleaſe your Lordſhip, and you Gentlemen of this Jury, *Nathaniel Reading*, Eſq; ſtands Indicted for this Offence: That whereas *Edward Coleman*, *William Ireland*, and *John Grove*, and other unknown Perſons, (Traitors againſt our Sovereign Lord the King,) the 24th Day of *April*, in the Thirtieth Year of the King, did traiterouſly contrive the King's Death, the ſubverſion of the Government of the Kingdom, and the Religion in the ſame Kingdom by Law eſtabliſh'd, to alter and change to the Superſtition of the Romiſh-Church; for which Treaſons they have been in due manner Attainted and Executed: And it farther lays, that whereas *William* Earl of *Powis*, *William* Lord Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel* of *Warder*, *William* Lord *Petre*, and Sir *Henry Tichburn*, Baronet, were the 30th of *November* laſt, in a lawful manner, accuſed of thoſe Treaſons, and for them committed to the *Tower*; and thereof the ſaid Lords were and ſtand Impeached by the Commons in Parliament. The ſaid Mr. *Reading* being well knowing of theſe Things, and being devilliſhly affected to the King, his ſupream and natural Lord, and deviſing to diſturb the Peace of the Kingdom, and the Government and Religion thereof rightly eſtabliſh'd, to change and alter the ſtate of the Kingdom well inſtituted; to ſubvert, and to obſtruct and ſtifle the diſcovery of theſe Treaſons, and as much as in him lay to ſhift off and retard the courſe of Law and Proſecution of Juſtice againſt the ſaid Lord *Powis*, Lord *Stafford*, Lord *Petre* and Sir *Henry Tichburn*; the ſaid Mr. *Reading* the 29th of *March* laſt paſt, at St. *Margaret's Weſtminſter*, on the part of theſe three laſt mention'd Lords, and Sir *Henry Tichburn*; did falſly, corruptly, adviſedly and againſt his Allegiance, unlawfully ſollicit, ſubborn and endeavour to perſwade one Mr. *William Bedlow* (who before had given Information of theſe Treaſons againſt the ſaid Perſons, and whom Mr. *Reading* knew ſo to have done) to leſſen, ſtifle, and omit to give in Evidence the full Truth according to his knowledge of the ſaid Treaſons againſt the ſaid three Lords, and Sir *Henry Tichburn*, upon their Trial to be had, and to give ſuch Evidence as he the ſaid Mr. *Reading* ſhould direct, and to that purpoſe, falſly, corruptly, adviſedly, and againſt the Duty of his Allegiance, unlawfully did give to Mr. *Bedlow* fifty ſix Guineas, and promiſed him, that within a certain Time (by the ſaid *Reading* propoſed) he ſhould have and receive divers other great Summs of Money and Rewards, for leſſening, ſtifling, and omitting to give in Evidence the full Truth, according to his Knowledge of thoſe Treaſons againſt the ſaid three Lords and Sir *Henry Tichburn*; and for giving ſuch Evidence as he ſhould direct: And this is laid to be to the hindrance and ſuppreſſion of Juſtice, in manifeſt contempt of the Laws of this Realm, to the evil Example of others in the like Caſe offending, and againſt the Peace of our Lord the King, his Crown and Dignity. To this Indictment Mr. *Reading* hath pleaded not Guilty. If we prove the Offences aforeſaid againſt him, we doubt not but you will find him Guilty.

Sir Creſwel Levins, *one of the King's Learned Council in the Law, thus opened the Charge.*

May it pleaſe your Lordſhips, and you Gentlemen of the Jury, I am of Council for the King in

in this Case: Gentlemen, This Indictment is not an Indictment of High Treason, nor of Misprision of Treason; and truly the Gentleman at the Bar hath something wondred at the King's Lenity to him; the Fact in the Indictment does indeed sound of another Nature, than what it bears the Name of; it does in this Indictment carry the most moderate Character that the Fact will bear: It is only an Indictment of Trespass and Misdemeanor, but 'tis a very high Misdemeanor; 'tis to stifle the King's Evidence, and that not in an ordinary Case, but where it is attended with the greatest Aggravations that can be in any Case whatsoever. If a Man should endeavour to stifle the Evidence in an Action betwixt Party and Party, in the Courts of *Westminster-Hall*, for a Business of about 40 *s.* those Courts of Justice would find a ready way to punish him. This is a Crime of another Nature, for it is set forth in the Indictment, That *Coleman*, *Ireland*, and *Grove* had a Traiterous Design in hand, for the which they were Executed, that is, the Plot; and when I have said that, I have said all, That implies all; you all know what was thereby designed. 'Tis set forth in the Indictment, That such Lords, and Sir *Henry Tichburn*, were privy to the Plot, and accused for it, and to prevent the Evidence to be given against these Lords, three of them (for the Bargain was only made for three, *viz.* my Lord *Stafford*, my Lord *Powis*, and my Lord *Petre*; the rest were out of the Bargain, and had not, it seems, found out the Way of Commerce now used by these Persons) was this Gentleman, Mr. *Reading*'s, Business. It was to diminish and lessen the Evidence that was to be given against them, who were charged and accused to be as highly Guilty of the Plot as any that were Executed for it. And when I have told you this, you will surely conclude 'tis an high Offence, and an high Misdemeanor: For if the Life of the King, if the Law of the Land, if the Religion Established, if the settled Government be valuable; if your own Lives, your own Liberties, and your own Fortunes, have any Consideration with you, this is a very high Misdemeanor; for you must look upon these as all at Stake: This Plot, as it was laid, did reach to all; so that an Endeavour to conceal the Evidence that should discover, and thereby prevent the Execution of so horrid a Conspiracy, is a very heinous Misdemeanor; and you will easily believe, that the Gentleman at the Bar, the Prisoner whom you are to Try, had reason to doubt within himself, why it should be called so small an Offence as an high Misdemeanor: But I will not, I need not aggravate this Offence, and the rather because the Gentleman that stands accused for it, is of a Profession (for which I am sorry) which obliges him to know and understand all the Aggravations of his own Crime. I will not open the Evidence, nor tell you what the Witnesses will say, I had rather you should have it from themselves; but, if I am rightly informed, you will have the Matter fully proved; and therefore we will call the Witnesses, and let them tell you what it is they have to say.

Mr. *Ward*. There are some Things laid in this Indictment, that are to be previously proved, in Order to the Charging of the Prisoner; as the Execution of *Coleman*, and the rest; and the Impeachment of the Lords. If Mr. *Reading* stands upon it, we have those here that will prove it.

L. C. J. Mr. *Reading*, Those Publick Passages that are laid in the Preamble of the Indictment, do you insist they should be proved first?

Mr. *Reading*. My Lord, I am very willing to save your Lordship's Time.

L. C. J. Do you admit that *Coleman* and *Ireland*, &c. were Executed for Treason?

Mr. *Reading*. Yes, my Lord, and very justly.

L. C. J. Do you admit that the Lords in the *Tower* are Accused and Impeached in Parliament for this Plot?

Mr. *Reading*. Yes, my Lord, I do.

L. C. J. Then you ease them of the reading those Records.

Mr. *Reading*. And, my Lord, I do further say, I do verily believe there never was a greater Plot laid in Hell than this. I have abhorr'd it in my Thoughts, and have not only endeavoured to encourage the Discovery, but always gave it as my Counsel, that nothing that was true should be left out in the Evidence. And I do, and will, save your Lordship's Time as much as I can.

Sir *Cr. Levins*. Then, if your Lordship please, we will call our Witnesses, and prove the Fact; and if there be any thing that Mr. *Reading* doubts of, we will prove it afterwards. Swear Mr. *Bedlow*. *Which was done.*

Mr. *Ward*. Mr. *Bedlow*, I shall only ask you the general Question. Will you be pleased to tell my Lords and the Jury, what you know of this Business? Tell the whole Story, what Discourse and Bargainings there have been between you and Mr. *Reading*, for the diminishing and lessening of your Evidence.

Mr. *Bedlow*. My Lord, Mr. *Reading* was altogether a Stranger to me, till Sir *Trevor Williams* brought me acquainted with him; he was always very just to me, in whatsoever he did for me, and wherein he was employed by me. I found him very honest, in reference to my own Concerns. And tho' Mr. *Reading* will bring a great many People, perhaps, that he hath press'd me to discover the whole of the Plot; I do confess, he did it in a very high Measure, in all publick Company, and that I would not be baulk'd in any Point: And for the Discovery, and Convicting, and Executing, of those that had died about this Plot, he never deny'd but they suffered justly and lawfully enough: But in private Counsels where we have been together, he hath spoken to me to be cautious. Indeed he hath never endeavoured to have me stifle the whole Plot, but only for some particular People that he Solicited for; not but that he believed them Guilty, as well as the rest; but he desired me that I would not be so hot against them. And after he had made me Easy, (that was his Word that he himself used) he would have had me made Mr. *Dugdale* Easy too. At several Times, when we have been together, his very Expressions have been to me, Mr. *Bedlow*, Tho' there hath been so damn'd a Design on foot, and so terrible a one, yet it is not for your Safety nor Credit to run at the whole Herd of Men: For I was this Day, or Yesterday, he said, with my Lord Chief Justice, and he told me, That at this Rate that Mr. *Bedlow* accuses Men, none are safe, for he runs at the whole Herd; and seemed to me to intimate, that my Lord Chief Justice was not pleased with my Forwardness. And he told me likewise, You gain your Point with the Parliament, and with the King, and with the Kingdom, if some suffer, as I believe you can do it, and not run at the whole Herd, and 'tis an indifferent Thing to you, so you make the Parliament your Friend, by proving there is a Plot, and the King your Friend, in not charging all these Lords, and you'll

You'll make all the Lords your Friends, by your Kindneſs to them. You ſhall take my Inſtructions, I will never adviſe you any thing that is ill, but I'll tell you how far you ſhall proceed. If you can fix any thing for them, you ſhall be ſure to be well gratified.

L. C. J. Did he name any Lords to you?

Mr. *Bedlow.* This was the beginning of the Diſcourſe, my Lord; and I anſwered him, Mr. *Reading*, This is a very nice Point, and I know them to be guilty of all the Things I charge them with, and I can prove it. If your Advice be ſo, I'll conſider of it. I think it was after the Prorogation of the laſt Parliament, and then my Encouragement for Diſcovery was not ſo great. But, ſaid I, if any of them deny it to you, that they are Guilty, then they muſt expect no Kindneſs from me at all, for I will ſwear all that I can againſt them; but if they acknowledge that I do them a piece of Service in not ſwearing too ſeverely againſt them, then I will be ready to take your Advice and Inſtructions. He told me many times, that Sir *Henry Tichburn* did think he had ſeen me in *Paris*, but he did not uſe this Expreſſion to me, That I charged him with bringing Commiſſions over from *Rome*. I anſwered again, you may tell Sir *Henry Tichburn*, if he denies any thing of the Fact that I have ſworn againſt him, he does me and himſelf a great Injury. And to take him off as an innocent Man, I cannot do it, I will never do it. But upon Acknowledgment, I may do them ſome Kindneſs. So likewiſe my Lord *Powis* and *Caryll*. The Gentlemen that he moſt Solicited for, were, my Lord *Powis*, my Lord *Petre*, my Lord *Stafford*, Sir *Henry Tichburn*, Mr. *Roper*, Mr. *Caryll*, and one Mr. *Corker* a Jeſuit. And likewiſe he made me Eaſy, upon that Day that Mr. *Whitebread* and Mr. *Fenwick* were upon their Trial; for I have enough againſt them, becauſe I could be no Stranger to *Whitebread* and *Fenwick*, two ſuch conſiderable Men, being ſo much concerned as I was in their Affairs. It was impoſſible I ſhould be ſo much a ſtranger to them as I ſaid I was, but it was becauſe Mr. *Reading* had then made me Eaſy, and I intended to carry on the Intrigue with him, till it could be handſomly diſcovered. But my Lord Chief Juſtice asked me whether that was all I could ſay? And I told him, my Lord, I have ſomething more to ſay, when Time and Place require it, and when I can be ſafe in telling it; that is, when I had found out all that Mr. *Reading* intended to do, how far he would go, and then I thought it would be a proper Time, when I could make out ſome ſuch Information as I now do; but I would not ſtifle that Treaty that was between him and me, about the Lords in the *Tower*, which I knew was of greater Conſequence than two old Prieſts. After the Diſſolution of the Parliament, he told me, We muſt ſee other Times, and other Changes, and that the Lords did not think themſelves in ſo much Danger as when the Parliament was Sitting. But at ſeveral Places, the *Palſgrave*-Head-Tavern, and others, we have had Diſcourſe to the like Effect. He would very frequently come to me, and talk with me about it. Now I asked Counſel of no Man, for I have no need of it in my Matter; 'tis not Matter of Law, but Matter of Fact, that I am to make out, therefore I had no need of his Advice, but he would be at my Bedſide very often in a Morning, and before I was dreſſed, and then we uſed to diſcourſe together about this Buſineſs, and the Manner and Form how it ſhould be done, and how well I ſhould be rewarded if I got off thoſe Lords, that is, my Lord *Petre*, my Lord *Powis*, and my Lord *Stafford*, and Sir *Henry Tichburn*; theſe were the Four that made the Promiſes: But Mr. *Reading* ſolicited for the other Lords too; they did promiſe a noble Reward, but I could never ſettle or fix what it ſhould be, but I ſhould have Acknowledgments both in Money and Eſtate, from the Lords, for ſhortning the Evidence, and bringing them off from the Charge of *High Treaſon*. We had ſeveral Conſultations about this, the *Monday* that my Lord *Danby* was ſent for by the Black Rod, Mr. *Reading* came to me in the Speaker's Chamber, and told me, Mr. *Bedlow*, Here is a great Turn, my Lord Treaſurer is ſent for by the Black Rod, and Things are like to go quite another way. Well, ſaid I, when were you with the Lords in the *Tower*? Said he, I have not been there theſe two or three Days, but ſaid he, I intend to go to Morrow, and then I'll bring you word what they ſay. And the next Day, or the Day following, he came to me, and told me, That the Lords did think, that I was in a great Meaſure capable of ſerving them now; and they would have an Account what I could ſay againſt them, that ſo they might view it and correct it. Accordingly, he did go, and appointed to meet me the 28th of *March*. I omit ſeveral other Times that we had Conſultations, and now come homeward to the Buſineſs. I had then a Command from the Lords to inſpect the Papers of the *Spaniſh* Ambaſſador's at *Wild-Houſe*, and I could not meet Mr. *Reading* according to Promiſe, and I think the other Witneſſes will give you Reaſons better than I. This Appointment was on *Friday* Night; on *Saturday* Morning, he, having miſs'd of me the Night before, came to my Lodging, where I had placed Mr. *Speke* and my Man ready againſt he came. None of all theſe Conferences did I conceal, but revealed them to ſome of the Members of the Privy Council, to the Prince, and to my Lord of *Eſſex*. As ſoon as ever I had diſcourſed with Mr. *Reading* about this Matter, I did write it in the very Words, as near as I could, and gave it to the Prince, and my Lord of *Eſſex*, and I think your Lordſhips are very well ſatisfy'd that the Prince and my Lord knew it. And I told it to ſeveral others, as Counſellor *Smith*, Mr *Kirby*, and ſeveral others, who I was certain would be true to the Secret, fearing that Mr. *Reading* had laid a Trap to catch me with, and therefore I was very Cautious, that no Particular of the Conference ſhould be unknown to them. Indeed, my Lord I was very ſorry to ſee Mr. *Reading* ſhould do ſo, for I had a very great Reſpect for him; and he did uſe to give me publick Advice in general, for the Diſcovery of the Plot; only for ſome particular People he did ſolicit me that I would be a little Eaſy, thoſe he did ſolicit for. Upon the 29th of *March*, which was *Saturday* Morning, when he came into the Room, he asked me, is there no Body here that can over-hear us? I told him, No, there was not. Now I had planted that Gentleman, Mr. *Speke*, behind my Hangings, and made an hollow Place in my Bed, and therein laid my Man, and cover'd him with the Rug ſo ſmooth, that it did appear as if it were but newly made, and he could not perceive there was any Body there; he would have ſpoke to me in the Dining-Room, but I excuſed it, telling him, That Madam *Greves*, who lay in the next Room, had over-heard ſeveral Diſcourſes that I had with ſome Perſons there, and therefore it would not be ſafe, but he had better go into my Chamber, (not that ſhe could hear thro' the Wall, but

but it was to bring him into my Chamber;) he commended my Caution, and came in with me thither; and his first Word, as I said, was, Is there no Body that can over-hear? No, said I; 'tis my Concern to look to that, that all be private: But, said I, what say the Lords in the *Tower*? What says my Lord *Stafford*, what do they intend to do? I must know speedily, for I am to give in my Information to the Secret Committee of what I can say against them this Night. And I can stay no longer, but must have their final Answer, that I may know what to say when I come to the Secret Committee. Saith he, I will go and get their final Answer, but pray put it off till *Wednesday*, if you can. Saith I, I cannot do that, put it off so long, but I'll do what I can to put it off till *Monday*. Well, said he, on *Monday* you shall be sure to hear from me then, and I will have all things ready, as to what you have to say, and you shall have it from me. Accordingly I did stay till *Monday*, but the Committee of Secresy knew it all this Time, and when I met him on *Monday*, I had ordered the Witnesses that were by to over-hear us, to be present at the Delivery of the Paper; accordingly they were there, and Mr. *Reading* did bring it in his own Hand-writing.

Mr. *Reading*. What Room was it you were in, pray, Sir?

Mr. *Bedlow*. In the Painted Chamber. And as he gave me the Paper, pretending to put my Hand in my Pocket, I clapp'd it with my Hand privately behind me thus, and Mr. *Speke* took it out of my Hand, and he and my Man went into my Lord *Privy-Seal*'s Chamber, and there they read it, and had it three Hours before ever I saw it. Well, said I, what will the Lords do? Why, saith he, tho' I have not a full Answer as to what they will do, yet you may expect a noble Reward; and I have Order to draw up Blank Deeds.

Mr. *Reading*. Who did you give that Paper to, Sir?

Mr. *Bedlow*. To Mr. *Speke*, the rest will justify it, 'tis your own Hand-writing. But saith he, I have Order to draw blank Deeds to be signed in Ten Days after their Discharge. And you may be sure that they shall be signed. Mr. *Reading*, said I, this is but a verbal Promise, and they may perhaps hereafter charge me for all my bringing them off, and do me a great deal of Injury. That cannot be, saith he, my Soul and my Life for it, I have taken their Words, and, if there be any Faith, Honour and Conscience in Men, it shall be done: I dare answer for them. And, Mr. *Bedlow*, your Safety doth most consist in it; for as they must never be false with you, so they must never be at Enmity with you; for at last if you charge them with corrupting of you, you will be able to ruin them, and it will not look ill upon you, so much as upon them. But, take my Word for it, you shall have a noble and worthy Acknowledgment. I have Authority to draw blank Deeds, both for Summs and Estates, which they will settle upon you, and likewise a speedy Supply of Money, as soon as they can get it in; for my Lord *Stafford* said, He is now cutting down Wood and selling it, and when he hath raised the Money, you shall have it; but he protests, at present he hath not now Money to defray the Charges of his Family; but I have Order at any time to give you what you need for present Occasions; and indeed accordingly I have had a great deal of Money from him, several Guineas. I had all I asked for, and many times Gold I did not ask for; upon what Terms, other Witnesses will prove better than I hereafter. When we had done, said he, Let me see what Papers you have, the Copy of what you have accused the Queen about, and the Lords, that I may carry them to the Lords, and have their Answer. Said I, They are at my Mother's. I must needs have them, said he. So, that I might give the Witnesses leave to come out, I went with him to my Mother's Lodgings, and pretended to look for them, but found them not, for none but the Secret Committee knows what is in them. But when I had look'd over my Papers, said I, My Brother, perhaps, hath got them away with him, I'll go back to my Lodgings and see. O! said he, you should make sure of such Copies as you have, in some Friend's Hands, to secure them, as well as the Original. I told him, I should be sure of them at Night; so he was satisfied: Tho' I never intended he should have them, because there was Business of so great Consequence in them. When we came back again, we found Mr. *Speke*, and my Man in the Chamber, writing. I asked Mr. *Speke* how long they had been there? he told me, As soon as I went out. Then said I to Mr. *Speke*, Pray withdraw, for now I am to have Mr. *Reading*'s Instructions; if you'll go before by Water, I'll meet you at *Westminster* by and by. Then I lock'd up the Street Door, and came back to Mr. *Reading*, and then to work we fell, to write out those Things that he and I did conclude upon.

Mr. *Reading*. You say that you and I were then alone, and your Man gone away.

Mr. *Bedlow*. I said, that then you and I concluded upon what I should say, and what I should pitch upon, they were to correct, according to what they thought would most conduce to their own Safety. And when there were any Words, that seemed to urge any thing home upon them, then he would tell me what was Law, and that, perhaps, would reach them, and then altered it. And the *Monday* after brought a Copy to me, of his own Hand-writing, far from the Words that were set down in the Paper that he and I concluded of together, and delivered it to me privately, and I delivered it to this Gentleman, carrying it behind me thus, and he came after me and took it from me.

Sir *C. Levins*. Mr. *Bedlow*, This, you say, was for the shortning of the Evidence, how was it to be shortned?

Mr. *Bedlow*. To take off the whole Charge of Guilt, that I had sworn against them.

Sir *C. Levins*. Did that, which you agreed upon to shorten, take off from the Treason?

Mr. *Bedlow*. That which the Witnesses had in Writing did take off the Charge of Treason wholly.

Sir *C. Levins*. Was it less than the Information you had given in against them?

Mr. *Bedlow*. I told him, that it was not delivered into the Secret Committee, but indeed I had a great while before ——

L. C. J. I'll tell you what I apprehend he did say; if I mistake, he will set it right. He saith, When he came back with Mr. *Reading*, he found Mr. *Speke* and his Man in the Chamber together, he asked Mr. *Speke* how long he had been there, and how chanced he was up so soon? Mr. *Speke* said to him, I have been here ever since you went away. That, upon Mr. *Bedlow*'s Desire, he went away before him to *Westminster*, and they went together to consult, and great Care was used, that they might not be hindered or surprized. Then

Mr. *Bedlow* was to pen his Teſtimony, and it was to be carried to the Lords in the *Tower*, and they were to conſider how to have it minced, that they might be out of Danger. And Mr. *Reading* underſtanding the Law, when ever Mr. *Bedlow* ſpoke plain, or dictated any thing that would come home to them, would tell him of it, and that Mr. *Bedlow* might correct and mitigate it himſelf. I underſtand you ſo, Mr. *Bedlow*.

Mr. *Bedlow*. Yes, my Lord, it was ſo. And that Paper, which he brought me back, was ten times ſhorter than that he had of mine, which was forty times ſhorter than what I had given in to the Secret Committee.

Mr. *Ward*. Mr. *Bedlow* hath fully proved the Diſcourſe and Bargain between him and Mr. *Reading*, for the leſſening of his Evidence.

Mr. *Bedlow*. All Mr. *Reading*'s Words were, That I would ſo ſhorten and leſſen the Charge againſt them, that they might come off.

L. C. J. Mr. *Reading*, if you have a mind to it, you have Liberty to ask him any Queſtions.

Mr. *Reading*. My Lord, I humbly deſire I may do it, when the Evidence for the King is all given.

L. C. J. It is moſt proper to do it now.

Mr. *Reading*. With your Lordſhip's Favour, I have this Reaſon for it, I do deſire that the Witneſſes may be Examined apart.

Mr. Juſt. *Wild*. Mr. *Bedlow*, Pray let me ask you one Queſtion. I am upon the Indictment, for the Jury is charged upon that, and we muſt judge upon that, Was the Agreement between you and him, that you ſhould ſwear what he ſhould direct you?

Mr. *Bedlow*. It was, to what he and the Lords would direct.

Mr. Juſt. *Wild*. Did the Lords correct your Paper?

Mr. *Bedlow*. As he ſaid, they had done it.

Mr. Juſt. *Wild*. Did he acknowledge it?

Mr. *Bedlow*. Yes, he did.

L. C. J. Mr. *Bedlow*, I don't underſtand, that you were to have any Conference with the Lords, but you were to be ſhy of that, leſt it ſhould be diſcovered, but what Conference you were to have was with Mr. *Reading*.

Mr. *Bedlow*. Yes, my Lord, and he was to give me an Account what they would have me ſay.

Mr. Juſt. *Jones*. Shew him the Paper, I ſuppoſe he will own his own Hand.

L. C. J. Is that your Hand, Sir?

Mr. *Reading*. My Lord, this is my Hand, and this is that Paper, that I did deliver to Mr. *Bedlow* before Mr. *Speke* in the Painted Chamber.

Mr. *Ward*. We deſire it may be read, if your Lordſhip think fit.

Mr. Juſt. *Atkins*. Methinks it ſhould be material to read the Paper that he gave to *Reading* firſt.

L. C. J. Have you it here, Mr. *Bedlow*?

Mr. *Bedlow*. No; he carried that Paper to the Lords, and brought me this again.

L. C. J. But had you never that other Paper again?

Mr. *Bedlow*. No, I had not.

L. C. J. Did you ever take a Copy of it?

Mr. *Bedlow*. No, I did not. But this is that corrected Paper that I was to give in to the Secret Committee, and corrected by the Lords.

Sir *C. Levins*. We do prove it in Fact, that he had before given further Evidence, and by this Agreement he did contract to give leſs.

L. C. J. Mr. *Reading*, what do you ſay to Mr. *Bedlow*?

Mr. *Reading*. My Lord, if I have your Lordſhip's Direction that I may not examine my Witneſſes apart, I'll go on.

L. C. J. But what ſay you to the Paper?

Mr. *Reading*. I do own, the Paper that was ſhewn to me, is my Hand, and that I delivered it to Mr. *Bedlow*.

L. C. J. Then it muſt be read.

Sir *C. Levins*. My Lord, we don't deſire it ſhould be read, for we cannot ſhew the former Paper, that did contain more, and therefore what will the reading of the latter, which contains leſs, ſignify?

L. C. J. If you do not deſire to have it read, we won't read it.

Sir *C. Levins*. Mr. *Bedlow*'s Evidence is, That there was a Paper much more large than this, and yet both thoſe ſhort of the Information he had given in, now what will the reading of the one ſignify, without the other?

L. C J. Do you conſent to the reading of it?

Mr. *Reading*. My Lord, I would ſave your Time, and make it plain.

L. C. J. Mr. *Reading*, You muſt not come to make your Fence yet, till the King's Evidence is over.

Mr. *Reading*. My Lord, I do it to open his Evidence, and for your Information. My Lord, Mr. *Bedlow* charges me, That I did write in his Chamber, when his Man and Mr. *Speke* were gone, a Paper that was much larger than the Paper your Lordſhips have before you; he does ſay, that he did deſire me to go with that to the Lords, and that they did Correct it in ſeveral Places, and being ſo Corrected, I did bring him this Paper back, and delivered it to him in the *Painted Chamber*, before Mr. *Speke*. My Lord, I do pray your Lordſhip's Favour in it; when I had the King's Directions for giving in to the Secret Committee, what Information I had to give, I did deliver it into the Chamber, where were Mr. *Sacheverel*, and others, that very Paper, which was written at his Chamber. My Lord, I have ſent to him ſeveral Times, that he would deliver that to me in order to my own Juſtification, at my Trial. I did deſire likewiſe, that ſome other Papers which I did receive from Mr. *Bedlow* under his own Hand, and which would be very material to my Defence, might be brought to me, but I have not had the Favour of an Anſwer from Mr. *Sacheverel*, to this very Hour. I do humbly deſire that he may be ſent to, for the Delivery of them.

L. C. J. I do not know how we can ſend for them, if the Committee will not deliver them.

Mr. *Reading*. Will your Lordſhip give me leave to ſend to him?

L. C. J. But not by our Direction, to bring them as by our Command.

Mr. *Reading*. No, my Lord, but by my own Intreaty.

L. C. J. Do what you will, as from your ſelf. Mr. *Reading*, your Wife was with me Yeſterday, and ſaid, you could not get *Subpœna's* for your Witneſſes; and I ſent for the Clerk about it, and he told me, there never was any *Subpœna's* denied you, but you might have had them at any Time. But what ſay you to this Paper, you of the King's Council?

Sir *C. Levins*. My Lord, we do not deſire to have it read without the other.

L. C. J. Look you here, this Paper muſt be read, for we would ſee whether there was a Paper under your Hand expreſſing what Evidence Mr. *Bedlow*

Bedlow was to give in this matter, and whether you did one way or other put any thing in Writing which he ſhould ſwear to leſſen his Evidence. As for the other matter of tampering, we ſhall hear from others concerning it; but let us have this read, not for comparing it with the other Paper, to ſhew the Teſtimony is leſs in this than in the other, but as an Evidence of the Fact in it ſelf, for we will expect a good Account from you Mr. *Reading*, what you had to do to preſcribe him his Evidence in writing, therefore pray read the Paper.

Then the Paper was read in hæc verba.

Lord STAFFORD.

On diſcovery of the Plot, to me, I asked *Harcourt* and *le Phaire* how things were to be managed, they told me that his Lordſhip was to be Treaſurer, and he, and *Ireland*, and *Coleman* had money to defray all Charges; I then ſaid, I never heard that his Lordſhip was engaged before; they ſaid he had not been long concerned, nor was he acquainted with the affair much, but that the money which was lodged with him was to be diſpoſed of by him for the uſe of the Church and the Catholicks, and they had bound his Lordſhip up by Sacraments not to diſcover what the money lodged with him was to do till the time of uſing it, and then his Lordſhip ſhould know what great Truſt he had upon him for them, and till things were ripe he was not to be acquainted with the depth of the Plot, for they knew he would never conſent to the King's Death till it was done. His Lordſhip always promiſed to be ready to ſerve the Church with his Life and Fortune.

Lord POWIS.

That the Lady Abbeſs of *Panthois* told me, That his Lordſhip had ſent his Daughters over to be Educated in the Monaſtery, but that his Lordſhip's Lady had declared to her by Letter, that ſhe meant them as Pledges according to her promiſe, to aſſure her that her Lord was real to carry on what he had promiſed concerning the Inrtoducing the *Roman* Catholick Religion into *England*. I brought over a Letter from the Monks in *Paris*, directed to his Lordſhip, with ſevetal other Letters to other Popiſh Gentlemen, tending to the Death of the King, and ſubverting of the Government; but what was in that Letter to his Lordſhip I know not, for that I did not open it, as I had done the others, it being directed to a Peer, but I believed it might be to the ſame Effect, the Monks having informed me ſo at the delivering them to me; ſeveral other Letters to the ſame effect (as the Prieſts told me) I ſaw in the Prieſts hands, directed to his Lordſhip; but I never did read any of them, nor can I ſay that his Lordſhip ever received any of them; but I ſaw them put into the Poſt-houſe to ſend forwards, and I never ſaw his Lordſhip at any Conſultation, neither did I ever hear his Lordſhip named at any Conſultation where the killing of the King was mentioned or debated of: But I verily believe that his Lordſhip was acquainted with the Deſign of Introducing Popery, for that the Lady Abbeſs and the Prieſts have ſeveral times told me ſo, or to that Effect.

Lord PETRE

Mr. *Tyrrel* a Prieſt, and Madam *Thimbleby* his Lordſhip's Sifter, told me, that Mr. *Thimbleby* was gone to my Lord *Petre*'s Houſe to conſult with him how to proceed in the managing of their buſineſs. Mr. *Thimbleby* having received Letters from beyond Sea in order to the Introducing the *Roman* Catholick Religion into *England*, and that his Lordſhip would not in any ſort be perſwaded to bring it in by force, but rather by policy; and tho' his Lordſhip had truly engaged himſelf never to quit the Deſign, yet She was ſure he would not do it by foul means. I told her at her Husband's Houſe at *Ernly*, that where a Deſign was to be carried on for ſo general a Good, no particular way was to be pitched upon, but any thing, and all means was to be uſed to bring it to paſs, rather than loſe the Deſign; To which ſhe replied, that ſhe believed and approved the ſame, but that ſhe well knew his Lordſhip's mind, that he would never agree to do it by force; but as he would not hinder it, ſhould it go on by force, ſo he would further it by any other means whatſoever.

L. C. J. Here is an Evidence indeed, but ſo minced, that it would have ſignified nothing as to the Charge againſt them.

Mr. *Bedlow*. In the Information that I gave into the Secret Committee, there is ten Sheets of Paper in every Evidence againſt every Lord.

L. C. J. Now go to the other Witneſſes.

Mr. *Ward*. Pray ſwear Mr. *Speke*. *Which was done.*

Mr. *Ward*. Come Mr *Speke* declare your Evidence, and pray come over on this ſide.

L. C. J. I would have him ſtand on the other ſide, becauſe Mr. *Reading* deſires to examine them apart.

Mr. *Speke*. My Lords, and you Gentlemen of the Jury, I ſhould have been very loth and unwilling to have made my ſelf ſo publick as to have appeared here as a Witneſs againſt Mr. *Reading* the Priſoner at the Bar, upon any other account than this: but at ſuch a time as this, and in ſuch an Intrigue as this was, in which both the King and Kingdom was concerned, I thought my ſelf bound both in Duty and Allegiance to appear in what I have done, and to teſtifie the Truth of what I know for the Preſervation and Defence of both; and therefore ſhall declare to you the Treaty that was in my hearing the 29th of *March* laſt between Mr. *Bedlow* and Mr. *Reading* now at the Bar, and I ſhall not for the World atteſt any thing but what I heard diſcourſed between them, but will relate it to you in their own Expreſſions as near as poſſibly I can remember; and as to the Matter and Subſtance of what I ſhall declare to you to be diſcourſed between them, I will and can both poſitively ſwear.

But before I acquaint you thereof, I muſt beg leave to tell you, that I knew almoſt daily from Mr. *Bedlow* for ſome conſiderable time before, what was in the Treaty between him and Mr. *Reading*, and how they proceeded in this Affair, and therefore could the better charge my Memory with their Diſcourſe, and with the Paſſages which paſſed between them; and Mr. *Bedlow* having himſelf told you that he acquainted two or three Perſons likewiſe of very great Quality all along with this Treaty between him and Mr. *Reading*, and with Mr. *Reading*'s conſtant and almoſt daily Conſultation and Advice to him upon this Account, and with his large Promiſes to him from theſe Popiſh Lords and other Gentlmen accuſed and in Cuſtody upon the account of this horrid Plot.

I ſhall not now tire your patience ſo much as to acquaint you with what I had from Mr. *Bedlow* from time to time, after Mr. *Reading* had been with

with him discoursing of this Affair; but I shall be as short as I can in coming close to the point, and therefore shall only acquaint you with the matter and substance of what I my self heard discoursed between Mr. *Reading* and Mr. *Bedlow* the 29th of *March* last.

The 28th. of *March* last, I met with Mr *Bedlow* here at *Westminster*, who privately told me, that Mr. *Reading* had appointed to be with me in the Evening about the old Affair, and therefore desired me to come to his Lodgings about seven a Clock, and there should be some private place found out for me advantageously to hear their Discourse: I went to Mr. *Bedlow*'s Lodgings at *White-Hall* about the time he desired me to come; where I met with Mr. *Reading*, who was then just come, and asking *Henry Wiggens* whether his Master was at home, who told him, that he was not; upon which Mr. *Reading* went away, and left word with this Young-man that he would come again presently, and desired him to acquaint his Master with it as soon as he came home: I staid there with this Young-man a short time after Mr. *Reading* was gone, asking him whether he could tell where his Master was, who told me, he could not, but told me that there was some Company at the King's-Head Tavern at *Charing-Cross* which staid there for him, and that his Master would call there before he came home; upon which I immediately went to the King's-Head Tavern, and asked whether Mr. *Bedlow* was there; but I understood that there was some Company staying there, expecting to speak with Mr. *Bedlow*, but that he was not then come to them; upon which I went then to *Man*'s Coffe-house, and staid there a while, but had ordered one of the Boys of the Tavern to come and acquaint me as soon as Mr. *Bedlow* came; but finding that no one came from the Tavern, after some time I went thither again, and understood that he had not been there, and that the Company was gone which staid for him, and then I went back again to Mr. *Bedlow*'s Lodgings, where as soon as I came, this Young-man came out and told me, Mr. *Reading* was above, and staid there to speak with his Master; on which I call'd him out to me, and told him I was desired by his Master to come to be hid in some private place conveniently to hear the Discourse between them, and therefore I contrived some way to get Mr. *Reading* out, that I might in the mean time convey my self into some private place, where I might be able to hear their Discourse; whereupon I ordered this Young-man (whilst I was walking without at some distance) to go up and tell Mr. *Reading* that there was one which came from the King's-Head Tavern at *Charing-Cross* to acquaint him that his Master was there with some Company, and to tell Mr. *Reading* that his Master would not be able to get away from them, if he did not go to him, whereupon this Young-man went immediately to Mr. *Reading*, and acquainted him with it according to my desire and direction, and then Mr *Reading* went presently to the Tavern, and in the mean time I got up into the Bed-Chamber, and placed my self between the Hangings of the Bed and the Wall, but Mr. *Reading* finding not Mr. *Bedlow* at the Tavern, went away home, and left word with this Young-man, that he would be with his Master by Seven a Clock in the morning, and ordered him to acquaint his Master with it, that he might be up when he came, and as soon as *Henry Wiggens* returned back and acquainted me that Mr. *Reading* was gone home, and had left word with him that he would be with his Master by seven a Clock in the morning, I went home, but left word with this Young-man, that I would be with his Master by five or six a Clock in the morning, and desired him to acquaint his Master with it. I got up the next morning by five a Clock, and went immediately down to Mr. *Bedlow*'s Lodgings.

Mr. *Reading*. Sir, You are pleased to say, that the Twenty-eighth of *March* you was told, that I would be there about Seven of the Clock in the Morning, and that you at first met me there, and that the Appointment failing, then you came the next Morning, which was the Twenty-ninth.

L. C. J. I'll tell you how I apprehend him: The first Appointment was the Twenty-eighth of *March*, which was on *Friday*, and then failing, the other was the next Morning, which was the Twenty-ninth.

Mr. *Speke*. As soon as I came to Mr. *Bedlow*'s Lodgings, I caused the Centinel to knock hard at the Door to raise them up; and in the mean time I went into *King-street*, expecting to have got into some Coffee-house or other for to drink a Dish of Coffee, whilst they were rising, but it was so early that there was no Coffee-house open; upon which I was forced to return back again to Mr. *Bedlow*'s Lodgings, and then this Young-man and Maid were both got up, and did let me in, and I went up immediately to Mr. *Bedlow*, and raised him out of his Bed; and somewhat before Seven a Clock we plac'd this Young-man upon the Bed, with the Rug only on him, and prepar'd a place for me on the inside of the Bed, between the Hangings of the Bed and the Wall.

L. C. J. You say he was on the Bed, and you between the Bed and the Wall.

Mr. *Speke*. Yes, my Lord, between the Bed and the Wall I was, and he on the Bed, and as soon as ever I heard some Body knock at the Door (the Door being lock'd by Mr. *Bedlow*'s Order, to give me notice of his coming) I ran immediately into my Station before he came up, and presently after the Door was open, I heard Mr. *Reading*'s Voice as he was coming up Stairs, (which I know almost as well as his Person) as he was speaking to the Maid, and afterwards to Mr. *Bedlow*, who met him either in the Passage or at the Stair-head, and then they came both into the Bed-Chamber, (where, I believe, Mr. *Reading* little thought any Body was) tho' he was so cautious as to ask whether there was no Body there that could over-hear him; to which Mr. *Bedlow* reply'd, *No, no*, or some words to that effect. And then Mr. *Bedlow* began, and said to Mr. *Reading*, *What says the Lords in the Tower now? and what says my Lord* Stafford *as to the Estate in* Glouceſterſhire? to which Mr. *Reading* then reply'd, and said, *My Lord has faithfully promised me to settle that Estate upon you, and I have Orders from my Lord to draw up a Blank Deed in order to settle it on you; which Deed my Lord hath engaged to me to Sign and Seal Ten Days after he shall be discharged, you bringing him off from this Charge of High-Treason, by shortning and contracting of your Evidence.* And Mr. *Reading* said, *My Lord* Powis, *my Lord* Petre's, *and Sir* Henry Tichburn *have faithfully engaged and promised me, that they will every one of them give you a very large and noble Reward, which shall be suitable to the Service you shall do them, by shortning and contracting of your Evidence against them, and in bringing them off likewise from this Charge of High-Treason.* To which Mr. Bedlow reply'd and said, *I will not rely upon their*

Promises

Promiſes only, but do expect to have ſomething under their Hands. To which Mr. *Reading* then reply'd and ſaid, *They do not think it fit and convenient for them to do that as yet, but you may ſafely and ſecurely take my Word, as I have done theirs, they having all ſo faithfully promiſed me to perform all I have told you from them.* And Mr. *Reading* finding that Mr. *Bedlow* doubted their Performances, according to their Words, did moreover uſe theſe very Expreſſions, and ſaid, *I'll engage my Life for it.* To which Mr. *Bedlow* then reply'd, *I'll then take your Word, as you have done theirs.* And alſo told him, *The Committee do preſs upon me to deliver in what I have to ſay againſt the Lords, and therefore I deſire I may have their Anſwer ſpeedily, that I may know what they intend to do, and what they do reſolve upon, becauſe I cannot well deferr delivering in what I have to ſay againſt them any longer than this Night, becauſe I hear they come very ſpeedily upon their Trials.* To which Mr. *Reading* then reply'd, That he was ſure they could not be brought to their Trials before *Eaſter*, telling Mr. *Bedlow* what the Parliament muſt do firſt, and how they were to proceed in this Caſe. That they muſt come down to be Arraigned, and after that, they muſt have time to give in their Anſwer; and after that, they muſt have Time to prepare for their Trials; and told him, that he might very well defer it till *Wedneſday*; but Mr. *Bedlow* told him, that he could not defer it till *Wedneſday*, but that he would put it off till *Monday*, and longer he could not: And then Mr. *Reading* ſaid, that he would go preſently to the Lords and acquaint them with what he ſaid, and that he ſhould not fail of having their Anſwer by him on *Monday*, and that it ſhould be ready for him to deliver it into the Committee that Night. And after this Dialogue was over between Mr. *Reading* and Mr. *Bedlow*, they went out into the Dining-Room, and there Mr. *Reading* ſtay'd till Mr. *Bedlow* had quite dreſs'd himſelf, and afterwards went out both together, and ſtay'd away about half an Hour; and when they return'd, I and this Young-man were both together in the Dining-Room, and then Mr. *Bedlow* ſpoke to me as if I were but juſt come, asking me how long I had been there, I told him I juſt call'd on him as I was going to *Weſtminſter*, or ſomewhat to that purpoſe, ſo that Mr. *Reading* might not any ways ſuſpect my being there before-hand, to hear the Dialogue which paſſed between them. Mr. *Reading* then call'd for a Sheet of Paper and Pen and Ink, and went into the Bed-Chamber, ſpeaking and deſiring Mr. *Bedlow* to follow him; but after Mr. *Reading* was gone into the Bed-Chamber, Mr. *Bedlow* came to me, as I was ſtanding by the Chimney, and whiſpered to me, that they were then juſt going to draw up what they had concluded on, that the Lords might ſee it and correct it, as they thought fit, and that they might ſend him on *Monday*, in Writing, what he ſhould deliver into the Committee to ſwear againſt them; which I ſaw deliver'd by Mr. *Reading*, according to his Promiſe to Mr. *Bedlow* on the *Monday* Morning following, in the Painted Chamber at *Weſtminſter*, which Paper was writ by Mr. *Reading*'s own Hand, Mr. *Bedlow* delivering it to me as ſoon as ever Mr. *Reading* left him; and then I and another Gentleman of Quality went up immediately into the Room they call the Lord Privy-Seal's Room, where the Committee of Lords uſe to ſit, and there Mr. *Wharton* and I read the Paper ſo delivered, being writ by Mr. *Reading*'s own Hand.

Jury. Did you ſee Mr. *Reading*'s Face?

Mr. *Speke.* Ay, between the Door and the Wicket, but not in the Room. On the *Monday* morning following Mr. *Bedlow* deſired that I would be here at *Weſtminſter* before hand, and he would come thither. And he told me they were to correct the Paper, and he was to bring it corrected, and, ſaid he, pray follow me, and ſee the Paper delivered.

Mr. *Reading.* What Day was that he deſired you?

Mr. *Speke.* It was upon *Saturday*, the 29th of *March* that I over-heard what was ſaid, and it was upon the *Monday* morning following that I met with Mr. *Bedlow*, and he bid me go to *Weſtminſter* before. And I did ſo, and when we met at *Weſtminſter* I went after Mr. *Bedlow* at a diſtance: And in the middle of the Court of Requeſts he met with Mr. *Reading*, and they went together into the painted Chamber, and I followed them at a diſtance, my Eye was very much upon them, but I ſaw Mr. *Reading* was very cautious that I ſhould not ſee the Paper deliver'd; and indeed I was as ſhy as he, that he ſhould not ſee, that I took notice of it, but I did direct my Eye ſomewhat careleſly that way, and at laſt, I ſaw the Paper delivered by Mr. *Reading* to Mr. *Bedlow*, and as Mr. *Bedlow* told you, I and another Gentleman of Quality went away to the Lord Privy-Seal's Lodgings, where we opened the Paper, and ſaw what was delivered to him, and read it: and this is all I have to ſay.

L. C. J. Shew him the Paper, Is this that Paper, that you ſaw him deliver to Mr. *Bedlow*?

Sir *Creſwel Levins.* Look upon it, Sir, is that the Paper?

Mr. *Speke.* Yes, my Lord, certainly I take it ſo to be.

Mr. *Juſt. Atkins.* He hath owned it.

L. C. J. Mr. *Reading*, if you would ask this Gentleman any Queſtions, this is your proper time.

Mr. *Reading.* I hope your Lordſhip will give me the favour to examine them apart.

Mr. Juſt. *Wild.* Mr. *Reading*, you do confeſs what Mr. *Speke* ſays to be true?

Mr. *Reading.* My Lord, I did deliver that very Paper to Mr. *Bedlow* in the Painted Chamber in the Court of Requeſts before Mr. *Speke*, and 'tis every word of it of my own Hand writing.

Mr. Juſt *Dolben.* Did you ſee Mr. *Reading* in the Room?

Mr. *Speke.* I did not ſee him, till he was between the Wicket and the Door.

Mr. Juſt. *Wild.* Mr. *Speke* let me ask you one Queſtion, Did not you know his Voice?

Mr. *Speke.* I knew his Voice almoſt as well as his Perſon.

L. C. Baron. You are ſure it was he?

Mr. *Speke.* Yes, I am very confident it was he.

L. C. J. And the Diſcourſe was, that he would have it put off till *Wedneſday*, but Mr. *Bedlow* would not, but only put it off till *Monday*, and then they agreed upon a Paper, an account of which Mr. *Reading* promiſed to give on the *Monday* following?

Mr. *Speke.* Yes, my Lord, it was ſo.

L. C. J. So that the Fact does anſwer the Diſcourſe, for on the *Monday* following, the Paper was delivered.

Mr. Ward. Here is only one other Evidence, and that is Mr. *Bedlow*'s Servant, that was put in the Bed, as Mr. *Bedlow* tells you. Pray ſwear *Henry Wiggins.* Which was done.

Sir

Sir *C. Levins.* Come on, Young-man, ſpeak your Knowledge of this Matter.

Wiggins. My Lord, what I have to ſay is this.

L. C. J. Speak out.

Wiggins. What I have to ſay, is only what Mr. *Speke* hath ſaid before, and indeed he hath been ſo very plain, and ſo exact in all Particulars, that I need ſay but little, and therefore ſhall be very ſhort. My Lord, on *Saturday* the 29th of *March* laſt, Mr. *Reading* came to my Maſter's Lodging between Seven and Eight in the Morning. I was placed on the Bed, with the Rug only on me; and Mr. *Speke* was behind the Bed, between the Hangings of the Bed, and the Wall. As ſoon as Mr. *Reading* came into the Room, he asked my Maſter, If there were no Body there that could hear them? My Maſter ſaid, *No.* Then my Maſter asked, *What ſay the Lords in the* Tower *now?* And, *What ſays my Lord* Stafford, *as to the Eſtate in* Glouceſterſhire? Saith he, *My Lord hath promiſed faithfully to ſettle it upon you; and has given me Order to draw up Blank Deeds, which, in Ten Days after his Diſcharge, he will Sign.* And this was for the leſſening the Evidence. I think thoſe were the Words. And juſt then the Rug troubling me, that I could not Hear well, I put it off my Head; and, my Lord, I ſaw Mr. *Reading* ſtand by my Maſter in the Chamber. Saith he, *My Lord* Powis, *my Lord* Petre, *and Sir* Henry Tichburn, *have all promiſed you a ſuitable Reward, to the good Service you ſhall do them, in bringing them off from their Charge.* Saith my Maſter, *I don't think fit to rely upon their Promiſes only; but do expect ſomething under their Hands.* *No,* ſaid he, *they don't think it convenient for them to do that, as yet; but you may ſafely take my Word, as well as I have done theirs: And I will engage my Life for it.* (Which were the Words Mr. *Reading* uſed.) Saith my Maſter, *The Committee do preſs upon me to give in my Evidence, and I cannot defer it any longer than this Night.* Saith Mr. *Reading, They cannot come to their Tryal till* Eaſter; *becauſe ſuch and ſuch Things are to be done, as Mr.* Speke *have told you, before they can come to their Tryals, which cannot be done till then: And you may very well defer it till* Wadneſday. *No,* ſaid my Maſter, *I cannot; but I will do what I can to defer it till* Monday. Saith Mr. *Reading, I will then go to the Lords, and acquaint them with what you ſay; and bring you an Anſwer from them, on* Monday *Morning.*

And that Day, when he came to the *Painted-Chamber,* I ſaw him deliver that Paper to my Maſter, and my Maſter carrying it behind him; and I ſaw Mr. *Speke* take it from him; and Mr. *Speke* and another Gentleman went afterwards together, up into my Lord *Privy-Seal*'s Room to read it.

Jury. How long was it e're you ſaw Mr. *Reading,* after the Diſcourſe in the Room?

Wiggins. I got up preſently after they were gone out, and I ſaw them together at the Door; and as ſoon as they were gone, (as I told you) we both went out, into the Dining-Room, and went to write down what was ſaid: And within half an Hour, they came back again into the Room. And ſaith my Maſter to Mr. *Speke, What makes you ſo early here? How long have you been here?* Said he, *I called upon you as I was going to* Weſtminſter. And then my Maſter deſired Mr. *Speke* to go before to *Weſtminſter:* And Mr. *Reading* called for Pen, Ink, and Paper; and went into the Bed-Chamber, ſpeaking to my Maſter to follow him: And ſo we went away.

Jury. You ſay, That you ſaw him there? and not only Heard them Talk, but Saw him?

Wiggins. When he came into the Room, the Rugg was over my Head, and they ſpoke ſo ſoftly, that I could not hear him very well; but I put it off, without his perceiving me, and ſaw him then, and heard him plain: And when they went out again, I ſaw them both.

Mr. Speke. We open'd the Hangings, my Lord, a little at the Bottom, that he might not ſuſpect any thing, and the Curtains were but half drawn, or a little more: So that, when he put off the Rug, he might eaſily ſee him.

L. C. J. Have you any further Evidence for the King?

Sir *C. Levins.* My Lord, if your Lordſhip pleaſe, we ſhall trouble you with no further Evidence: We have proved it by Three Witneſſes.

L. C. J. Then, Mr. *Reading,* now is the Time for you to make your Defence: They have concluded, that are for the King.

Mr. Reading. My Lord, I am very unwilling to ſpend any of your Lordſhip's Time in vain. There is one Part of the Indictment, which I do humbly take Notice of to your Lordſhip before-hand; they are ſo far from Charging me to be of the Plot, or knowing of the Plot, that Mr. *Bedlow* hath declared the Preſſingneſs of my Perſuaſions to him, from Time to Time, that he would be very full and poſitive, in Charging any Man according to his Knowledge. Therefore, I ſhall not ſpend any Time, my Lord, in ſpeaking to that. I am obliged to Mr. *Bedlow,* that he hath done me ſo much Right, in ſaying what he hath ſaid of me about that: But I ſhall apply my ſelf ſingly to what he hath given in Evidence againſt me; and what hath been ſpoken to, by Mr. *Speke,* and his Servant.

My Lord, the Indictment is, That I ſhould endeavour to perſuade, to leſſen his Evidence againſt thoſe Lords, and Sir *Henry Tichburn*; that is to ſay, my Lord *Powis,* my Lord *Stafford,* and my Lord *Petre:* They prove nothing againſt me, as to the other. And, my Lord, becauſe the Indictment doth likewiſe ſet forth, that this was done on the Behalf of theſe Lords, and on their Account, as it ſays, I ſhall humbly (before I go on to cenſure the Evidence) give your Lordſhip an Account, upon what Occaſion it was, and how I went to ſee any of theſe Lords, and Sir *Henry Tichburn* here mentioned.

My Lord, within a few Days after the Lords were ſent to the *Tower,* Mr. *Bulſtrode,* a Gentleman of the Privy-Chamber to His Majeſty, did come to me, from my Lord *Stafford*; telling me, That my Lord *Staffora* deſired to be remembred to me, and to pray me to come to him.

My Lord, I did tell that Gentleman, That tho' I had a very great Reverence for my Lord, having known him long, and having been my Client for ſeveral Years; yet, conſidering how his Circumſtances then were, I ſhould not venture to go to him, till I had acquainted ſome of the Lords of the Cloſe Committee with it, and had their Leave.

Mr. *Bulſtrode* ſaid, I acted very prudently in it: And accordingly, I did go, and acquainted the Prince, my Lord Treaſurer, the Marquis of *Worceſter,* and ſome other Lords with it: And they told me, That my Profeſſion did priviledge me to go; And God forbid, but that Reſpect ſhould be ſhewn him, and the reſt of the Lords. Hereupon, my Lord, I did go; and when I was there, I acquainted the Lieutenant of the *Tower* with it; who invited me to Dinner with him: I did ſo, my Lord, and my Lord *Stafford* was there: And afterwards he

he did desire me to go to his Quarters with him: And being there, he told me, That I was not ignorant of what he was Charged with, and upon what Account he was there: And he was pleased to say much concerning his own Innocency. I told his Lordship, I heartily wished, it might appear he was as innocent as he said he was.

Then he desired me to move for his *Habeas Corpus*. I told him, I thought it not seasonable yet to do it: I also told him, I would not at all admit my self to be of Council for him, but for his Innocency, and as an innocent Man; with this, that I did so expresly abhor and detest the Crime that he was charged with, that tho' I were of Council with him, or in the very highest Degree of Friendship imaginable, should I discover he was guilty of it, I would be so far from continuing of Council for him, that I would come in as a Witness against him.

My Lord, upon these Terms it was, that my Lord took my Advice, and he gave me my Fee, which was two Guineas.

My Lord, afterwards I was desired by several of the Lords, to speak with Sir *Henry Goring*, and Sir *John Gage*, then Prisoners in the *Tower*: And, my Lord, they did desire me, that I would move for their *Habeas Corpus*'s; and, my Lord, I did so. I was then sent to by my Lord *Brudnel*, and several other Gentlemen in the *King's-Bench*, Prisoners upon this Account: And, my Lord, I did, at this Bar, move for several of their *Habeas Corpus*'s. And having the Direction of the Court, that tho' they did not deny the granting of the Writ; yet notwithstanding, no Benefit should be had of that Writ, unless Mr. Attorney, being attended in it, should give Consent to their being Bailed. Accordingly, my Lord, Mr. Attorney did attend in it, and he was pleased to say, That he would not do any thing for the Bailing of any, for all that the Writ was granted, till he knew what their Accusers charged them with. I then knew, it was in vain to bring them up, till Mr. Attorney was satisfied.

Mr. *Scroggs* and I did go from Mr. Attorney to Mr. *Bedlow* and Mr. *Oates*: And the several Persons for whom we were of Council, being set down in a List, we did also set down our Directions from Mr. Attorney about them; and did pray them to let us know what they had to charge any of them with. And if they were easy in their Consenting to their being Bailed, then we did go to Mr. Attorney, to let him know it; and he being satisfied from their own Mouths, did consent to the Bailing of several of them.

My Lord, this did occasion my discoursing several Times with Mr. *Bedlow* and Mr. *Oates*, concerning the Nature of the several Charges, against the Gentlemen they had accused. My Lord, during the whole Time of my being conversant with Mr. *Bedlow*, (and he hath given your Lordship an Account how I came acquainted with him) tho' I did desire Sir *Trevor Williams* might be here; and did send him a *Subpœna*, because I knew he was unwilling to come, unless he were Summon'd; and I should be glad to see him here.

Mr. *Bedlow*. My Lord, Sir *Trevor Williams* is in the *House of Commons*; and ordered me to send for him, if there were Occasion.

L. C. J. Then pray send for him, because Mr. *Reading* desires it. (*Which was done.*) In the mean Time, pray, Mr. *Reading*, will you go on in your Defence. But all that hath been spoken, is not much to the Purpose. I would have you apply your self to the Fact Sworn, which is comprehensive of all the Indictment; and that is, what happened in the Chamber, the 29th of *March* last: Answer that Fact.

Mr. *Reading*. I shall, my Lord; but I desire Mr. *Bulstrode* may be Examined to those Points I have spoken to.

Mr. *Bulstrode*. My Lord, I desire you would hear me, for he is very much mistaken in what he hath said concerning me: For he seems to say, I came to him, which I did not do; but accidentally met him at *White-hall*.

L. C. J. Look you, unless he calls you, you are not to be called by us, as a Witness for the King.

Mr. *Bulstrode*. My Lord, he served me with a *Subpœna*.

L. C. J. Mr. *Reading*, Would you have my *Bulstrode* Examined?

Mr. *Reading*. Yes, my Lord, if you please; I did pray him to be here to that End.

L. C. J. In this Case, tho' he be a Witness for Mr. *Reading*, he must be Sworn: Therefore swear Mr. *Bulstrode*. (*Which was done.*) Well, what do you ask him?

Mr. *Reading*. My Lord, all I do humbly desire is, That he will give your Lordship an Account whether he did not come unto me in the Name of my Lord *Stafford*?

Mr. *Bulstrode*. My Lord, I happened, one Day, to go see Sir *William Goring*, who was my Neighbour in the Country: And, as I was going out, I saw my Lord *Stafford* Walking: And Saluting him, he asked me, *Do you know one Mr.* Reading, *a Lawyer?* I asked him, *What* Reading? He answered, *That used to be at the Parliament-House.* I said, *I did.* Then said he, *Pray tell him, when you see him, I would speak with him, and should be glad to see him.* And in two or three Days after, I met with him; and said I, *Mr.* Reading, *my Lord* Stafford *asked me, If I knew you? and desired me to tell you, He would be glad to see you. My Lord* Stafford! said he; and seemed surprized at the Name; and I repeated it to him: And this was all that past between me and him. And this was some Time in *Michaelmas* Term last.

L. C. J. Look you, Mr. *Reading*, we know, that the Acquaintance you had with *Bedlow*, and your going to the Lords, was in *Michaelmas* Term: The *Habeas Corpus*'s, and the Matter of Bailing, was in *Hillary* Term, which ended the 12th of *February*; and therefore, the Business between Mr. Attorney and You, must be during *Hillary*-Term. But this Fact charged upon you in the Indictment, and sworn by the Witnesses, being on the 28th, 29th, and 31st of *March*, that is a quite other Thing: And therefore, I would have you apply your self to that.

Mr. Reading. My Lord, I shall humbly observe your Lordship's Directions in that: But I desire to be heard in this other Thing also, which was in *Michaelmas*-Term. I say, my Lord, they were desiring of me to advise them, whether they should move in the *House of Lords*, whence most of the Commitments were issued. For as to some, the Charge was against them in the *House of Commons*, some in the *House of Lords*, some were generally Committed by my Lord Chief Justice *Scroggs*; and according to the Nature of the Cases: So they did desire me, that I would advise them, how to address themselves, by one way or other, for procuring their Liberty by Bail, or otherwise. And as to the Writs obtained, and the Bailing of

ſeveral of them, it was in *Hillary*-Term, which was before the Fact charged upon me. But I did give your Lordſhip an Account how it was, in order to have it appear naked before you; and then I ſhould be in your Lordſhip's Judgment, which, I am ſure, will be right. And I do ſay, my Lord, that afterwards I met ſeveral Times with my Lord *Powis*, and my Lord *Petre*, at the Lieutenant of the *Tower*'s Houſe.

L. C. J. Here is now Sir *Trevor Williams*; do you deſire he ſhould be Sworn?

Mr. Reading. I do, my Lord.

L. C. J. Then give him his Oath. *Which was done.*

Mr. Reading. My Lord, with your Lordſhip's Favour, that which I deſire Sir *Trevor Williams* to give your Lordſhip an Account of, is this, Whether he was not pleaſed to bring Mr. *Bedlow* to my Chamber, and to recommend me to him about his Pardon?

Sir *Tr. Williams.* My Lord, Mr. *Reading* was an Acquaintance of mine; and upon what I knew, I had a great Opinion of his Knowledge in the Law; and Mr. *Bedlow* was a Country-man of mine, and I was very deſirous he ſhould have his Pardon as perfect as could be: And in Order to that, I recommended him to Mr. *Reading*, and deſired him to be careful about it. And that is all that I can ſay.

L. C. J. What further Queſtions would you ask him?

Mr. *Reading.* My Lord, I deſire to know of him, What Advice he hath heard me give Mr. *Bedlow*, in Order to his dealing ingenuouſly, and my preſſing of him to a full Diſcovery of the Plot.

L. C. J. Mr. *Reading*, as to that, Mr. *Bedlow* hath already clear'd it himſelf, that in all publick Diſcourſes between you and him, you did carry it very plauſibly; yet we will not preclude you from having your Witneſſes ſpeak to that, if you will have them Examined to it.

Mr. *Reading.* My Lord, I will trouble Sir *Trevor Williams* with no more Queſtions.

L. C. J. You need not, as to this Point; Mr. *Bedlow* hath teſtified, that publickly you did adviſe him to make full Diſcoveries, and ſpare no Perſon.

Mr. *Bedlow.* I did ſay ſo at firſt, and I will do him Juſtice, he did really, and honeſtly, I believe, give me that Advice, as to all in publick, and only ſpoke about thoſe Men he was concerned for, towards whom he would make me Eaſy.

L. C. J. Pray, Mr. *Reading*, will you come to the Fact?

Mr. *Reading.* My Lord, at the Time of my being Examined before the Committee, I did deliver ſome Papers, which I had from Mr. *Bedlow*, and under his Hand, and which do concern the Evidence I am to give in my own Defence: Theſe I do beg the Favour may be ſent to me, to make uſe of them for my ſelf, and I ſhall, as ſoon as the Court hath looked upon them, return them again.

Mr. *Bedlow.* There was a Propoſition about it, in the *Houſe of Commons*, and the main Paper, which, I ſuppoſe, Mr. *Reading* deſires to produce, is in Mr. *Clare*'s Hand, to be produced, when called for, if the Court think fit.

L. C. J. Have you it there, Mr. *Clare?*

Mr. *Clare.* Yes, my Lord, I have.

L. C. J. Mr. Attorney, when the Priſoner calls for a Paper, which he himſelf delivered in, I think it is but fair it ſhould be produced.

Mr. Att. Gen. (Sir *William Jones*). Yes, my Lord, I do not oppoſe it.

Sir *C. Levins.* My Lord, Mr. *Reading* muſt underſtand, that this is no Hinge from us, but he deſires ſuch a Paper, which let him make what Uſe of it he can.

Mr. *Bedlow.* I ſuppoſe it is about the Protection for *Prickman*.

Mr. *Reading.* Mr. *Bedlow*, if you pleaſe to anſwer it by and by, when it is read, and let me open it my ſelf.

L. C. J. Here is now Mr. *Sacheverel*, what have you to ſay to him?

Mr. *Sacheverel.* My Lord, in the *Houſe of Commons* we have received a Letter from Mr. *Reading*, by which he doth deſire, for his own Juſtification, to have ſome Papers ſent him, which were delivered to the Secret Committee; I ſuppoſe he means a Paper about Mr. *Prickman*, and a Letter concerning him, and likewiſe a Paper that contained a State of the Evidence againſt the Lords, which he pretended Mr. *Bedlow* had dictated to him: That, I ſuppoſe, Mr. *Clare* hath; for the other two, the Houſe of Commons hath ordered me to bring them here, that if he can uſe them, or any other, in his own Defence, he may have free Liberty ſo to do.

L. C. J. Is there any other thing you would have with Mr. *Sacheverel?*

Mr. *Reading.* Nothing, my Lord; I humbly thank him for this Favour, and the Houſe too.

L. C. J. Mr. *Sacheverel*, theſe Papers you have brought, ſhall be put into the Hands of Mr. *Clare*, to carry to the Secret Committee, when the Trial is over.

Mr. Juſt. *Wild.* Mr. *Reading*, pray ſpare me one Word; You are a Lawyer, and you know how to make your Defence, ſpeak *ad idem*, the Thing you are Charged with, the tampering with *Bedlow* to take off his Evidence againſt thoſe Lords, or elſe you do nothing; for we are not about the Plot in general, nor are you charged with it.

Mr. *Reading.* My Lord, I ſhall do nothing elſe, I ſhall not give you the Trouble of ſpeaking to any thing elſe; my Lord, Mr. *Bedlow* will give your Lordſhip an Account of the Diſcourſe that I had with him, at the Time that I had been to wait upon my Lord Chief Juſtice *Scroggs*; I went to him upon this Occaſion, Mr. *Bedlow* deſired me to go wait upon my Lord Chief Juſtice, to give him an Account about the particular Evidence he had given; I think it was againſt Mr. *Coleman*, and that he being with my Lord Chief Juſtice, my Lord was pleaſed to treat him, not as he expected from him; whereupon he fell into great Expreſſions of Paſſion, and went down Stairs, and ſaid, It would never be well in *England*, till there was an honeſter Man than the Lord Chief Juſtice. When he had told me this, I told him, at what Rate his Lordſhip had endear'd himſelf to the whole Nation, by his Zeal againſt the Plot; however, ſaith he, do me the Kindneſs to beg my Lord's Pardon, and pray him to accept of this Paper. My Lord, I was extreamly ſorry, that Mr. *Bedlow* had ſo misbehaved himſelf; I had a great Kindneſs for Mr. *Bedlow*, I have ſufficiently teſtify'd it, and now ſufficiently ſuffer for it: And in Kindneſs to him, I went to wait upon my Lord, and deliver him the Paper; I told his Lordſhip, that I was heartily ſorry, that he had carried himſelf in ſuch a Manner towards his Lordſhip, but I did deſire his Lordſhip to paſs it by, for I did believe Mr. *Bedlow* was very ſorry for it. My Lord ſaid, It was ſufficiently

ficiently known that he was not a Man of Paſſion, but that he pitied Mr. *Bedlow*, and deſired he would be more careful and diſcreet for the Time to come, for his own ſake, and for the Kingdom's; I returned to him, and gave him this Account, and what was my Lord's Advice to him. My Lord, when he had his Pardon a drawing, and when he was asked by the King and my Lord Chancellor, Who was his Friend? Who was his Council? he was pleaſed to ſay, that I was his Council, and his Friend, recommended by Sir *Trevor Williams*, as hath been proved, and when His Majeſty was pleaſed to ask him, What Advice I had given him? he returned the King this Anſwer; That I had bid him ſpeak the Truth with Courage; to ſpare no Man, where he could juſtly charge any Man; and to truſt God and His Majeſty for a Reward. The King was pleaſed to ſay, the Advice was honeſt; and bad him follow it. What I did in this matter, I did in Friendſhip to him, becauſe I had a great Kindneſs for him: I have ſupply'd him with ſeveral Guineas, with a Guinea or two, when he told me he has not had Bread. He was pleaſed to tell me, that he was very ſenſible of the Service I had done him. I appeal to him, whether ever I ſaw a Peny of Money from him in my Life; he was pleaſed to tell me, that upon the receiving of the 500 *l.* in the Proclamation, he would give me a Third Part, for that Service I had done him, and would certainly repay me whatſoever I had lent him, and the Fees that were due to me. And, my Lord, upon this I did likewiſe tell him, That he had not carried himſelf well, that he had been a very great Scandal, Abroad and at Home, and that he would not do himſelf Right, till he had adviſed with Dr. *Stillingfleet*, Dr. *Tillotſon*, and Dr. *Lloyd*, I did adviſe him to go to the Chapel, and, upon Conference with thoſe worthy Men, I deſired him ſeriouſly to conſider, how he could digeſt ſo many as Thirty Sacraments, which he had taken, as Obligations of Secrecy; my Lord, Mr. *Wharton* was at that Time by, and he hath often heard me give him Advice to this Effect. Mr. *Wharton* undertook to go to Dr. *Stillingfleet*, but he deſired to be excuſed; I did then pray him to go to Dr. *Tillotſon*, Mr. *Bedlow* told me, it was no great Matter, and ſo likewiſe for Dr. *Lloyd*. He told me they were all mercenary Men, that valued 10 *s.* above any Man's Soul: And at this Rate he was pleaſed to treat them. I told him, I was very ſorry, and diſpleaſed to hear him to ſpeak ſo ill of Men of ſo great Eminency in the World for Learning and Piety. My Lord, in further diſcourſing with Mr. *Bedlow*, he told me he was overjoyed, that His Majeſty had been pleaſed to take off the Confinement they were under, for they had not Liberty to ſpeak to one another; he, and Mr. *Oates*, and Mr. *Dugdale*; but when it was ſo granted, that they might now ſpeak together, he told me, with exceeding Rejoicing, that they could now lay their Stories together. He did further tell me, that he had now by him ſeveral Witneſſes, that whatſoever he bid them ſwear, they would ſwear; and he did confeſs he had not done well in ſome Things, particularly in charging Mr. *Griffith*. Now, my Lord, that Mr. *Griffith* was Steward to Mr. *Sheldon*.

L. C. J. Before you go on in this Kind, Mr. *Reading*, I muſt tell you, 'tis not fair: Here is Oath made of ſuch and ſuch Facts againſt you, and you talk of Diſcourſes between you and Mr. *Bedlow*; either produce Mr. *Bedlow* to ſay upon his Oath, what he hath told you, or elſe produce ſome other Witneſſes to prove it, if you think it material: Do you think your Word ſhall paſs for Truth, by telling this Story? All this Matter will be nothing in the Caſe, unleſs you apply it to diſcredit the Witneſſes, therefore pray produce ſome Proof, and we will hear it; if you'll ask Mr. *Bedlow* any Queſtions, whereby you may entrap him, and make him contradict himſelf; or if you will produce any other Witneſſes againſt him, do it; but you muſt not be ſuffered to go on in ſuch Diſcourſes as theſe, and ſpend Time to no Purpoſe.

Mr. *Bedlow*. My Lord, if your Lordſhip pleaſe to give me leave, I will anſwer him.

L. C. J. Mr. *Reading*, I muſt tell you, I have as much Patience as another Man, and when you are charged with a Crime, which you your ſelf know, and at firſt ſaid, cannot be aggravated, I thought it fit you ſhould have all fair liberty of ſpeaking to defend your ſelf; I have had a great deal of Patience to hear you already, and ſo have my Brothers: I cannot ſay you have ſpoke unskilfully; I confeſs your Defence is Artificial, becauſe 'tis nothing to the Purpoſe: But, we muſt hold you to the Point; if you can ſay any thing to diſprove the Fact of the 28th, 29th, and 31ſt of *March*, that's the whole Matter that lies upon you, as to all other Things, they ſignify nothing.

Mr. *Reading*. My Lord, if I underſtand any thing in my own Defence, I did look upon this as ſo material, as nothing more. My Lord, when I did find this, I appeal to Mr. *Bedlow*, and ask him this Queſtion upon his Oath, Whether I did not deſire him, as I had deſired him before, to ſpeak home, in what he knew for Truth; that he would do well to remember, that this Land groaned for the ſhedding of innocent Blood; and whether I did not tell him, That if he ſhould go on to add Sin to Sin, and charge any Man unjuſtly, to take away his Life, whether, inſtead of preſerving the Nation, by which he thought he might well deſerve of it, he might not ruin it?

L. C. J. Do you deſire that he ſhould be asked that Queſtion?

Mr. *Reading*. My Lord, I do.

L. C. J. Mr. *Bedlow*, you hear the Queſtion, pray anſwer it.

Mr. *Bedlow*. My Lord, I do not deny, but that he hath publickly given me ſuch Advice, and hath charged me with doing of Wrong, in particular to Mr. *Griffith*; and I do acknowledge, that Mr. *Griffith* had a great deal of Wrong; but, How was it? It was by the Miſtake of them that Took him; the Uncle was Taken for the Nephew, who was really concerned in the Plot, and that occaſioned his Trouble: And I told him I was very ſorry for that.

Mr. *Reading*. Pray, Sir, did he give you a Gold Watch?

Mr. *Bedlow*. Yes, he did, and I told the Committee and the Prince of it preſently.

Mr. Juſt. *Wild*. Mr. *Bedlow*, you received ſeveral Summs of Money from Mr. *Reading*, by the Oath you have taken, were thoſe lent to you, or did you take them to be given?

Mr. *Bedlow*. Whereas he ſays, That I told him I wanted Bread, it was an unreaſonable Thing for me to ſay ſo, for I have five Diſhes of Meat every Day allowed me, and, How could I then want Bread?

Mr. Juſt. *Atkins*. And you had good Summs of Money too given to you?

Mr. Juſt. *Wild*. But, as I underſtood you, you

ſaid, whenever you wanted Money, he ſupplied you.

Mr. *Bedlow.* And ſometimes gave me Money when I did not ask it.

Mr. Juſt *Wild.* But anſwer my Queſtion. Did he give you that Money for the intent that you ſhould leſſen your Evidence againſt the Lords in the *Tower?*

Mr. *Bedlow.* This Money that I received of Mr. *Reading,* he told me, that he had received Orders from the Lords, that I ſhould have what Money I came for; that at preſent I could not have any great Summ, becauſe they could not have Money, for my Lord *Stafford,* ſaith he, is ſelling his Wood, and till that be come in, he hath not wherewithal to provide for his Family, but I have Order to let you have what you want.

Mr. Juſt. *Wild.* And he gave you Money after that?

Mr. *Bedlow.* Yes, he did.

Mr. Juſt. *Wild.* And upon that occaſion?

Mr. *Bedlow.* Yes, I thought ſo. And whereas he ſays, my Lord, that I was to pay him the Money again, I muſt confeſs he was to have 100 l. a Year out of every 1000 l. a Year of my Reward.

Mr. *Reading.* By the Oath you have taken was that the Reward?

Mr. *Bedlow.* Yes, by the Oath I have taken, ſo it was agreed.

L. C. J. I never knew any Man go about ſuch a buſineſs as this without ſome invention to palliate it with; they don't uſe to go down-right in ſuborning Witneſſes, and ſay, here is ſo much Money for you, pray forſwear your ſelf, or pray be a Knave; but pray remember that you ſpeak nothing but the truth, and be cautious that you don't ſwear too much; and ſo 'tis all gilded with pretence of the deſire of Truth, but then they add, You ſhall have a very good Reward for your Care in it, but if this way ſhould be allowed, to Bribe Witneſſes to ſpeak the Truth, or upon Colour of ſpeaking nothing but the Truth, I cannot tell what will be Subornation. For it is always done upon this Pretence.

Mr. Juſt. *Atkins.* Mr. *Reading,* There fell ſomething from your own mouth that was diſcouragement enough, you asked him how he could digeſt 30 Sacraments, which he received as Obligations of Secrecy, and adviſed him to go to Divines to receive Satisfaction about it. That was a diſcouragement.

Mr. *Reading.* *My Lord,* I did not mean it ſo; I did as a Chriſtian, and a Loyal Subject, adviſe him not to ſhed Innocent Blood. Mr. *Bedlow,* you have brought me here to this Bar, pray remember you and I muſt be at a Greater.

Mr. Bedlow. I always remember it.

Reading. Pray, Sir, anſwer this Queſtion upon your Oath. Did I ever directly or indirectly deſire you to leſſen any one Syllable of your Evidence you knew to be true?

Mr. Bedlow. I ſuppoſe there is no need to prove that, for there are two other Witneſſes have prov'd it already.

Reading. But, pray Sir, anſwer my Queſtion upon your Oath.

Mr. *Bedlow.* Yes, my Lord, I do upon my Oath declare, That upon my bringing the Lords off from the Charge that was upon them, I was to have ſuch a Reward, and you told me, you had order to draw up blank Deeds.

Mr. Juſt. *Wild.* Mr. *Reading,* pray hear me; He hath gone farther than that, and hath Sworn that he did leſſen his Evidence againſt *Whitebread* and *Fenwick* upon your Inſtigation, which is not indeed in the Indictment.

Mr. *Bedlow.* I did then ſay at the *Old-Bayly* (becauſe I would not ſpoil the Deſign I had upon him, when my Lord Chief Juſtice asked me, if that were all I could ſay) I told him, it was all I could ſay at preſent, but in time and place convenient I could ſay more.

L. C. J. That is not the Matter in queſtion now here, but the other Witneſſes have it ſworn ſufficiently. The young Lad ſwears expreſly, that he remembers his Maſter asked about the Land in *Glouceſterſhire,* and you anſwered you had Order to draw up a Blank Deed for the Settlement: and as for the other Lords, you told him, he ſhould have a good Reward ſuitable to the ſervice you ſhould do them. And you, as to that, make no kind of Defence, but think we ſhould forget it by your long Diſcourſe to other purpoſe.

Mr. *Reading.* I would not deſire to ſpend your Lordſhip's Time in vain Diſcourſes. It lies purely on my Negation, and his Affirmation.

Mr. Juſt. *Wild.* No, no, it is not, here are two more Mr. *Speke* and his *Man,* that ſwear the ſame.

Mr. *Reading.* My Lord, I come to that; and I take it for granted the Law is this, That in Caſes of this Nature, nay, of a much leſs Nature, no Man ſhall be accuſed but by lawful Witneſſes; And, my Lord, I do inſiſt upon it as Law; So is my Lord *Lovelace's* Caſe, and 1 & 5 *Ed.* 6. If mine is not Treaſon, yet it is a very heinous Crime; and I am in your Lordſhip's Judgment, whether there is a poſſibility of having theſe, Mr. *Bedlow,* and the others, to be lawful Witneſſes. Mr. *Speke,* how worthy a Gentleman ſoever he is, is one to whom I have done particular Service, I have lent him Money, and to this day have it not. That he ſhould go, my Lord, and place himſelf behind an Hanging, and put a Servant on a Bed, to overhear, and to Eves-drop, which is the Term of a Crime in Law. That ſuch ſhould paſs for lawful Witneſſes, my Lord, I hope it was never pretended to before, nor will be admitted againſt me: But, my Lord, all my Comfort is, that when I went to him, I did never propound ſuch a thing to Mr. *Bedlow* ſince I was born. And God deal with me here, and in the next World, according to the Intregrity of my Heart, and the Truth of what I ſpeak now. Yeſterday Sevennight, when I did not hope to ſee another *Sunday,* ſo ſpent I was with the barbarous uſage I have received, I did deſire Dr. *Tillotſon* to give me the Sacrament, for I did not expect to live till the next morning. And I did pray him to remember, againſt the Time when he and I were to meet before the great God, that what I was charged with in this Indictment, is as expreſly falſe, as ever any thing that was ſworn againſt an Innocent Man. I can but ſay this now, come Life, come Death, the will of His *Majeſty,* and of your Lordſhips be done. There never ſtood a more Innocent Man at this Bar then I am of this Fact I am charged with. And I do ſay, my Lord, that having ſaid this, I muſt with your favour, proceed to tell you, that I deſire Mr. *Bedlow* will be pleaſed but to give an Anſwer to theſe two Queſtions, and I have done. Pray Sir, by the Oath you have taken, did you lay in Proviſions of Fire, Coal, and Billets behind the *Palſgrave's*-Head Tavern, and hard by *Charing-Croſs,* to burn the City of *Weſtminſter.*

L. C. J. Mr. *Reading,* we muſt ſee Juſtice done on all ſides: if you offer to ask him any Queſtion upon

upon his Oath, to make him accuſe himſelf, we muſt oppoſe it.

Mr. Juſt *Dolben.* He hath his Pardon my Lord, and it ought not to be objected againſt him, if ſo.

Mr. *Reading.* The Pardon of the King doth remit the Puniſhment, but it doth not hinder its being objected to invalidate his Teſtimony.

L. C. J. It doth ſo far ſet him right, that you ſhall not make him calumniate himſelf.

Mr. Juſt. *Wild.* No, you ſhall never object it againſt him to accuſe himſelf.

L. C. J. Mr. *Reading,* We are in a Court of Law, and you are skilled in the Law; you have no Evidence to defend your ſelf by, and ſo you think your Proteſtations muſt ſerve for Evidence; When that will not ſerve your turn, you ſtrive to lead us out of the Way. Upon this Queſtion to Mr. *Bedlow* there lies this *Dilemma* againſt you: Either he hath his Pardon for what you object againſt him, or he hath not; If he hath not his Pardon, then he is in danger of Death for the Crime, and muſt not accuſe himſelf; if he hath his Pardon, it doth take away, as well all Calumny as liableneſs to Puniſhment, and ſets him right againſt all Objection. So, you know, after an Act of general Pardon, 'tis a Scandal to reproach a Man for that which he is thereby pardoned for. So that if he have not his Pardon, his Life is in danger, if he hath, neither his Life nor Name muſt ſuffer, and therefore ſuch Queſtions muſt not be asked him. But if you have any other Queſtions that are pertinent to the Buſineſs, propound them, and they ſhall be heard and anſwered.

Mr. *Reading.* My Lord, I took the Law to be, that no Man ſhould be accuſed but by lawful Witneſſes, which I took him not to be, tho' he hath his Pardon.

L. C. J. I underſtand Lawful Witneſſes, or Accuſers, to be ſuch whoſe Teſtimony is not taken away by the Law; if a Man ſtands ſo in Court that he cannot be received to give Evidence, he is no lawful Witneſs: As if a Man be convicted of Perjury, he is not a lawful Witneſs, becauſe he cannot be heard at all. But every thing that leſſens the Credit of his Teſtimony doth not make but that he is a lawful Witneſs; for I take him to be a lawful Witneſs as long as he can be heard at all. And as for the Eves-dropping which you from the Term of Law would inferr a Scandal upon Mr. *Speke*: I take it to be a thing that makes much for the Credit of the Gentleman. For he was not the Man that did firſt detect you, you were detected before by Mr. *Bedlow*; and as it ſtood only upon his Teſtimony, ſhould you deny it, it was but your Negation and his Affirmation, and therefore it concerned him (being a deed of Darkneſs in its own Nature, when he engaged himſelf by his Diſcourſe as much as you) to have ſome of unqueſtionable Integrity and Credit to detect you further in it, and for his own Vindication. And it is therefore a Credit to Mr. *Speke* that he was thought ſuch a Perſon, whoſe Credit was not to be ſuſpected, and ſo was ſet to convict you. So that it is ſo far from detracting from his Credit, that it ſhews him a Man reputed to be of undoubted Integrity.

Mr. *Bedlow.* I ſay this, my Lord, we did deſign to propoſe it to another Gentleman of Quality, who had been before acquainted with the Deſign in general, but we could not find him out to acquaint him with it.

Mr. *Speke.* As for what he ſays of Money he lent me, I will acquaint your Lordſhip how it was. There was a Double-Return in the Caſe of my Brother's Election for this Parliament, and he and the other Gentlemen that ſtood with him (for there were four returned) had gotten Order for the hearing of their Cauſe, and I had taken a Copy out before, and paid Six Shillings and Eight Pence for it, or thereabouts, and afterwards Mr. *Reading* comes to my Chamber and brings me another Order, and I told him I had one already, and asked him what he paid for it, he told me Ten Shillings. Now I knew it was but Six Shillings and Eight Pence, for I had paid ſo before: ſaid I, what need I have another? but I ſuppoſe my Brother will pay you. I had before recommended him to my Brother, to manage his buſineſs in Parliament, and I did deſire he might be of Council for him. I knew what paſſed concerning the Treaty between Mr. *Bedlow* and him daily; but becauſe he ſhould not ſuſpect me, I did carry my ſelf very fairly and friendly to him, and, as I ſaid, I deſired my Brother to imploy him, and let him be of his Council, but my Brother refuſed, and told me he would have nothing to do with him, for, ſaid he, I hear an ill Character of him. And the Ten Shillings for the Order is the Money he ſpeaks of.

L. C. J. Is that all the Money he lent you?

Mr. *Speke.* Yes, that is all.

Mr. Juſt. *Atkins.* Mr. *Reading,* this I muſt ſay to you, your Aſperſion of theſe Perſons with being Eves-droppers, is no Aſperſion at all. For it was neceſſary for Mr. *Bedlow* to take this Courſe, and it was prudent for him to make uſe of unſuſpected Perſons, to have it underſtood by the Mouth of more than one Witneſs what your practices were. For if he had not done it, and it had been otherwiſe diſcovered, he had been in the ſame danger that you are in now.

Mr. *Reading.* My Lord I have done. Since Mr. *Speke* hath been pleaſed to give you an account of this matter, I deſire I may ask him one Queſtion: Whether he did not come to me to be of the Council with his Brother?

L. C. J. He hath ſaid ſo already.

Mr. Reading. Did not you bring this Gentleman, your Brother, to my Chamber?

Mr. Speke. Yes, I did.

Mr. *Reading.* Did not you deſire me to draw up his Caſe?

Mr. *Speke.* Yes, I think I did.

Mr. *Reading.* I ſpent moſt of a whole morning in it: Pray did I ever receive a Peny of money of you?

Mr. *Speke.* No, I ſpoke to my Brother to imploy you, but he ſaid he had heard an ill Character of you, and he would have nothing to do with you. And you asked Ten Shillings for an Order which I had before for Six Shillings and Eight Pence.

Mr. Reading. Here is this Gentleman, Mr. *Hayes,* who hath been a Clerk there, and knows it to be Ten Shillings every Order.

L. C. J. It is not at all pertinent to the Buſineſs we are upon.

Mr. Reading. He hinder'd me from receiving a Fee from the other Side, and I am Twenty Shillings out of Pocket, and yet am thus treated for my Kindneſs. There were three Orders I paid for.

Mr. Speke. There were more concern'd than my Brother: You deliver'd but one to me, I know not how many you deliver'd to the reſt.

Mr. Juſt. *Wild.* I am ſorry you diſgrace your Profeſſion by making ſo weak a Defence. What

ſay

ſay you to that which paſt on *Saturday* morning at Mr. *Bedlow*'s?

Mr. Reading. Mr. *Bedlow* did deſire me to go to the Lords in the *Tower*, to tell them that he was called upon to give in his Evidence againſt them, and that he could delay it no longer; and he bid me tell them, that is to ſay, my Lord *Staffford*, my Lord *Powis*, and my Lord *Petre*, that if they did not aſſure him of a good Reward he would give in ſuch an Evidence againſt them as ſhould take away their Lives, and he had Witneſſes to do it, as well as he himſelf; but he bid me tell them, if they would give him a Reward, he would put in ſuch an Evidence as would do them no hurt at all.

Mr. Juſt. *Wild.* This is directly againſt you, and within the Words of the Indictment, 'tis a Contracting with him for a Reward to leſſen his Evidence againſt the four Lords. He told you, as you ſay, thus and thus, and you agreed to do as he ſaid.

Mr. *Dolben.* You do ſpeak the Truth plainly now.

Mr. *Reading.* My Lord I do ſay this, that what I have ſaid is true; in the Preſence of God I ſpeak it. The Lords do know this, and the Lord of Heaven doth know it, he propoſed it firſt to me.

Mr. Juſt. *Atk.* It is to no purpoſe to talk, unleſs you can prove it.

L. C. J. Call your Witneſſes and we will hear them. Will the Jury give in their Verdict upon your bare Aſſertion? We have heard you a great while, if you will call any Witneſſes, do.

Sir *James Butler.* My Lord, I deſire Mr. *Reading* may be ask'd, whether 56 Guineas were not brought by him to Mr. *Bedlow*, and paid to him for to leſſen his Evidence againſt the Lords?

Mr. *Bedlow.* I had ſometimes Two Guineas, ſometimes more, but not any ſuch great Summ at once, but I believe more, at ſeveral times, and he told me that he had order to ſupply me at any time with what I wanted.

L. C. J. Come, where are your Witneſſes, Mr. *Reading*?

Mr. *Reading.* Here is Mr. *Palmer*, my Lord. (Who was Sworn.) My Lord, I deſire this Gentleman may give you an account what Mr. *Bedlow* did ſay to me concerning the borrowing of any Money, upon the *Tueſday* Morning before I was clap'd up. The 30th of *March*, as I take it, in the Morning.

Mr. Juſt. *Atk.* That was *Sunday.*

Mr. *Reading.* It was on *Tueſday*, my Lord, the Day before he receiv'd the 500 Pounds. I believe it was the firſt or ſecond of *April.* My Lord, this Gentleman was there in the Room.

Mr. *Palmer.* My Lord, Mr. *Bedlow* at that time had Twenty Shillings in his Hand of his Mothers, as he ſaid: Mr. *Reading* came in, ſaid he, Mr. *Reading*, all my Money is gone, and I have no more than this, and this I borrowed of my Mother: with that Mr. *Reading* clap'd his Hand in his Pocket, and gave him Two Guineas. *God-a-mercy*, ſaith Mr. *Bedlow*, *you are an honeſt Man, and my chief Fountain.*

Sir *Cr. Levins.* When was this Money delivered?

Mr. Palmer. It was about three Weeks ago.

Mr. Juſt. *Wild.* But he tells you, you were to have a Sup out of this Fountain.

L. C. J. He doth prove this (what uſe you will make of it I know not) that on *Tueſday* three Weeks ago, which we find to be the firſt of *April*, he ſaw Twenty Shillings in Mr. *Bedlow*'s Hand, and he ſaid, *This is all the Money I have*; and you clap'd your Hand into your Pocket, and gave him Two Guineas, and he ſaid, *God-a-mercy, you are my chief Fountain.*

Mr. Juſt. *Atkins.* This was after you ſaw Mr. *Bedlow* was for your turn. This makes againſt you.

Mr. Reading. I deſire he may be asked, whether he hath not heard Mr. *Bedlow* confeſs that he hath had Money ſeveral times from me.

L. C. J. Mr. *Bedlow* hath confeſſed it.

Mr. Reading. I deſire him to tell, whether Mr. *Bedlow* did not confeſs, that he did lay Fewel behind the *Palſgrave-Head*-Tavern to burn *Weſtminſter.*

Mr. Bedlow. I acknowledge it, that was part of the Treaſon I was guilty of, and for which the King pardon'd me.

Mr. Reading. I deſire to ask Mr. *Bedlow*'s Man one Queſtion, whether your Maſter, when I went along with him to fetch the Privy-Seal for the 500 Pounds, did not deſire me to lend him Money for the Privy-Seal?

Wiggins. He ſaid he had no Money about him, and asked you if you had any, and deſired you would lend him ſome; and then I ſaid I had ſome, and ſo he ſaid no more.

Mr. Reading. Was there any thing of the Conſideration ſpoken of?

Wiggins. I don't know that, I could not hear it. He ſpoke it in the open Court, where there were a great many by.

Mr. Reading. I have ſeveral other Witneſſes, that will give you an account, that when he hath not had any Money to pay a Reckoning, he hath had it from me at ſeveral times, and the very Day when he had got this Money, the 500 Pounds, and it was laid upon the Table in the Room, in the Tavern where he was, he did then deſire me to let him have a Guinea for to pay the Reckoning. And he would pay me in the Afternoon.

Mr. Bedlow. I do not deny it, but that I have received ſeveral Summs of Money, for he always told me, I muſt trouble no Body elſe when I wanted Money, but him.

Mr. Juſt. *Atkins.* They who have to deal with Men of ſuch Art as you are of, muſt uſe ſome Art with you.

Mr. Juſt. *Wild.* Did you ever promiſe to pay him back the Money again?

Mr. Bedlow. No, my Lord, but he was to have a Hundred Pounds a Year out of every Thouſand Pounds a Year that I ſhould have from them Lords.

Mr. Reading. My Lord, I do here declare, that I never had any more from the Lords in the *Tower*, than thus: I had from my Lord *Stafford* ſix Guineas, and I do not know I had one more; I had never from my Lord *Bellaſis* more than two Guineas; nor from my Lord *Petre* than five, and that was at the time when I carried him the Paper, which I'll give your Lordſhip an account of, by an by. I never ſpoke to my Lord *Arundel*, tho' I met him often; nor with my Lord *Powis*, than upon this account: Mr. *Bedlow* did deſire me to go and tell the Lords in the *Tower*, that if they did well Reward him, he would make the Charge he had againſt them very eaſy. My Lord, I did tell him, *This is an Affair which I cannot in prudence deal in, for*, ſaid I, *you are a deſigning Man, and how you will deal with me afterwards I don't know.* Said he, *'Tis in your Power*, Mr. Reading, *by this that I have ſaid, to do me a Miſchief, becauſe if you do diſcover what*

what I have ſaid to you, you will be believed, but if I ſhould offer this againſt you, I ſhall never be believed. And with all the Imprecations in the World I do curſe my ſelf, if I did directly or indirectly offer to perſwade him to diminiſh his Evidence, but he propoſed it to me. *But*, ſaid I, *here is one Mr.* Dugdale, *and he may give Evidence againſt my Lord* Stafford, *tho' you don't, and what will you do as to him? Believe me*, ſaid he, *that I deal entirely with you, by this Token: Did not* Dugdale *come to you to deſire you to draw up his Evidence?* And ſo he did, my Lord, and told me he would be reſponſible for it. I told him I was unwilling to meddle with ſuch an Affair, but if he would come to my Chamber I would give him what leiſure I had, in order to the drawing up of his Evidence into a Method, but he never came. Mr. *Bedlow* told me, ſaid he, *believe me in all the reſt by this Token, have a care of him, he is ſet on purpoſe to inſnare you.* Saith he, *Tell from me, he ſhall do him no harm, for he hath promiſed to ſay nothing againſt my Lord* Stafford, *but what I will have him to ſay.* I deſire Mr. *Bedlow* will anſwer this upon his Oath: Did I ever know one *Nicholas Jordan* till you acquainted me with him? Had not he ſome Eſtate in *Glouceſterſhire?*

Mr. Bedlow. Yes, my Lord, I did tell Mr. *Reading*, that I would have ſuch an Eſtate ſettled upon me, of my Lords, in *Glouceſterſhire*, and his words to me were theſe: That he had Order to draw blank Deeds for the conveying of that Eſtate, which my Lord would ſign in Ten Days after his Diſcharge.

Mr. Reading. He told me, that for the other Witneſſes he would do well enough with them, and deſired me to tell my Lord *Stafford*, that he would do ſo and ſo, let him have but a Reward; and, believing of it, I went to the *Tower*, I asked my Lord *Stafford* if he knew one *Nicholas Jordan*, he told me he did, he had been a Tenant of ſome Eſtate of his. Mr. *Bedlow* bid me ask him, whether he ſhould not have a Proviſion of Money ſecured to him out of that Farm. My Lord, I told him I would acquaint His Lordſhip with it. I did ſo, and my Lord *Stafford* was pleaſed to tell me, that he would not give him Six Pence; that he did value himſelf upon his own Innocency, and the Infamy of his Accuſers; that if he ſhould offer to give him any thing, he ſhould look upon it as the greateſt part of his Guilt. *But*, ſaid he to me, *Mr.* Reading, *this I muſt confeſs, you have been often with me, I am much indebted to you for Fees for coming to me, if you will but write a Letter to me, that you are not able to attend my Buſineſs, and neglect other Mens at this rate of being paid; and that therefore I ſhould not take it ill that you do not come to me any more, unleſs you may have an aſſurance of being ſatisfied and rewarded for it. And*, ſaith he, *thereupon I'll write you this in Anſwer, That I'll give you the Sum of Two-hundred Pounds, to be paid to you within Ten Days after my Acquittal; and*, ſaith he, *I will give you this aſſurance too, that you ſhall have this Two hundred Pounds ſecured to you as ſoon as ever you ſhall deſire it.* My Lord, this being the Summ; *But withal remember*, ſaith he at the ſame time, *I do here declare, and pray do not fail of remembring it, that I will not, directly nor indirectly, promiſe Mr.* Bedlow *Six-pence.* I went to my Lord *Powis*, from whom I never ſaw Six-pence in my Life, and he did declare to me, that he would not for any thing in the World be guilty of the making him a Promiſe of one Six-pence, (and this is certainly ſo); *nevertheleſs, if Mr.* Bedlow *will not go on to do me a Miſchief, as hitherto he hath done, and ſhall not go on to charge me unjuſtly, when I am acquitted he ſhall find that I will do what ſhall be like a Gentleman, but I won't promiſe one Farthing.*

L. C. J. You have ſaid enough, Mr. *Reading.*

Mr. Reading. My Lord *Petre* ſaid he would give never a Farthing.

Mr. Juſt. *Wild.* This is againſt your ſelf.

Mr. Reading. I can't help it, I did it to ſave innocent Blood, God's Will be done with mine, I think I was bound to do this, and I had ſinned againſt God Almighty and my Country if I had not done it. My Lord, I did come back to Mr. *Bedlow*, and he did ask me if I had been with the Lords in the *Tower*, I did tell him, Yes; and I did ask him whether there was any Body in the Bed by him. He asked me, *What ſay the Lords?* I think I did tell him in very little different Terms from what I have now told you, be it of what conſtruction it will. And whereas he ſays, that there was a Thouſand Pounds, and Writings to be drawn, I never opened my Mouth to him of ſuch a thing.

L. C. J. What ſay you to the Eſtate in *Glouceſterſhire?*

Mr. Reading. That was only to ſecure the Two hunded Pounds to me *pro conſilio impenſo & impendendo.* My Lord, when that was done, Mr. *Bedlow* was pleaſed to tell me, for I muſt confeſs, he did deſire me to give him an account, and I did come very late, as Mr. *Speke* ſays. I was in his Chamber about an Hour; it ſeems it was that time that this Gentleman, as he ſays, was there, but Mr. *Bedlow* not being at home I went away; and being to give him an account next Morning, it ſeems this Gentleman was there alſo, for he hath ſworn it; when I came I gave him this account, and God knows it was no other; nor did I ever hear talk of any Deeds drawing.

Mr. Speke. Did not you ſay, that the Deed was to be ſigned in Ten Days?

Mr. Reading. I did tell him, that my Lord would give me a Letter, wherein he would promiſe me to ſecure the payment of Two-hundred Pounds within Ten Days after his Acquittal.

Mr. *Speke.* I ſay what you ſaid. You had orders to draw up a Deed, from my Lord of *Stafford*; which my Lord had promiſed faithfully to ſeal within Ten Days after he was diſcharged.

Mr. *Reading.* It was only a Deed for 200 l. to be paid to me *pro Conſilio impenſo, & impendendo*; and to be ſecured upon that Eſtate in *Glouceſterſhire.*

Mr. *Speke.* Nay, I don't know; I heard no Latin there.

L. C. J. But what is that to Mr. *Bedlow?*

Mr. Juſt. *Wild.* Why ſhould you diſcourſe with Mr. *Bedlow* about your Penſion?

Mr. *Reading.* My Lord *Stafford* did ſay, When you have the money, the 200 l. do you diſpoſe of it as you think fit.

L. C. J. This is nothing to the purpoſe, but an endeavour, by multiplicity of words, to make us forget what has been ſworn. Anſwer the matter of the Paper whereby the Evidence was leſſened.

Mr. *Reading.* My Lord, upon this, Mr. *Bedlow* was pleaſed to tell me thus in Anſwer: That he would take their Lordſhip words; and bid me go along with him, and he would go fetch that Evidence that he had, and would put in ſuch and ſuch Evidence I ſhould write, and he ſhould dictate. I went along with him to *York-buildings*, where he ſaid his Mother lay: And there he ſaid he had left his Papers; but when he came there, they were not there, but he told me his memory

ſhould

ſhould ſerve: and we went back to the Chamber. And, my Lord, it ſeems theſe Gentlemen were there before, and Mr. *Bedlow* ſent them away; and when they were gone, we went into a Room together, where he did dictate to me every Syllable I wrote. And when he had dictated, and I had writ it, I read it, and he read it again himſelf. And having peruſed it, he ſaid, This is that which, I think, is kind to them; and this is that I can come off with well enough in ſaying it: for I can make it out afterwards, that it was by hearſay. And this, ſaith he, do you take along with you, and carry it to the Lords, and let me have their Anſwer. And this is that very Paper that I did write in Mr. *Bedlow*'s Chamber by his directions, and dictated from his mouth.

Mr. Juſt. *Atkins.* And you did carry it to the Lords?

Mr. *Reading.* Yes, I did. And, my Lord, when I had done this, I did ask him this Queſtion, (I did not direct him any one ſyllable; but as he dictated, ſo I wrote:) What he had to ſay againſt my Lord *Bellaſis*, and my Lord *Arundel*? He told me, that tho' he was reſolved to be kind to thoſe Lords, yet he was reſolved the other ſhould die. And he told me, That the 4000 *l.* and the 1500 *l.* that was to be paid to Sir *George Wakeman*, was to be paid by my Lord *Bellaſis*. And, my Lord, I began to write, and did write five or ſix Lines here in this Paper, and then left off. My Lord, when I had done this, I went to the *Tower* the firſt Opportunity; I did come to my Lord *Stafford*, and I ſhewed him this. He told me, That he did find that Mr. *Bedlow* would now begin to be an honeſt Man. My Lord, afterwards I went to my Lord *Petre*'s, and ſhewed it to him; and he did, at that Time, my Lord, give me five Guineas; and before that I never ſaw a Peny of his Money in my Life. I went to my Lord *Powis*, and when I came, I found Sir *Henry Tichburn* in the Chamber; and it being late at Night, and it being Parliament-time, and I having Perſons that ſtaid for me, I did deſire to be excuſed: Tho' Sir *Henry* was pleaſed to walk out upon the Leads, leaving my Lord and me together, yet did not I ſhew him any one Syllable of this Paper, nor did I ſay any thing to him concerning it. My Lord, I think it was upon the *Monday* morning that I came to Mr. *Bedlow*'s: He was not within; I then came to the Painted Chamber, and I was going up to the Houſe of Lords, and Mr. *Bedlow* met me in the Court of Requeſts, or the Painted Chamber, one of them, and this Gentleman was with him. And there he asked me for a Paper: I had writ it out before, and 'tis this very Paper that is now with Mr. *Clare*. He did deſire me after I had been with the Lords, to deliver a Copy of this to them to write it out: And I did ſo; and this is writ in the Third Perſon, the other was writ in the Firſt Perſon. And, I think, there is no other Alteration in it. My Lord, that which I did deliver to this Gentleman, Mr. *Bedlow*, before Mr. *Speke*, was in the Firſt Perſon, the other was in the Third. What they did with it afterwards, I cannot tell. My Lord, after this the 500 *l.* was received, and he promiſed to pay me all, the next morning; and prayed me that I would come to his Chamber. But when I came, I miſſed of him. His Clerk told me, he was gone Abroad. I came here to *Weſtminſter*; and when I came there, I went up to the Speaker's Chamber, to ſpeak with my Clients there: But when I came up, the Door was faſtned, and I was Arreſted. My Lord, I have done; and, let it be with me, or againſt me, this is what I ſaid to the Committee of Secrecy; and I ſpeak to your Lordſhip under the greateſt Tie and Obligation to ſpeak Truth, in the World, that this is all I know. And whereas Mr. *Bedlow* did tell your Lordſhip, that this Writing that I have drawn was not as he directed, but that I had carried it to the Lords, and their Lordſhips did correct it, and I brought it back again; that I did bring him another Paper; That very Copy which I writ out, in the Chamber, in the Third Perſon, I have; and this that is produced againſt me, is in the Firſt Perſon, and I deſire your Lordſhips to look upon it, and judge whether there be any Correction, more than the Alteration of the Perſon.

Then both the Papers were ſhewn to Mr. Bedlow.

Mr. *Bedlow.* Your Lordſhips may ſee both theſe Papers are fair written, without interlining: But there were above Forty Interlineations in that Paper that was written in my Chamber.

L. C. J. This agrees with what you ſaid before, that when you did put in any thing that was home, he would correct it, and ſay, This is Treaſon, and this will charge them; and ſo mended it. And it was natural there ſhould be two Papers: That which was to be kept for the Lords, was in the Third Perſon, importing, That He ſaith ſo and ſo; and the other was in the Firſt Perſon, which was to be kept by Mr. *Bedlow*, for the helping of his Memory, I heard ſo and ſo; that he might know how to obſerve his Contract. But what ſay you to this, that the firſt Paper was, as Mr. *Bedlow* ſays, corrected, and had many Interlineations, and cannot, therefore, be the ſame with that you produce?

Mr. *Reading.* My Lord, I hear it; I have but this Thing to anſwer, let it avail me any thing or nothing. I ſpeak it in the Preſence of God, (pray favour me) this Paper, is the very Paper that I did write out; there is no other Interlineation in it, than what you ſee. It never went out of my Hand, from the Time of my writing it in Mr. *Bedlow*'s Chamber, till the Time that I ſhew'd it them in the *Tower*, and I did deliver it to Mr. *Sacheverel*.

Mr. Juſt. *Wild.* Ay, but there was another Paper, there was a Paper corrected according to your Intention; and then you cauſed this Paper to be writ out, and it was never ſeen ſince.

Mr. *Reading.* No other, upon my Word.

Mr. Juſt. *Wild.* But he ſwears it, and 'tis obvious to the leaſt Underſtanding here.

Mr. *Reading.* My Lord, I have only this to ſay, That 'tis not true.

L. C. J. But it is very probable, and it is ſworn to be true.

Mr. *Reading.* I can only ſay, 'Tis not true.

Mr. Juſt. *Wild.* I have one Thing to ſay to you: With what Colour could you juſtify what you did, to carry the King's Evidence to the Priſoners, if it were no more than that?

Mr. *Reading.* I have but this to anſwer for that, I did not know it was a Crime.

Mr. Juſt. *Wild.* There is no mean Capacity, but what knows that is a Crime.

Mr. *Reading.* I did look upon it as a Crime if I had not done it, and *Conſcientia errans ligat*; it was a Point of Conſcience to me to do it. I did think it a Duty I owed to God, to prevent Perjury; and a Duty I owed to my Country, to prevent innocent Blood.

L. C. J. Will you Impeach the Juſtice of the Kingdom in that manner? You are a Man of the

the Law, don't you know, that no Man ought to be of Council for a Priſoner in Felony or Treaſon, till they are aſſigned? and for you to carry the King's Evidence to the Priſoner, as you your ſelf confeſs, how can you excuſe it? and here are Witneſſes that heard you contract with him to leſſen his Evidence, and *cui bono?* Was not this out of Favour to the Lords in the *Tower*, to get them off? Now you by multiplying your Diſcourſe, inſtead of vindicating your ſelf, have ſpoiled the matter, and confeſſed that which amounts to the whole Charge.

Mr. Juſt. *Atkins.* And you confeſs you were to have Two Hundred Pounds from my Lord *Stafford*, which you were to diſtribute, as you thought fit.

Mr. Juſt. *Jones.* And you have confeſſed, Mr. *Reading*, that not only you have endeavoured to take off Mr. *Bedlow*, but Mr. *Dugdale* too; for it was you firſt ſtarted that Point.

Mr. *Reading.* My Lord, I have no more, I did never deſire him to ſpeak one Word leſs than the Truth, and the whole Truth; but I did my Endeavour to prevent Perjury, and the ſhedding of innocent Blood; and this I did as a good Chriſtian. My Lord, I did deſire alſo to ſhew you this Paper, but you were pleaſed to over-rule it, that it ſhould not be read.

L. C. J. We think it not material; we over-rule it not, but by Way of Admittance that you ſay true.

Mr. *Reading.* Pray will you ſee, is there any variance between the two Papers?

L. C. J. There is only the Addition of the Words concerning my Lord *Bellaſis*, and that was to ſtrike Terror in him, to make him come into the Bargain too.

Mr. *Reading.* I deſire Mr. *Bedlow* would look upon this Paper alſo: Is this your Writing, Sir?

Mr. *Bedlow.* Yes, it is.

Mr. *Reading.* Since your giving me this Paper in your Chamber, have you ever ſeen it till to Day?

Mr. *Bedlow.* No, I have not.

Mr. *Reading.* Then, my Lord, I pray this; there is one *Prickman* a Merchant in Town, that is broke, he wrote to me for a Protection, and I deſired Mr. *Bedlow* that he would help him to a Protection; he ſaid he would, and ſpoke to the Prince, and others of the Lords, but could not get one, for I call'd upon him to know his Anſwer; but withal, told me, he had a better Contrivance than any Protection could be given him from a ſingle Lord, and that is this, That he would ſay, he was one of his Witneſſes, and that upon that Account, he would get him a Protection from the Committee of Secrecy, and they would believe whatever he ſaid to them. I told him, I did not know of what Signification that might be to my Friend; he told me, Yes, for he had given it to ſeveral already. I asked him, how he could juſtify it if it were queſtioned? Oh, ſaid he, let him ſay any thing, That he hath heard ſome Body or other, in a Coffee-houſe, call me, Rogue. My Lord, I never ſaw Mr. *Prickman* ſince; but ſaith he, Here, I'll give you this Buſineſs for the Protecting of him; and he under-writ this, as from Mr. *Treby: Pray do not fail to come to me every Hour, to receive what Orders the Committee ſhall ſend to you by me, that we may not neglect His Majeſty's ſpecial Buſineſs; and if you do receive any Lett or Hindrance, by any Perſon whatſoever, ſend to me, and I will cauſe thoſe People to be ſo ſeverely puniſhed, as ſo great a Contempt does merit.* This was, my Lord, before my Treating with the Lords, in Time, the 25th of *March.* My Lord, when I did find he had got ſuch Tricks and Ways, I did apprehend and reſolve (pray give me your Favour in the Expreſſion) not to do any Prejudice to the King's Evidence; for, my Lord, I do think he is not an Evidence for the King, that does go about, by any indirect Means, to commit a Crime. But, my Lord, I think he is a Servant to the Nation, and does a very good piece of Service to the King, that goes about the taking away the Guilt of Innocent Blood.

L. C. J. Indeed, Mr. *Reading*, we muſt not ſuffer this: I told you before, that by ſuch Diſcourſe you impeached the Juſtice of the Kingdom. If you had ſuſpected Mr. *Bedlow*'s Honeſty or Truth, you ſhould have gone to the King or Council, or the Secret Committee, (they are Men of Honour, and would have been as tender of Mens Lives, as you or any other Man) but for you to do it of your ſelf, in this Way, ſhews it is but for a plauſible Excuſe to colour your corrupt Dealing.

Mr. *Bedlow.* This Protection was given us by the Secret Committee, for Mr. *Prickman.*

L. C. J. It does not appear but that *Prickman* might be a Witneſs.

Mr. *Reading.* My Lord, I have but this, and I have done. At the Time when I was Taken, I have ſeveral Witneſſes to prove it, that I was reſolved to give His Majeſty, or the Secretaries, an Account of it; and I did ask Mr. *Bedlow* for an Account he had given againſt the Queen; and I had the Paper by me, at the ſame Time when I was Taken: and I have ſeveral Witneſſes by me, to prove that at that Time ———

L. C. J. Mr. *Reading*, this is nothing to the Purpoſe: Will you have done? unleſs you can ſpeak to the Fact you are Charged with. The Court hath had a great deal of Patience with you alalready.

Mr. *Reading.* I have done, my Lord.

L. C. J. Gentlemen of the Jury, Your Patience hath been very much exerciſed already, by the long Diſcourſes Mr. *Reading* hath made; I ſhall therefore be ſhort in my Directions. He ſtands Indicted for Suborning Mr. *Bedlow*, in the Evidence that he was to give, concerning the Lords in the *Tower*, that were Impeached of Treaſon, by the Houſe of Commons, and Sir *Henry Tichburn.* This is the Subſtance of the Indictment. There is an Inducement in it concerning this horrid Conſpiracy, and the Perſons that have been Executed for it, *Coleman*, *Grove*, and *Ireland*; but as to that, it is admitted by Mr. *Reading*, and it lies ſo much in every one's Knowledge, that it ſhould hardly need to be proved. So then the Queſtion remains only a Queſtion of Fact, concerning Subornation of Perjury; which hath been fully proved to you, not only by Mr. *Bedlow*, who hath related the whole Tranſaction, but alſo by Mr. *Speke*, who tells you that Mr. *Bedlow* did inform him how it went on from Time to Time: And thereupon, to make the Matter plain, and to ſuppreſs ſo abominable a Practice, it was thought there was no better Way to diſcover this Deed of Darkneſs, and to catch a Knave, but to bring him into a ſecret Place, where he might ſpeak freely, thinking there were no Witneſſes to teſtify againſt him; which was intended to have been done the Evening of the 28th of *March*, which was *Friday:* But Mr. *Reading* and Mr. *Bedlow* not then meeting, the next Morning at Seven a Clock was appointed, when Mr. *Reading* did come, and asked if no Body were there; of which being aſſured, he thought himſelf

ſecure and ſecret. Then Mr. *Bedlow* asked him, What ſay the Lords in the *Tower*? What ſays my Lord *Stafford*? Mr. *Reading* told him, That as to my Lord *Stafford*, he ſhould be ſure of the Eſtate in *Glouceſterſhire*, for my Lord *Stafford* had ordered him to prepare a Blank Deed, which, within Ten Days after his Diſcharge, ſhould be perfected. And the reſt of the Lords did aſſure him, That after they were acquitted, in Proportion to the Service he did them, in leſſening of his Evidence, he ſhould have a very plentiful Reward. Thereupon, there aroſe farther Diſcourſe. Saith Mr. *Bedlow*, I won't rely upon their Promiſe, I will have ſomething under their Hands. No, ſaith Mr. *Reading*, that they think not convenient. Saith Mr. *Bedlow*, I muſt go and deliver in my Teſtimony to the Secret Committee immediately, and therefore, Mr. *Reading*, the Writing muſt be made preſently, or nothing can be done. Why, ſaith Mr. *Reading*, can't you put it off till *Wedneſday*? No, I cannot, ſays he. Well then, ſaith Mr. *Reading*, I will go ſpeak with the Lords in the *Tower*, and I'll bring you their Anſwer, and be with you on *Monday* morning. Afterwards, when they went out of the Houſe, Mr. *Speke* and the other Witneſs, came from the Places where they were privately put, and they ſaw Mr. *Reading* going out. Mr. *Reading* and Mr. *Bedlow*, within half an Hour, came back again to the Houſe, and were private together. Upon *Monday* morning, Mr. *Speke* was to watch, and ſee the Delivery of this Paper, and he gives you a very rational and diſtinct Account, (and he is not a Man that the Priſoner can any way impeach in his Credit) he tells you, He ſaw him deliver the Paper out of his Hand to Mr. *Bedlow*, and Mr. *Bedlow* put it towards his Pocket, but afterwards put it behind him, and he followed him, and took it out of his Hand. And this Paper is here, which contains the Purport of the Evidence to be given againſt the Lords in the *Tower*; but ſo minced, that it is all but Hear-ſay, and nothing will touch them, as to the Matters for which they are Charged: Here you have the Paper under his own Hand.

Now he comes to make his Defence; and what hath he done? He hath made a very long Diſcourſe, but no Defence at all to the Matter of the Indictment. He ſays nothing againſt the Credit of the Witneſſes, but hath confeſſed, in Effect, the whole Matter that he was charged with; for what had he to do, to carry the Evidence to the Lords in the *Tower*, and to go from one to another, to tell them thus and thus, and to receive Promiſes from them of Rewards, either in general or particular? He hath made Confeſſion of the whole of his Charge in the Indictment; and without it, there is ſuch undoubted Teſtimony, nothing impeaching the Witneſſes, that I ſhall need to trouble you no further. Do you go together and conſider of it, and we will receive your Verdict.

L. C. Baron. Gentlemen of the Jury, It hath been ſo fully repeated by my Lord, that I ſhall not need to do any thing of that; but there is one little Piece of the Evidence, which I deſire you would take notice of: Mr. *Bedlow* ſays, the Paper given him upon *Monday*, in the *Painted Chamber*, which he carried behind him, and Mr. *Speke* took away, and which Mr. *Reading* brought him from the Lords, did contain ten times much milder Evidence than the Paper dictated by him on the *Saturday*; and that Paper was forty times leſs than that which he had given into the Secret Committee.

Mr. Juſt. *Wild.* (to Sir *John Cutler.*) Sir *John*, What Paper is that you have in your Hand?

Sir *John Cutler.* 'Tis only the Names of the Jury, my Lord.

L. C. J. You do well to take the Names of the Jury with you, if you withdraw, that you may know one another: But I ſuppoſe you won't be long out.

Mr. Juſt. *Wild.* I ſpoke it, becauſe you are to have no Papers with you, but what are under Seal.

Then the Jury withdrew, and after a ſhort Receſs, returned again to the Bar; and being called by their Names, ſeverally anſwered.

Cl. of the Cr. Gentlemen, Are you all agreed of your Verdict?

Omnes. Yes.

Cl. of the Cr. Who ſhall ſay for you?

Omnes. Foreman.

Cl. of the Cr. How ſay you, Is *Nathaniel Reading* Guilty of the Offence whereof he ſtands Indicted, or not Guilty?

Foreman. Guilty.

Cl. of the Cr. This is your Verdict, you ſay, that *Nathaniel Reading* is Guilty of the Offence whereof he ſtands Indicted, and ſo you ſay all.

Mr. Juſt. *Wild.* 'Tis a very good Verdict.

L. C. J. It is a very good Verdict, the Matter lay in a ſmall Room, and I wonder how Mr. *Reading* could make it ſo long.

Mr. Juſt. *Atkins.* He was the greateſt Witneſs againſt himſelf.

L. C. J. You of the Jury may take your Eaſe.

Then the Court adjourned till Two of the Clock, being then half an Hour paſt One.

About half an Hour after, the Court returned again; and Proclamation being made for Attendance, the Lord Chief Juſtice ſpoke to the Priſoner Convicted, then ſtanding at the Bar, thus:

MR. Reading, *You have been here upon your Trial to Day, and you are Convicted of a very Great and Heinous Crime; there remains nothing now, but to receive the Judgment of the Law: And the Rule of Law is, That in all Caſes the Court ſhould conſider* quantitatem delicti, & qualitatem perſonæ, *and accordingly pronounce their Judgment.*

As to the Quantity of the Offence, you your ſelf did admit, in the Beginning of your Defence, that it was not capable of Aggravation, but looks rather like Treaſon than a Miſdemeanor; and ſo I ſhall not ſpeak to that, for any Flouriſhes would but ſound in Diminution of it.

Then we have nothing to conſider, but the Quality of the Perſon; and of that there might be a great deal ſaid, if we conſider your Perſon as a Lawyer, one that ſhould be a Man of Knowledge, to be able to adviſe, a Miniſter of Juſtice, to aſſiſt the Court wherein he pleads; and ought to be a Perſon of untainted Fidelity, that he may keep his Clients Secrets; and for a Lawyer to be Convicted for ſuch an Offence, is that which aggravates it beyond all Expreſſion; and I think we can do no leſs to evidence the Care we have of the King's People, than to ſhew that there ſhall be greater Severity uſed againſt ſuch Perſons offending; and 'tis a great Credit and Benefit to the Profeſſion, that the Members of it, for ſuch Offences, ſhall be dealt with more ſeverely than we ſhould deal

deal in any other Case: So far will we be from lessening it in this Respect. For I would have no Man of the Profession of the Law, that should do thus, be able afterwards to draw People to him, to trust him with their Business; but his Offence should be publickly known to all the World, that Men might know him, and not employ him. In one Sense, 'tis true, he may be trusted with a Secret, by the same Reason that a known Liar may be, because his Word is never to be believed.

There is another Thing that we regard in your Person too; if you were a Man of a great Fortune, or a large Estate, I do not see but we should set that which might be called a Ransom, rather than a Fine, in this Case; but it not being so, we have taken it into our Consideration to do it with Measure; but we will supply that Defect, by a Punishment of another Nature, according to the Old Saying, Qui non habet in crumena luat in corpore.

Therefore the Judgment of the Court is this; That you be Fined 1000 *l.* That you be Imprisoned for the Space of one Year; And that upon *Monday* next, between the Hours of Eleven and Twelve, you be set in the Pillory, for the Space of one Hour, in *Palace-Yard* in *Westminster*.

And I will tell you, Your Offence is so great, and hath such a Relation to that which the whole Nation is concerned in, because it was an Attempt to baffle the Evidence of that Conspiracy, which if it had not been, by the Mercy of God, detected, God knows what might have befallen us all, by this Time; and still the Parliament have it under their Consideration, how to prevent any further Mischief by it; and for you, in such a Way as this, to do what you can to suppress the Evidence, is such a Crime, that we have Reason to suspect, that the Rage of the People will be so great against you, that it might endanger your Life. Therefore we have taken Care to give a Charge to the Sheriff, and the Justices, that the Peace might be kept, and that no ill Consequences may happen to you, but only the Shame and Infamy to which you are condemned; and which you do deserve as well as any Man that ever was Convicted.

Then the Court adjourned to *Hicks's-Hall*, upon *Wednesday*, the 30th of *April*: And the Keeper went away with his Prisoner.

On the Monday *following, the Prisoner was set in the Pillory according to the Judgment of the Court.*

The Tryals of Thomas White, alias Whitebread, *Provincial of the* Jesuits *in* England, William Harcourt, *pretended Rector of* London, John Fenwick, *Procurator for the* Jesuits *in* England, John Gavan, alias Gawen, *and* Anthony Turner; *all* Jesuits *and* Priests.

ON *Friday* the 13th of *June*, 1679, at the *Sessions-House* in the *Old Baily*, the Court being met, at which all the Judges of *England* were present; Proclamation was made, of Silence and Attention, whilst the King's Commission of *Oyer* and *Terminer*, and of *Goal-Delivery* were openly read; and after the usual Proclamation of Attendance upon the Sessions, the Court proceeded to call the Juries impanelled, and to the Trials of the Prisoners, thus:

Clerk of the Crown. Set *Thomas Whitebread, John Fenwick, William Harcourt, John Gavan, Anthony Turner,* and *James Corker,* to the Bar.

Capt. *Richardson.* They are all on.

Cl. of the Cr. Thomas White, alias *Whitebread,* hold up thy Hand; *John Fenwick,* hold up thy Hand; *William Harcourt,* alias *Harrison,* hold up thy Hand; *John Gavan,* hold up thy Hand; *Anthony Turner,* hold up thy Hand; *James Corker,* hold up thy Hand. Which they all severally did.

And James Corker *presented a Petition to the Court, to this Effect.*

'That about Eight Months since, the Petitioner 'was Committed for refusing to take the Oaths of 'Allegiance and Supremacy, that he had lately re- 'ceived Notice to prepare himself for his Trial, a- 'gainst this present Day, but that the same was af- 'terwards contradicted, and that Yesterday a Gen- 'tleman informed him from the Attorney-Gene- 'ral, that a Bill was found against him of High- 'Treason, and that he was to prepare himself for 'his Trial thereupon accordingly; and forasmuch 'as the Petitioner is altogether ignorant of the 'Matters charged upon him in the same, and by 'Reason thereof is absolutely surprized, and un- 'prepared for his Defence, and divers Goal-Deli- 'veries having been held since his first Commit- 'ment, and he never called to his Trial; he doth 'humbly beseech Their Honours, that he may not 'be Tried till the next Sessions, and that in the 'mean Time, he may have Copies of such Infor- 'mations as are given in against him.

Lord Chief Justice. (Sir *William Scroggs.*) Mr. *Corker,* have you really any Witnesses, without whom you cannot make your Defence.

Corker. No, my Lord, I have none.

L. C. J. You do not understand my Question; Do you want any Witnesses now, that you may have another Time?

Corker. I am a Stranger to the Things charged upon me.

L. C. J. Can you not tell, whether you have any Witneſſes or no? the matter is this, both for you and all the reſt of you, that there may be no exception; you are upon the Tryal of your Lives, and we upon our Oaths, and therefore I ſpeak it, if ſo be you have any Witneſſes, becauſe you pretend you are ſurpriſed, if you have really any, whereby you can make a better defence for your ſelves, than now, the Court will incline to your Requeſt; but if you have not, then 'tis in vain to tarry.

Corker. My Lord, I verily believe I ſhall have Witneſſes.

L. C. J. As for the Copy of the Indictment it is never granted to any Perſons, and therefore muſt not be to you.

L. C. J. North. You muſt give us clear ſatisfaction, that you are real in your Pretences; and muſt give us the Names of your Witneſſes, where they live, and let us know what they can ſay for you, that we may be ſatisfied; for ſuch a general Allegation as this, any Man living may make.

Mr. *Recorder.* He was one of the ten that was appointed by the Council to be tried.

L. C. J. Why, you had notice a Week ago.

Corker. But it was contradicted the next Day.

Capt. Richardſon. I heard Mr. *Clare* ſay that he ſhould be tried then.

Mr. Attorney General. (Sir *William Jones.*) He had notice together with the reſt, but he was not in the firſt Order of Council for the Trial of theſe Perſons, he ſent to the Clerk to know who were to be tried and his Name was left out; and ſo underſtood he was not to be tried. On *Tueſday* laſt I moved that he might be put into the Order, and ſo he was, and now there is an Order of Council for it; but he had notice a Week ago as well as the reſt.

Capt. Richardſon. I gave them notice that all were to prepare for their Trial as this Day, and in order to that, I went to the Council, to ſee what Order was taken about it, and the Clerk ſhewed me their Names, amongſt which *Corker* was left out, and I told him *Corker* had notice of Trial, and therefore I deſired I might have an Order for him too; they told me, that there was no Order taken about him.

Mr. *Att. Gen.* My Lord, I would have all the Gentlemen have all the fair play in the World, therefore if he can ſatisfie your Lordſhip, that he can have any Witneſſes that he hath not now, I am content the Trial ſhould ſtay to another time.

L. C. J. You ſhall hear the Indictment read, and there you will know what ſort of Treaſon it is you are charged with, and after that you will make your anſwer, whether you have any Witneſſes.

Mr. *Recorder.* My Lord, it will be neceſſary that I give your Lordſhip an account of one thing. On *Saturday* Night there came a Gentlewoman to me, on the behalf of all the Priſoners, and ſaid there were ſome Witneſſes that ſhe was under apprehenſion would not appear for the Priſoners, unleſs they had ſome Order; her Name, ſhe told me, was *Ireland*, and ſhe came in the Name of all the Priſoners, ſhe ſaid. I told her, if ſhe would bring me a Note of the Witneſſes Names they did deſire, they ſhould have all the aſſiſtance the Court could give them for the getting of their Witneſſes this Day; but ſince that time I never heard of the Gentlewoman, or from the Priſoners.

L. C. J. Mr. *Corker*, you will do well to take notice what you are charged withal, and afterwards tell us, if there are any Witneſſes that can ſay any thing for your Defence, at your Trial for thoſe Matters.

Cl. of Cr. *You ſtand Indicted by the Names of* Thomas White *in the Pariſh of* St. Giles in the Fields *in the County of* Middleſex *Clerk, otherwiſe called* Thomas Whitebread *of the ſame Pariſh and County Clerk,* John Fenwick *of the ſame Pariſh and County Clerk,* William Harcourt *of the ſame Pariſh and County Clerk, otherwiſe called* William Harriſon *of the ſame Pariſh and County Clerk,* John Gavan *of the ſame Pariſh and County Clerk,* Anthony Turner *of the ſame Pariſh and County, Clerk, and* James Corker *of the ſame Pariſh and County, Clerk: For that you, as falſe Traitors againſt the moſt Illuſtrious, moſt Serene, and moſt Excellent Prince,* Charles *the Second, by the Grace of God, of* England, Scotland, France, *and* Ireland, *King, Defender of the Faith, &c. your Supream and Natural Lord; not having the Fear of God in your hearts, nor weighing the Duty of your Allegiance, but being moved and ſeduced by the inſtigation of the Devil, the Cordial love, true, due, and natural Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King, towards him ſhould, and of right ought to bear; wholly withdrawing, and deviſing, and with all your Strength, intending the Peace and common Tranquility of this Realm to diſturb, and the true Worſhip of God within this Kingdom of* England *uſed, and by the Law Eſtabliſhed, to overthrow, and the Government of this Realm to Subvert, and Sedition and Rebellion within this Kingdom of* England, *to move, ſtir up and procure, and the Cordial Love, and true and due Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King, towards him ſhould, and of right ought to bear, utterly to withdraw, put out, and extinguiſh, and our ſaid Sovereign Lord the King to Death and final Deſtruction to bring, and put, on the four and twentieth day of* April, *in the thirtieth year of the Reign of our ſaid Sovereign Lord K.* Charles *the Second, at the Pariſh of* St. Giles in the Fields, *in the County of* Middleſex *aforeſaid; You the ſaid* Thomas White *otherwiſe* Whitebread, John Fenwick, William Harcourt *otherwiſe* Harriſon, John Gavan, Anthony Turner, *and* James Corker, *with diverſe other falſe Traitors, Subjects of our ſaid Sovereign Lord the King, to the Jurors unknown, falſly, ſubtilly, adviſedly, maliciouſly, and traiterouſly, did purpoſe, compaſs, imagine, and intend Sedition and Rebellion within this Kingdom of* England, *to move, ſtir up, and procure, and a miſerable Slaughter among the Subjects of our ſaid Sovereign Lord the King, to procure, and cauſe, and our ſaid Sovereign Lord the King, of his Kingly State, Title, Power, and Government, of his ſaid Kingdom of* England, *utterly to deprive, depoſe, caſt down and diſinherit, and him our ſaid Sovereign Lord the King, to Death and final Deſtruction, to bring and put, and the Government of this Kingdom of* England, *and the ſincere Religion of God within the ſame, rightly, and by the Laws of the ſame Eſtabliſhed, at your will and pleaſure, to change and alter, and the State of this whole Kingdom of* England, *thro' all its parts, well inſtituted and ordained, wholly to ſubvert, and deſtroy, and War, within this Kingdom of* England, *againſt our ſaid Sovereign Lord the King, to levy: And to accompliſh, and fulfil your ſaid moſt wicked Treaſons and Traiterous Imaginations and Purpoſes; You the ſaid* Thomas White *otherwiſe* Whitebread, John Fenwick, William Harcourt *otherwiſe* Harriſon, John Gavan, Anthony Turner, *and* James Corker, *and other Falſe Traitors againſt our ſaid ſovereign Lord the King, to the Jurors unknown, the ſaid four*

four and twentieth day of April, *with Force and Arms, &c. in the Pariſh aforeſaid, and County aforeſaid, falſly, maliciouſly, ſubtilly, adviſedly, deviliſhly, and traiterouſly, did aſſemble, unite, and gather your ſelves together, and then and there, falſly, maliciouſly, ſubtilly, adviſedly, deviliſhly, and traiterouſly, did conſult, conſent, and agree, our ſaid Sovereign Lord the King, to Death and final Deſtruction, to bring, and put, and the Religion of this Kingdom of* England, *rightly, and by the Laws of the ſame Eſtabliſhed, to the Superſtition of the* Romiſh Church, *to change and alter, and the Government of this Kingdom of* England, *to Subvert; and that one* Thomas Pickering, *and one* John Grove, *ſhould kill and murder our ſaid Sovereign Lord the King, and that you the ſaid* Thomas White *otherwiſe* Whitebread, John Fenwick, William Harcourt, *otherwiſe* Harriſon, John Gavan, Anthony Turner, James Corker, *and other Falſe Traitors againſt our ſaid Sovereign Lord the King, to the Jurors unknown, ſhould therefore ſay, celebrate, and perform, a certain number of Maſſes, then and there amongſt your ſelves agreed on, for the Soul of the ſaid* Thomas Pickering, *and for that Cauſe, ſhould pay to the ſaid* John Grove, *a certain Summ of Money, then and there amongſt your ſelves agreed on; and that you the ſaid* Thomas White *otherwiſe* Whitebread, John Fenwick, William Harcourt *otherwiſe* Harriſon, John Gavan, Anthony Turner, *and* James Corker, *and other Falſe Traitors to the Jurors unknown, in further proſecution of the Treaſons and Traiterous Conſultations and Agreements aforeſaid; afterwards the ſaid Four and twentieth day of* April, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, ſubtilly, adviſedly, maliciouſly, deviliſhly, and traiterouſly, did ſeverally each to the other engage your ſelves, and upon the Sacrament Traiterouſly ſwear and promiſe, to conceal, and not to divulge the ſaid moſt wicked Treaſons, and traiterous Compaſſings, Conſultations, and Purpoſes, aforeſaid amongſt your ſelves, had Traiterouſly to kill and murder our ſaid Sovereign Lord the King, and to introduce the* Romiſh Religion *within this Kingdom of* England, *and the true Reformed Religion within this Realm, rightly, and by the Laws of the ſame Eſtabliſhed, to alter and change: and that you the ſaid* Thomas White *otherwiſe* Whitebread, John Fenwick, William Harcourt *alias* Harriſon, John Gavan, Anthony Turner, *and* James Corker, *and other Falſe Traitors to the Jurors unknown, in further proſecution of your ſaid Treaſons and Traiterous Intentions and Agreements aforeſaid, afterwards the ſaid Four and twentieth day of* April, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, ſubtilly, adviſedly, maliciouſly, deviliſhly, and Traiterouſly, did prepare, perſwade, excite, abett, comfort, and counſel, four other Perſons to the Jurors unknown, Subjects of our ſaid Sovereign Lord the King, Traiterouſly our ſaid Sovereign Lord the King, to kill and murder, againſt the Duty of your Allegiance, againſt the Peace of our Sovereign Lord the King, His Crown and Dignity, and againſt the form of the Statute in that Caſe, made and provided.*

How ſay'ſt thou *Thomas White* alias *Witebread*, art thou guilty of this High Treaſon whereof thou ſtandeſt indicted, or not guilty?

Whitebread. My Lord, I deſire to ſpeak one word; I am adviſed by Council, and I may, and ought to repreſent it to this Court, for not only my own Life, but the Lives of others of His Majeſty's Subjects, are concerned in it, That upon the 17th of *December* laſt, I was Tryed upon the ſame Indictment, the Jury was impannell'd and called, I put my ſelf into the hands of the Jury, and the Evidence was brought in and examin'd, particularly againſt me, and was found inſufficient, ſo that the Jury was diſmiſſed without any Verdict, I humbly ſubmit my ſelf to your Lordſhips and this noble Court, whether I may not have Council in this point of Law, to adviſe me, whether I may and ought to plead again the ſecond time, for according to Law, I am informed, no Man can be put in jeopardy of his Life the ſecond time, for the ſame Cauſe.

L. C. J. You ſay well Mr. *Whitebread.*

Whitebread. I ſpeak it not for my ſake only, but the ſake of the whole Nation, no Man ſhould be Tried twice for the ſame Cauſe, by the ſame Reaſon, a Man may be Tried 20 or a 100 times.

L. C. J. You ſay well, it is obſerved, Mr. *Whitebread*; but you muſt know, that you were not put in jeopardy of your Life for the ſame thing, for firſt the Jury were diſcharged of you, it is true, it was ſuppoſed when you were indicted, that there would be two Witneſſes againſt you, but that fell out otherwiſe, and the Law of the Land requiring two Witneſſes to prove you guilty of Treaſon, it was thought reaſonable, that you ſhould not be put upon the Jury at all, but you were diſcharged, and then you were in no jeopardy of your Life.

Whitebread. Under favour, my Lord, I was in Jeopardy; for I was given in charge to the Jury; and 'tis the Caſe of *Seyer*, in 31 *Eliz.* he was Indicted for a Burglary committed the firſt of *Auguſt*, and pleaded to it; and afterwards another Indictment was preferr'd, and all the Judges did declare, that he could not be Indicted a ſecond time for the ſame Fact, becauſe he was in Jeopardy of his Life again.

L. C. J. Surely, you were not in Jeopardy, and I'll ſhew you how you were not, ſuppoſe you had pleaded, and the Jury were ſworn.

Whitebread. They were ſo in my Caſe.

L. C. J. 'Tis true they were, but ſuppoſing that preſently upon that, ſome Accident falls out, a Witneſs is taken ſick, and be feign to be carried away; or for any reaſonable Cauſe, it ſhould be thought fit by the Court to diſcharge the Jury of it, that they ſhould not paſs upon your Life, are you in Jeopardy then?

L. C. J. North. I would have you be ſatisfied with Reaſon, and the courſe of Law, that other Mens Lives are under, as well as yours. The Oath the Jury take, is that they ſhall *well and truly try, and true deliverance make*, of ſuch Priſoners as they ſhall have in Charge, the Charge of the Jury is not full, till the Court give them a Charge at the laſt, after Evidence had, and becauſe there was a miſtake in your Caſe, that the Evidence was not ſo full as might be, the Jury, before ever they conſidered concerning you at all, they were diſcharged, and ſo you were not in Jeopardy, and I in my experience know it to be often done, and 'tis the courſe of Law, the Clerks will tell you 'tis frequently done here and at other places; and this is not the ſame Indictment, and it contains further matter, then that you pleaded to before. And then if you will make this Plea good that you go upon, you muſt alledge a Record, and ſhew ſome Record to make it good, and that cannot be, becauſe there is none, and ſo it will ſignifie nothing to you, as you have pleaded it.

Whitebread. I deſire the Record may be viewed, it remains with you, I do only preſent this to your Lordſhip and the Court, and deſire I may have Council.

L. C. J. No, not at all, there is no entry made of it.

White-

Whitebread. I desire that Council may advise me, for I am advised, that according to the Law of the Land, I ought not to plead again, and I hope your Lordships will be of Council for me.

L. C. J. Look you, Mr. *Whitebread*, there is no entry made upon it, and the reason is, because there was no Tryal, and there was no Tryal, because there was no Condemntion or Acquittal, if there had been, then you had said something.

Whitebread. That which I ask is, whether I ought not to be condemned or acquitted.

L. C. J. No, it is only in the discretion of the Court. For if a Man be indicted for murder, and some accident should happen, (when the Witness come to prove it) that he should be taken ill, and so be carried away, should the Murtherer escape?

Whitebread. That is not in my Case, you may do as you please.

L. C. J. But we shew, that it is in the discretion of the Court to discharge the Jury upon such Accidents, and then the Party is not in Jeopardy.

Whitebread. I have only pray'd your Lordship's Discretion in this.

L. C. J. You ought to plead, and must plead.

L. C. J. North. I suppose if any of my Brethren are of another Opinion, than what we have expressed, they would say so.

Court. We are all of your Opinion.

L. C. J. All the Judges of *England* are of the same Opinion.

Mr. *Record.* 'Tis the constant Practise.

L. C. J. 'Tis frequent in all Places, it is no new thing.

Whitebread. My Lord I am satisfied.

Cl. of Cr. Thomas White alias *Whitebread*, art thou guilty of the High Treason whereof thou standest indicted, or not guilty?

Whitebread. Not guilty.

Cl. of Cr. Culprit, How wilt thou be tried?

Whitebread. By God and my Country.

Cl. of Cr. God send thee a good deliverance. *John Fenwick*, art thou guilty of the same High-Treason, or not guilty?

Fenwick. Not guilty.

Cl of Cr. Culprit, How wilt thou be tried?

Fenwick. By God and my Country.

Cl. of Cr. God send thee a good deliverance.

Fenwick. I was tried before with Mr. *Whitebread*, our Case is the same, the only reason, why (I presume) we were not proceeded against, was, because the second Witness declared he had nothing to say against us, that was Mr. *Bedlow*, who said, as to Mr. *Whitebread* and Mr. *Fenwick*, I have nothing to say against them; if he had given the same Evidence against us, as he had done against the rest, we had been condemned, and had suffered, and so I suppose we ought to have been discharged.

L. C. J. No, it was not reasonable you should be discharged, it remains in the discretion of the Court, not to let a Man, that is accused of a great and capital Crime escape, if there be one Witness that swears expressly: do you think it reasonable such a Man should go scotfree, tho' there wanted two that the Law requires? You were not in danger, your Lives were not in Jeopardy.

Fenwick. My Lord, we were in the same Danger with those Three that suffered.

L. C. J. No, we never let the Jury go together to consider whether you were guilty, or not guilty, we did prevent your making your Defence, because we thought it not a sufficient Charge.

Cl. of Cr. William Harcourt alias *Harrison*, how say'st thou, art thou guilty of the High-Treason whereof thou standest indicted, or not guilty?

Harcourt. Not guilty.

Cl. of Cr. Culprit, How wilt thou be tried?

Harcourt. By God and my Country.

Cl. of Cr. God send thee a good deliverance. How say'st thou *John Gavan* alias *Gawen*, art thou guilty of the same High Treason, or not guilty?

Gavan. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be Tried?

Gavan. By God and my Country.

Cl. of Cr. God send the a good deliverance. How say'st thou *Anthony Turner*, art thou guilty of the same High-Treason, or not guilty?

Turner. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be Tried?

Turner. By God and my Country.

Cl. of Cr. God send thee a good deliverance.

L. C. J. Mr. *Corker.* you have heard the Indictment read, and what it consists of, a Traiterous Endeavour to subvert the Government, to murder the King, to change the Protestant Religion into Popery; if you have any Witnesses that can be serviceable to you, as to these matters, name who they are, and where they live; if you cannot, you had as good take your Tryal now, as at another time.

Corker. I not only have no Witnesses ready, but there are substantial Circumstances, which peradventure may arise, which may induce your Lordship to believe me innocent, and therefore I humbly beg, I may stay some short time to consult with those that are better skill'd in the Law than I am.

L. C. J. What do you mean to have Council assigned you?

Corker. My Friends, my Lord.

L. C. J. Every Man knows his own Case best, you have been bread a Scholar, and so you cannot be so ignorant as other Men are: you can tell whether you have any Witnesses that you think are material for your Defence.

Corker. That Day of the 24th of *April*, spoken of in the Indictment, I truly and really believe I was not in Town that Day; but I cannot positively prove it, because I heard not of it before.

L. C. J. Is there any body that can testifie where you were that Day? Can you name any one?

Corker. Yes, I believe I can name one, and that is one *Alice Gaton*, that is now 30 Miles out of Town at *Tunbridge*, who can prove where I did go about that time.

L. C. J. I'll tell you what, if my Brothers will, this Woman you suppose can say something for you, we will respite your Trial for to Day, send some body for her, and we will Try you to morrow.

L. C. J. North. Or any other Witnesses, for as to this 24th Day of *April* it is known to all the World to have been the Day of the Consult. But because you pretend a surprise, I must tell you, that Mr. Attorney sent you notice with the rest; but because you might be led into another Opinion that the Council did not order it, you have the favour to be put off till to morrow: Get your Witnesses ready if you can.

L. C. J. If you have any other Witnesses, or desire any order for their appearance, let us know it.

Corker. I desire I may have liberty to have my Trial put off till *Monday*.

L. C. J.

L. C. J. North. No, it cannot be, *Monday* is the Eſſoign Day, and then the Commiſſion will be out.

L. C. J. Call the Jury.

Cl. of Cr. Thomas White alias *Whitebread*, hold up thy Hand, (and ſo as to the reſt.) You the Priſoners at the Bar, thoſe Men that you ſhall hear call'd and perſonally appear, are to paſs between our Sovereign Lord the King and you, upon Trial of your ſeveral Lives and Deaths; if therefore you or any of you will challenge them, or any of them, your time is to ſpeak unto them as they come to the Book to be ſworn, and before they be ſworn. Call Sir *Philip Matthews*.

Whitebread. We Challenge him. My Lord, that there may not be any further trouble, it is our general Petition, that none of thoſe that were for any of the former Trials may be of this Jury, they having already paſs'd their Judgment upon the Evidence they have heard.

L. C. J. You may Challenge them. And therefore (ſpeaking to the *Clerk* of the *Crown*) don't take any that were upon the laſt Jury for this Cauſe.

Gavan. Nor any of the former Juries; we do this that we may avoid giving your Lordſhip any further trouble, becauſe if we ſhould ſtay upon particulars we ſhould too much trouble the Court.

L. C. J. North. Look you, I will tell you by the way, you have the Liberty to Challenge peremptorily ſo many. All we can do, is to give direction to the Clerk, if he do not purſue it, we do not know them, we can't tell, you muſt look after that.

Mr. *Record.* You have the Books, wherein are Notes of all their Names by you.

Then the Jury that were Sworn were theſe Twelve.

Thomas Harriott.	*Rainsford Waterhouſe.*
William Gulſton.	*Matthew Bateman.*
Allen Garraway.	*John Kaine.*
Richard Cheyney.	*Richard White.*
John Roberts.	*Richard Bull*, and
Thomas Caſh.	*Thomas Cox.*

Cl. of Cr. Cryer, count theſe: *Thomas Harriott.*

Cryer. One, *&c.*

Cl. of Cr. Thomas Cox.

Cryer. Twelve, good Men and true, ſtand together and hear your Evidence.

Then the uſual Proclamation for Information was made, and the Jury-Men of Middleſex, *Summon'd and not Sworn, were diſmiſs'd till next Morning Eight of the Clock.*

Cl. of Cr. Thomas White, alias *Whitebread*, hold up thy Hand; (and ſo to the reſt.) You Gentlemen that are Sworn, look upon the Priſoners, and hearken to their Cauſe; they ſtand Indicted by the Names of *Thomas White*, &c. (*put in the Indictment Mutatis Mutandis*) and againſt the Form of the Statute in that Caſe made and provided. Upon this Indictment they have been Arraigned, and thereunto have ſeverally pleaded, Not Guilty, and for their Tryals have put themſelves upon God and their Country, which Country you are. Your Charge is to enquire, whether they, or any of them are guilty of the High-Treaſon whereof they ſtand Indicted, or not Guilty. If you find them, or any of them Guilty, you are to enquire what Goods or Chattels, Lands or Tenements they had at the time of the High-Treaſon committed, or at any time ſince. If you find them, or any of them, not Guilty, you are to enquire whether they fled for it; if you find that they fled for it, you are to enquire of their Goods and Chattels, as if you had found them Guilty: if you find them Not Guilty, nor that they, nor any of them fled for it, ſay ſo and no more, and hear your Evidence.

Then Mr. Belwood, *of Council for the King in this Cauſe, open'd the Indictment thus:*

May it pleaſe your Lordſhip, and you Gentlemen of the Jury;

The Priſoners at the Bar, *Thomas White*, alias *Whitebread*, *John Fenwick*, *William Harcourt*, alias *Harriſon*, *John Gavan*, and *Anthony Turner*, together with *James Corker*, ſtand Indicted of High-Treaſon; 'tis charged in the Indictment, That the 24th of *April*, in the Thirtieth Year of the King that now is, theſe Perſons, with other Traitors unknown, did purpoſe and conſpire to ſtir up Sedition and Rebellion: to cauſe a miſerable ſlaughter of the King's Subjects; to depoſe the King of his Government, and bring him to death; and to change the Government and Religion by Laws eſtabliſhed, and to Levy War againſt the King. And 'tis further charged in the Indictment, that purſuant of this Intention of theirs, and the better to bring it to paſs, They did Aſſemble, Conſult and Agree, firſt, to bring His Majeſty to death, to murther the King, and thereupon to change the Religion eſtabliſhed by Law, to the Superſtition of the Romiſh-Church, and to ſubvert the whole Government; and it was agreed, that *Pickering* and *Grove* ſhould murther the King, and that therefore *Whitebread*, and the reſt of the Perſons Indicted, ſhould ſay a number of Maſſes for the Soul of *Pickering*: and *Grove*, for this Piece of Service, was to have a Summ of Money. And the Indictment ſays further, That theſe Perſons did take the Sacrament to commit this Treaſon with more Secrecy; and that they did likewiſe Prepare, Excite, Abett and Counſel Four other unknown Perſons to kill the King at *Windſor*. All theſe Facts are ſaid to be done Adviſedly, Maliciouſly, Traiterouſly and Deviliſhly, and againſt their Allegiance to the King. To this they have pleaded Not Guilty; if the King's Evidence prove it, you are to find it ſo.

And then Sir Creſwel Levins, *one of the King's Learned Council in the Law, proved the Charge thus:*

May it pleaſe your Lordſhip, and you Gentlemen of the Jury;

Theſe Priſoners at the Bar, are by Perſuaſion Papiſts, by Order and Degree they are all Prieſts. By the Law of the Land, viz. *by a Statute made the 27th of* Eliz. *they are all guilty of Treaſon, for being Prieſts, and they might be Tryed as ſuch, and ought to die for it; but that is not the Fact they are charged with, nor will they have the ſatisfaction to ſay, that they ſuffer for their Religion: No, they are charged with a Treaſon of a blacker and darker Nature. And tho' I muſt tell you, that it is now almoſt an hundred Years ago ſince that Statute was made againſt Prieſts coming into* England, *yet Examples have been very rare, that any of this ſort of Men have died for their Religion, within that Queen's Time, or any of her Succeſſors; yet they have died upon worſe Accounts, and upon ſuch Accounts as they are now brought to this Bar for. Such is the difference between Their Religion and Ours, they have been ſuffered to live*

here

here under a Law by which they ought to die. They kill the Protestants by Thousands, without Law or Justice, witness their bloody Doings at Mirendol, *their Massacre at* Paris, *their barbarous Cruelty in* Ireland, *since the Year* 1640. *and those in* Piedmont, *since* 1650. *But these are not the Crimes they are Charged with, they are not accused for their Religion, but for the blackest and darkest Treason that Men can be Charged with. They are Charged with an Endeavour to murder the King, under whose Protection they lived. This Murder of the King hath been carried on in the Design of it, with all the Malice and Resolution that can be, from the first Time that we can give you an Account of it, which was the* 24th *of* April, 1678. *When these Persons, and several others, did first assemble about other Matters of their own, and among the rest to murder the King: There they came to a Resolution that it should be done, and Persons were appointed to do it, these were* Grove *and* Pickering, *who have been Executed for it; they were to kill the King in St.* James's *Park, but it pleased God, that the Flint of the Pistol failed, to which we are more beholding, than to them, that he escaped that time. They were not satisfied with that, but they send down Four Butchers to murder him at* Windsor, *who being disappointed, they sent down others after that to murder him at* New-Market; *and when all these failed, they had Recourse to that Treacherous and Unmanly Way, of Poysoning him, and hired one so to do, and they did not only intend to murder the King, but to make it good by Force when they had done. They intended to raise an Army; they had got Commissions to several Persons in the Kingdom, to command these Forces. They designed to raise* 50000 *Men, to maintain the Injustice, when they had done it. And that was not all, they had a Recourse to Foreign Assistance, and depended upon Foreign Succours, if they were not made good at home. Gentlemen, they have been disappointed in all these Things; they had an Intention further (as I find it in my Brief,) to make a general Massacre of all Protestants here. A Thing that they have done, and we have heard of Abroad, but Thanks be to God, we never knew it Experimentally at Home. And I hope God that hath preserved us hitherto, will preserve us still.*

The Mercy these Men have met with, in being suffered to live under the Danger of the Statute, by which they might have justly died, hath not prevailed upon or bettered them at all, but been turned into monstrous Ingratitude, and made them more desperate than other People would have been. Gentlemen, when all this is opened, I must tell you, if these Persons be innocent, God forbid they should suffer, but if they be guilty, surely they are not fit to live among Men: And truly if they be guilty, they do not only deserve to die, but to die a more cruel and miserable Death, than either the Mercy of our Prince, or the Moderation of our Laws hath provided for such Offenders. I shall detain you no longer, but will call the Witnesses, and then you shall judge whether they be Guilty or not. And we begin with Mr. Oates. Who was Sworn.

Sir *Cr. Levins.* Pray what can you say to these Gentlemen? Begin with Mr. *Whitebread* first.

L. C. J. Mr. *Oates*, apply your Evidence as distinctly as you can to one Person at first, unless where the Matter will take in all, or more than one of them.

Dr. *Oates.* My Lord, I have Evidence I desire may be called in, I shall have Occasion to use them.

Gavan. It may be inconvenient. He may instruct his Witnesses.

L. C. J. North. No, he shall not, for we will take care of that: But name your Witnesses.

Dr. *Oates.* There is Sir *Richard Barker*, Mr. *Walter*, a Minister, Mrs. *Mayo*, *Philip Page*, Mr. *William Smith*, and one Mr. *Clay*, Mr. *Butler*, Mrs. *Sarah Ives.*

Mr. Just. *Atkins.* Take a Note of their Names, and send for them.

L. C. J. Now, Mr. *Oates*, go on with your Evidence; and when there is Occasion to make use of these Persons, they shall be call'd.

Dr. *Oates.* The Prisoner at the Bar, Mr. *Whitebread*, was made and constituted Provincial, so as it was publickly known to us, in the Month of *December* last was Twelve-Month; and he did order, by Vertue of his Authority, one Father *George Conyers*, to preach in the Sodality of the *English* Seminary, on the Holyday which they call St. *Thomas* of *Canterbury*, i. e. *Thomas* of *Becket*'s Day, in which there was Order given that Mr. *Conyers* should preach and assert this Doctrine; That the Oaths of Allegiance and Supremacy were Heretical, Antichristian, and Devilish: Accordingly, this Order was Executed, and the Sermon preached. Mr. *Whitebread*, in the Month of *January*, wrote Letters (or, at leastwise, in the beginning of *February*, I will not be positive, as to the Time, because it does not occur to my Memory,) to St. *Omers*, concerning the State of *Ireland*, of which he had an Account from Archbishop *Talbot*, who wrote him word, that there were several Thousands of *Irish*, that were ready to Rise, when the Blow should be given in *England.*

L. C. J. Was that in *Whitebread*'s Letter?

Dr. *Oates.* Yes, my Lord, and Mr. *Whitebread* did say, He did hope it would not be long e're it was given. Now, my Lord, by the Word, *Blow*, we did use to understand, and had Instructions to understand, the Death and Murder of the King; and in the Month of *January*, I think it was, that he sent over two Jesuits into *Ireland*, to see how the State of Affairs stood there: In the beginning of *April* they return'd, of which we had an Account from Mr. *Whitebread*, by Letters, wherein there was mention of a Consult to be held in the Month of *April* Old Stile, and *May* New Stile; and according to the Order there given, there met at that Consult, the Prisoners at the Bar, *Whitebread*, *Fenwick*, *Harcourt* and *Turner*, and, if it please your Lordship, all these at that Consult did sign a Resolve, Mr. *Whitebread* at his Chamber, which was at *Wild-House*, Mr. *Fenwick* at his Lodgings in *Drury-Lane*, and Mr. *Harcourt*, who had some at his Chamber in *Duke-Street.* But, my Lord, I am to premise this, before I go any further, That the Consult was begun at the *White-Horse*-Tavern in the *Strand*, and there they did agree to send Father *Cary* to be their Procurator at *Rome*; and after some such Things were done, they adjourned into several Clubs or Colloquies, or what you please to call them. One was at Mr. *Whitebread*'s Chamber, another at *Ireland*'s Chamber, that is Executed, another at *Harcourt*'s, and another at *Fenwick*'s; now here was a Resolve Signed by these Prisoners at the Bar, in which ——

L. C. J. That is four of them, *Whitebread*, *Fenwick*, *Harcourt* and *Turner.*

Dr. *Oates.* Yes, my Lord.

L. C. J. Was *Gavan* there?

Dr. *Oates.* I dare not, my Lord, affect him with that, because I cannot be positive, but I'll give you my Evidence against him by and by. My Lord, these four Gentlemen, with the rest of their Accomplices, did sign a Resolve which was this, *That* Pickering *and* Grove *should go on in their Attempt to dispatch the King*; and this they did resolve upon, and

and gave it as their Judgment, as a very excellent Expedient. My Lord, after this Conſult we did return, (we were Eight or Ten that came over) and may it pleaſe your Lordſhips, in the Month of *June*, (I think it was *June*) he came to *Flanders*, in order to viſit his Colleges, being Provincial of the Jeſuits of *England*: He did ſtay there (as near as I can remember) till the 10th of *June*, and enquiring of the Fathers how Squares went in Town, among other Expreſſions he uſed, this was one, *That he hoped to ſee the black Fool's Head at* Whitehall, *laid faſt enough; and that if his Brother ſhould appear to follow in his Footſteps, his Paſport ſhould be made too*, (or to that Purpoſe) *he ſhould be diſpatch'd.* Upon the 13th of *June*, Old Stile, the 23d, New Stile, I had Orders to come for *England*; according to which Order I came, and did take the Pacquet-Boat, as near as I can remember, the 24th, which was 14th Old Stile, and we landed at *Dover* the 25th, very early in the Morning; and when I was at *Dover*, I met with the Priſoner at the Bar, Mr. *Fenwick*, and he, my ſelf, and ſome others, did take Coach, and come as far as *Canterbury*; after we had eaten and drunk there, we came ſix Miles further, where there was a Box ſeized by the Searchers of the Town of *Borton*, and this Box was brought up by Mr. *Fenwick*, and directed to one *Blundel*, and the Superſcription was, as near as I can remember, in theſe Words, *To the Honourable* Richard Blundel, *Eſq; at* London. And this Priſoner at the Bar, Mr. *Fenwick*, did deſire that the Searchers would ſend it to him, (it was full of Beads and Crucifixes, and ſuch Things,) to the *Fountain*-Tavern near *Charing-Croſs*, and write a Letter to him, by the Name of Mr. *Thompſon*, as that was the Name he uſually went by, when he came to *Dover*, and he had then brought ſome Students there, to ſend over to St. *Omers*.

L. C. J. When went *Fenwick?*

Dr. *Oates.* When I came to *Dover*, I met *Fenwick*, by the Name of *Thompſon*, going to ſend over the Students, and *Fenwick* did ſay, If they had ſearched his Pockets, as they had ſearched his Box, they had found ſuch Letters, as would have coſt him his Life; for, ſaith he, they were about our Concern in Hand. Then we came up to *London*, and arrived at *London* the 17th of *June*, Old Stile, for we lay a part of the Way at *Sittenburn*, in the Morning, and in the Afternoon we came to *Darford*, and came to *London*, *Monday* Noon, the 17th, Old Stile. And in the Month of *July*, there was one *Richard Aſhby*, whoſe right Name indeed is *Thimbleby*, but he went by the Name of *Aſhby*, and this Gentleman did bring over Inſtructions from the Priſoner at the Bar, Mr. *Whitebread*, who was abroad in *Flanders*, wherein he was to propoſe 10000 *l.* to Sir *George Wakeman*, to poiſon the King, and ſeveral other Inſtructions there were, of which I cannot now give you an Account; and withal, that a blank Commiſſion ſhould be fill'd up, and ordered for Sir *John Gage*, to be a Military Officer in the Army, and by that Gentleman's own Order I delivered that Commiſſion into Sir *John Gage*'s own Hand, on a *Sunday*.

L. C. J. Where had you that Commiſſion, from *Whitebread?*

Dr. *Oates.* It was Signed and Sealed by him, but it was a Blank, and was to be fill'd up.

L. C. J. Where?

Dr. *Oates.* It was at *Wild-Houſe*.

L. C. J. How was it fill'd up?

Dr. *Oates.* It was fill'd up by Mr. *Whitebread*'s Order, it was Signed and Sealed blank, and he ordered it to be fill'd up, and me to take that Commiſſion, and carry it to Sir *John Gage*.

Whitebread. Did I order you?

Dr. *Oates.* You ordered *Aſhby*; I ſaw the Letter, and knew it to be *Whitebread*'s Hand.

L. C. J. Was it before he went to St. *Omers?*

Dr. *Oates.* It was while he was at St. *Omers*.

Whitebread. What Day was it? what Hour?

Dr. *Oates.* It was in *July*.

Whitebread. What time of the Month?

Dr. *Oates.* The beginning or middle.

Whitebread. Are you ſure it was in *July?*

Dr. *Oates.* I cannot be poſitive, but I think it to be in *July*, for *Aſhby* went to the *Bath* the latter end of *July*, or the beginning of *Auguſt*, and it was before he went.

Whitebread. Who was preſent at the Signing of this Commiſſion?

Dr. *Oates.* There was preſent at the filling up of this Commiſſion, Mr. *Harcourt*, Mr. *Aſhby*, and Mr. *Ireland*.

Fenwick. Was not I there?

Dr. *Oates.* I think I fill'd it up. I'll tell you when you were there preſently. My Lord, when *Aſhby* went away, *Fenwick* went out of Town, but returned again preſently, to give an Account how Squares went, and really I cannot remember where he had been, but as near as I can, it was in *Eſſex*, I will not be poſitive in it; but my Lord, this ſame Gentleman, Mr. *Fenwick*, with Mr. *Harcourt*, did adviſe Mr. *Aſhby*, that as ſoon as he had been at the *Bath*, he ſhould go and give an Account to the People in *Somerſetſhire*, and thereaway, his Circuit would be ſhort and very eaſy, and he did not queſtion, but before he came up to Town again, to have the Gentleman at *Whitehal* diſpatch'd, whom they call'd the *Black Baſtard*, now I leave that to the Jury, to expound whom they meant by it.

Fenwick. What time was that, Sir, pray? You muſt time Things, or you do nothing at all.

Dr. *Oates.* It was the latter end of *July*, or the beginning of *Auguſt*, it was about the Time of *Aſhby*'s going to the *Bath*.

Fenwick. Juſt now he ſaid, it was in the beginning or middle of *July*.

Dr. *Oates.* I'll tell your Lordſhip what I ſaid, that this *Aſhby*, or *Thimbleby*, came from St. *Omers* with thoſe Orders or Inſtructions, either the beginning of *July*, or the middle of *July*.

Fenwick. I would not interrupt you, Mr. *Oates*, this was ſome time before Mr. *Aſhby* went to the *Bath*, was it not?

Dr. *Oates.* It was about a Day before.

L. C. J. He ſays a Thing that is plain enough: *Aſhby* came over about the beginning or middle of *July*, with Inſtructions about the Commiſſion; and about the latter end of *July*, or beginning of *Auguſt*, as he remembers, this Advice was given.

Dr. *Oates.* And ſo we are arrived at the Affairs in *Auguſt*, which reflects upon theſe Gentlemen; but now I muſt ſpeak a Word to this Gentleman, Mr. *Gavan*, the Priſoner at the Bar, whom when I ſaw come into the Lobby, he had gotten on a Periwig; ſo there was one asked me, whether I knew him? I know him now, but truly then I did not well know him, becauſe he was under that Mask, and I could not ſay any thing againſt him then, becauſe he being under an ill-favoured Periwig, and being a Man that I knew had a good Head of Hair of his own, I did not well underſtand the Myſtery of it, and ſo ſpared my Evidence at that Time, from informing the Council againſt him; but the Priſoner at the Bar came by

the Name of *Gavan*, and we uſed to call him by the Name of Father *Gavan*: And this Gentleman did in the Month of *June* write Letters——

Gavan. What Year?

Dr. *Oates.* In the Year 1678. and did give the Fathers at *London* an Account how Affairs ſtood in *Staffordſhire* and *Shropſhire*, and how diligent one Father *Evers* was to manage Affairs in thoſe Countries.

Gavan. From whence were thoſe Letters ſent?

Dr. *Oates.* There was only the Day of the Month, you know it is not the Cuſtom to date the Place. When I ſaw the Letter firſt, I did not know it was his Hand, I took it upon Report; but I will tell the Jury, by and by, how I came to know it was his Hand: As near as I can remember, it was in the Month of *July*, (it was *July* or *Auguſt*) this Gentleman came to Town, and I ſaw this Gentleman at Mr. *Ireland*'s Chamber.

Gavan. What time of the Month?

Dr. *Oates.* It was in *July* 1678. as near as I can gueſs.

Gavan. Upon my Salvation, I am as innocent as a Child unborn.

L. C. J. North. By this Means you may put out any Witneſs in the World, by interrupting of them. When the Witneſs hath done his Teſtimony, you may ask him any Queſtions, to aſcertain the Time, or any thing, but you muſt not interrupt him till he hath done.

Dr. *Oates.* In the latter part of *July*, I think it was, but it was, as I remember, while Mr. *Aſhby* was in Town, I met him at Mr. *Ireland*'s Chamber, for he was a ſaying he would go ſee Father *Aſhby*, before he went out of Town, and he gave ſuch an Account to Father *Ireland*, of the Affairs in *Staffordſhire* and *Shropſhire*, as he had given in the Letters before; but to prove his Hand, he did draw a Bill upon one Sir *William Andrews* in *Eſſex*, for the Payment of ſome Money, of ſome little ſucking Prieſts, that were ſtroling up and down the Country. I ſaw him write it, and it was the ſame Hand with that Letter.

Gavan. What did I write?

L. C. J. You drew a Bill upon ſuch a Perſon, and he names him.

Dr. *Oates.* We are now come to *Auguſt*.

L. C. J. But you ſay he diſcourſed about the ſame Things with *Ireland*, that he had wrote in the Letter.

Dr. *Oates.* Yes, my Lord.

Gavan. And what were thoſe ſame Things?

Dr. *Oates.* Why, how the Affairs ſtood in *Staffordſhire* and *Shropſhire*, how my Lord *Stafford* was very diligent. I deſire to be excuſed as to that, becauſe it will diminiſh my Evidence in another Part of it: I'll tell you part of what was then diſcourſed of.

Gavan. My Lord, he is ſworn to ſpeak all the Truth.

L. C. J. You muſt ſpeak the whole Truth, as far as it concerns any of theſe Perſons.

Dr. *Oates.* He gave an Account how proſperous Things were in thoſe Countries, and did ſay, that there was at leaſt Two or Three Thouſand Pounds that would be ready in that Country, for the carrying on the Deſign, I think it was Three, but it was betwixt Two and Three. Now, my Lord, we are arrived to our Buſineſs in *Auguſt*; about the 12th of *Auguſt*, as near as I remember, but it was between the 8th and the 12th, therein I am poſitive, *Ireland*, which is Executed, took his Leave of us, as if he were to go to St. *Omers*.

L. C. J. Where did he take his Leave?

Dr. *Oates.* At his Chamber in *Ruſſel-Street*. *Ireland* went out of Town, and *Fenwick*, by that means, was to be Treaſurer and Procurator to the Society altogether. He had that Employ afterward upon him during his Abſence, let Mr. *Ireland* go whither he would. And the 21ſt of *Auguſt*, which, as near as I remember, fell upon a *Wedneſday*, Mr. *Fenwick* and Mr. *Harcourt* were met together at *Wild-Houſe*, and ſome other Fathers, as Father *Kaines*, and one Father *Blundell*, and ſome other Fathers, whom I cannot remember.

Gavan. Was I there, pray Sir?

Dr. *Oates.* No, no, Sir; I am not to talk to you ſtill, I am to ſpeak to the Court.

L. C. J. North. We would recommend this to you, to name Perſons when you ſpeak of them.

Dr. *Oates.* Where I have Occaſion I will name them, my Lord. Mr. *Fenwick* and *Harcourt* were together at *Wild-houſe*, and Mr. *Kaines* and Mr. *Blundel*, and, as near as I remember, Mr. *Langworth* was there, but I won't be poſitive. And there lay before them at *Wild-houſe* Fourſcore Pounds, the moſt of that Money was Guineas, which was to be paid to the four *Iriſh* Ruffians that were to murder the King at *Windſor*. After it was agreed that they ſhould do it, and *Coleman*, who was Executed, came thither, and gave the Meſſenger a Guinea to expedite the Journey. We drew off from *Wild-houſe*, and went to Mr. *Harcourt*'s Chamber, and becauſe Mr. *Harcourt* had there left his Papers that were to be ſent down to *Windſor*, there he paid the Meſſenger the Money. And that Gentleman was preſent there, Mr. *Fenwick*, and this is another Part of *Auguſt*'s Buſineſs. No ſooner was this Meſſenger diſpatch'd, but within a Day after, or a Day before; but it was a Day after, as near as I can remember, there was a Conſult held at the *Benedictine*'s Convent, at which Mr. *Fenwick* was preſent, and Mr. *Harcourt*, and there they had ſome more *Iriſh* News from the *Iriſh* Archbiſhop *Talbot*, who did give an Account of the *Iriſh* Affairs, how they did conſpire the Death of the Duke of *Ormond*; and deſired to know how Affairs went in *England*, and deſired ſome Commiſſions might be ſent over to ſome particular Perſons, there to raiſe Forces for the carrying on of the Deſign, and ſome Money to be tranſmitted to them. And Mr. *Fenwick* did bring the Commiſſions from *Wild-houſe* (as near as I remember) but he did bring them with him, and ſent them down by a ſpecial Meſſenger to *Cheſter*, and ſome Letters by the Poſt. That of the Poſt I know of my own Knowledge, but that of the ſpecial Meſſenger I had only from his own Mouth. My Lord, from the 24th of *Auguſt*, as near as I remember it fell of a *Saturday*, *Bartholomew*-day it was, but whether it fell of a *Saturday*, I cannot be poſitive, but if the Court pleaſe to inform themſelves of it by their Almanacks, they may.

L. C. J. There is no great Matter in that I ſuppoſe.

Dr. *Oates.* But this Gentleman, Mr. *Fenwick*, did deliver me ſome Money for my neceſſary incident Charges, but did admoniſh me to procure ſome Maſſes to be ſaid for a proſperous Succeſs upon the Deſign. Upon the 25th Day, I ſaw Mr. *Fenwick* in the Afternoon at his Chamber, and he was to go on the 26th Day, the next Day, to St. *Omers*, and to carry Eight or Ten Students to go there to ſtudy Humanity: And this is the Account I have to give to Mr. *Fenwick*. For after I took my leave of him here, I ſaw him no more till he was apprehended.

L. C. J.

L. C. J. This was about the 26th of *August*, was it not?

Dr. *Oates.* Yes, my Lord, it was the 26th of *August*.

L. C. J. Well, go on, Sir.

Dr. *Oates.* The 1st or 2d of *September*, we receiv'd a Letter (in the Beginning it was) from Mr. *Whitebread*, and this Letter they did ſay was a Foreign Letter, and yet it paid but Two-pence, by which I did conclude that Mr. *Whitebread* was come into *England*, and lay ſome where privately, or was not yet come to Town. On the 3d of *September* I went to Mr. *Whitebread*'s Chamber, at Night, but he being at Supper, was not to be ſpoken with; but when he ſaw me the next Morning, he did revile me, and ſtrike me, and asked me with what Face I could look upon him, ſeeing I had dealt ſo treacherouſly with them? Now, after that I had enquired, in what Reſpect? He anſwered, In the diſcovering of the Buſineſs, for there was a Gentleman that went to the King in this Buſineſs, to whom I had communicated much of my Information by Dr. *Tongue*. This Gentleman had the ſame coloured Cloaths that I had, and ſo they not being able to give an Account of the Name of the Perſon, gave only an Account of the Habit he was in, and therefore they Charged me with it. After I had juſtified my ſelf as well as I could, Mr. *Whitebread* did ſhew me a Letter, which came from one *Bedding field*, alias *Benning field*, which did ſhew the Plot was diſcovered, and they were like to be undone, if it had not been for the five Letters that were ſent down to *Windſor* and intercepted, which made all to be looked upon as Counterfeit; after that, I juſtified my ſelf as well as I could. He told me he would be Friends with me, provided I would give an Account of the Party, and of the Miniſter that went with him. And this is what I have to ſay againſt Mr. *Whitebread*, and the Priſoners at the Bar; but only this, becauſe Sir *George Wakeman* did not accept of 10000 *l.* that was propoſed to him to poyſon the King, this Gentleman offered that 5000 *l.* more ſhould be added.

L. C. J. Which Gentleman?

Dr. *Oates.* Mr. *Whitebread.* And 15000 *l.* was accepted, and when it was accepted, *Whitebread* did greatly rejoice that the Money was accepted to poyſon the King.

Whitebread. Did I tell you ſo?

Dr. *Oates.* No, there was a Letter told me ſo, but you were in *Flanders* then.

Sir *Cr. Levins.* What have you to ſay againſt Mr. *Turner*.

Dr. *Oates.* I ſpeak as to his being at the Conſult in *April*, and ſigning the Reſolve of the Death of the King.

L. C. J. Was Mr. *Gavan* at that Conſult the 24th of *April*?

Dr. *Oates.* Mr. *Gavan* was Summoned to that Conſult, but among Forty Men I cannot particularly ſay he was there, but I ſaw his Name Signed as to the King's Death, but I cannot ſay I ſaw his Perſon.

L. C. J. Can you ſay you ſaw his Hand-Writing?

Dr. *Oates.* I do believe it was his.

L. C. J. Did you ever ſee any Writing of his, but when he Signed the Bill of Exchange?

Dr. *Oates.* My Lord, I never ſaw him Write but that Time. It was an ill Pen as it ſeemed that he writ his Name with to the Conſult, and I did not take ſo particular Notice of the being of his Name there, till we ſaw the Inſtructions in *July*, and then I did look over the Conſult particularly

L. C. J. But I ſay, Did you ever ſee his Hand-Writing, before he writ the Bill?

Dr. *Oates.* My Lord, I never ſaw his Hand but that Time.

L. C. J. And That, by your comparing, was like the Hand of the Letter about *Staffordſhire*?

Dr. *Oates.* By that I prove the Letter to be written from him. It was like it, and was all as one.

L. C. J. Was it like the Hand that was to the Conſult?

Dr. *Oates.* That I cannot ſay.

L. C. J. I thought you had ſaid he confeſs'd the Contents of the Letter, when he came out of *Staffordſhire*?

Dr. *Oates.* I do ſay this of Mr. *Gavan*, that he wrote ſuch a Letter, and when he came to Town, he did give an Account of all the Paſſages that the Letter did contain, which was concerning the raiſing of Money in *Staffordſhire*, and the Parts he was concerned in: And this was the Account he gave.

L. C. J. Dr. *Oates*, you poſitively ſay, that *Whitebread*, *Fenwick*, and *Harcourt* were there?

Dr. *Oates.* Yes, my Lord, for Mr. *Whitebread* was Provincial and Preſident of the Aſſembly.

Sir *Cr. Levins.* And *Turner* was there?

Dr. *Oates.* Yes, he was.

Sir *Cr. Levins.* Dr. *Oates*, what was that Money rais'd for?

Dr. *Oates.* They ſaid it was for the carrying on of the Deſign.

L. C. J. And what Deſign was that?

Dr. *Oates.* Our Deſign. And that was, the Subverſion of the Government, and Deſtruction of the King.

L. C. J. Now, if you pleaſe, you may ask him any Queſtion.

Gavan. Mr. *Oates*, you ſay you ſaw my Name to a Letter for the taking up of Money: To whom was that Letter writ?

Dr. *Oates.* There was a Letter from you, to Mr. *Ireland*. And he did receive it by the Hands of *Grove*.

Gavan. Where was that Money to be taken up?

Dr. *Oates.* My Lord, I ſay, that Letter was received by *Grove*, who is out of the way, and can't prove it, and was delivered to *Ireland*.

L. C. J. I perceive your Memory is not good.

Gavan. I perceive his Memory is very good.

Dr. *Oates.* This Letter did give an Account of the Buſineſs of *Staffordſhire*, and the Particulars of that Mr. *Gavan* did afterwards give an Account of by Word of Mouth, and ſome other Things not fit to be named.

Gavan. Pray, where was it, Sir, that I gave an Account of it; in *London*, or in the Country?

Dr. *Oates.* In *London*.

Gavan. In what Month?

Dr. *Oates.* In *July* it was.

Gavan. What part of *July*?

Dr. *Oates.* It was when Mr. *Aſhby* was in Town, the beginning or middle.

Gavan. Juſt now, you ſaid it was in the latter end.

Dr. *Oates.* My Lord, I beg this Favour, that if the Priſoners at the Bar ask any Queſtions, they may be propoſed to the Court, for they are nimble in their Queſtions, and do a little abuſe the Evidence. They put Things upon them that they never ſay.

Mr. Juſt. *Pemberton.* Propoſe your Queſtions to the Bench, that you would have asked.

Gavan. I will do ſo, my Lord, in whoſe Honour I have more Confidence, than in whatſoever Mr. *Oates* ſays or ſwears.

L. C. J. But he tells you who you drew your Bill of Exchange upon, and that was Sir *William Andrews.*

L. C. J. North. Don't give the King's Witneſſes ill Words.

L. C. J. Have you any more to ask, any of you?

Whitebread. Yes, my Lord.

L. C. J. See if you can catch him, he gives you a long and exact Account as can be given by any Man in *England*; and pray direct your ſelf, Mr. *Whitebread,* to the Court.

Whitebread. He ſays he was here in *April,* and at the Conſult; now I deſire to know, how long before that Time were you and I acquainted?

Dr. *Oates.* Why, before that Time I never ſaw Mr. *Whitebread*'s Face.

Whitebread. What Imployment were you to have, and what Reward?

Dr. *Oates.* When I came away from St. *Omers,* I was to attend the Motion of the Fathers at your Chamber, and to carry the Reſolve from Chamber to Chamber, where the Fathers were reſpectively met.

Fenwick. Was not you at the *White-Horſe*-Tavern?

Dr. Oates. Yes, I was there.

Fenwick. Did you dine there?

Dr. Oates. No, our Stay was ſhort there.

Fenwick. How long did you ſtay in Town?

Dr. Oates. Truly I can't tell you exactly, but from the Time I came into *England,* to the Time I went out again, was under Twenty Days.

Fenwick. Who were they that came over with you? Name the Parties.

Dr. Oates. I will tell you who they were; but it's ſo long ſince, I can't exactly remember.

Fenwick. You need not trouble your Memory, you have them in your Narrative.

Dr. Oates. My Lord, there was Father *Williams,* the Rector of *Wotton,* the Rector of *Liege,* Sir *John Warner,* Sir *Thomas Preſton,* and ſome others.

Whitebread. Was not Mr. *Nevil* there?

Dr. Oates. I believe he was, it is like he might be there.

Whitebread. Was not Sir *Robert Brett* there?

Dr. Oates. I believe he might.

Whitebread. You have ſaid ſo in your Narrative.

L. C. J. Perhaps a Man will venture to Write more than he will Swear; not that he does Write what he does not believe, but that he knows he ought to be more cautious in his Oath, than in his Affirmation.

Fenwick. My Lord, with your Lordſhip's Favour, it is upon Oath.

L. C. J. North. Fenwick, you are in a Court of Law, and we muſt go according to the Law; if you will prove any Contradiction in him to his Oath, you muſt bring the Perſons here that ſaw him take the Oath; and you muſt not think to take a Pamphlet for Evidence.

Fenwick. It was ſworn before a Juſtice of Peace, and will not, I ſuppoſe, be denied, and therefore he muſt make his Evidence agree with it, being part of his Narrative.

Gavan. You ſpeak of one Thing in *Auguſt,* and of another in *July*; which Month ſaw you me in?

Dr. *Oates.* I told you, I ſaw you in Town in *July,* and when Father *Aſhby,* or *Thimbleby,* was in Town. And you ſaid you would go and ſee him.

Juſt. *Pemberton.* He ſays it was in *July,* and that's enough.

Gavan. What Time in *July?*

Dr. *Oates.* It was towards the middle or latter end.

Gavan. Was it before Mr. *Aſhby* went to the *Bath?*

Dr. *Oates.* It was ſo.

L. C. J. He ſays he ſaw you in Town, when *Aſhby* was in Town, which was towards the latter end of *July,* or beginning of *Auguſt.* He cannot tell exactly whether, but poſitively he ſays before Mr. *Aſhby* went to the *Bath.*

L. C. J. North. Well, to ſatisfy you, we will ask Mr. *Oates* the Queſtion again. Can you recollect whether it was the middle or latter end of *July?*

Dr. *Oates.* My Lord, as near as I can remember, it was about the middle of *July* that *Aſhby* came to Town, and he did not ſtay in *Town* above a Fortnight: And it was whilſt he was in Town, and deſigned to go down to the *Bath,* that this Gentleman came to Town, and gave Account of the Particulars of that Letter.

L. C. J. North. You may ask him any Queſtions, but I would have you obſerve what Account he gives, That about the middle of *July, Aſhby* came to Town, that he ſtay'd in Town about a Fortnight, as he believes, that during that Time, you came to Town, and then was this Diſcourſe.

Dr. *Oates.* During that Time I ſaw him in Town, but I know not exactly when it was.

Gavan. My Lord, I would ask him one Queſtion; the Thing that is brought againſt me is this; He ſays, Mr. *Aſhby* came to Town in the middle of *July,* that he ſtaid in Town a Fortnight, that while he was there I came to Town, and had ſuch Diſcourſe: Now, my Lord, I deſire to know, whether it was the firſt Week, or laſt Week that *Aſhby* was in Town, that he ſaw me.

L. C. J. If he can anſwer it, let him.

Dr. *Oates.* My Lord I cannot.

L. C. J. He tells you, he cannot charge his Memory with it.

Dr. *Oates.* No, my Lord, nor will not.

L. C. J. Really I believe there is ſcarce one in all this Company, able to give an Account of a particular Time of a Paſſage ſo long ago.

Gavan. No doubt he hath an excellent Memory.

L. C. J. And if he had not ſome Memorials of this, he could not do it. And tho' he hath Memorials of the moſt Eminent Paſſages, yet we can't ſuppoſe he hath of all Circumſtances.

Gavan. But this is the Subſtance; and your Lordſhip may conceive, that not without Reaſon I urge it; for if Mr. *Aſhby* came to Town the beginning of *July,* and ſtay'd but a Fortnight in Town, and I came to Town while he was here, it muſt be in one of the two laſt Weeks. Now I would have it aſſertain'd, becauſe I may diſprove it in one Week or in the other.

L. C. J. 'Tis true, you did not amiſs in asking the Queſtion, if he were able to anſwer it; but if it be either, 'tis enough to prove you Guilty.

Gavan. Pray was it only one Time, or diverſe, that you ſaw me in *London?*

Dr. *Oates.* It was but one Day, but as near as I remember, I ſaw you twice that Day; and I'll tell it you by a particular Circumſtance, That I ſaw you

you in the Afternoon when you were a little illish, and there was a Cordial brought to you by an Apothecary, that went by the Name of *Walpoole*.

L. C. J. Here is Memory refresh'd by a Circumstance, you see. Whither was it brought to him?

Dr. *Oates.* To *Ireland*'s Chamber.

Gavan. Who brought it, Sir?

L. C. J. An Apothecary, he says, whose Name was *Walpoole*.

Gavan. My Lord, I never saw *Walpoole* in all my Life.

L. C. J. I believe he is known well enough, such an one as *Walpoole* the Apothecary. But ask what Questions you will.

Dr. *Oates.* I cannot say whether it was *Walpoole* himself, or his Man, that brought it.

Gavan. I do as truly believe there is a God, and Heaven, and an Hell, as any one here does, as I hope for Salvation, as I hope to see God in Heaven, I never saw Mr. *Oates* before the Day in *January* when he says I had the Periwig on, and he did not know me: And as for *July*, I call God to witness, I never saw him then.

L. C. J. You were in Town in *July*?

Gavan. Upon my Salvation I was not in *London*.

L. C. J. You'll prove that by and by.

Fenwick. I hope, my Lord, we may ask him any Questions in the Court, of our Evidence, to make Things clear?

L. C. J. Yes, you may.

Turner. Did you ever see me in all your Life, before you saw me at *VVhitehal*?

Dr. *Oates.* You were then in a disguised Habit, and a nasty Periwig, and I did not know you so well.

Turner. You, at *VVhitehal*, was pleased to tell me, I went by another Name.

Dr. *Oates.* I don't value Names, but your Person: You are the Man.

L. C. J. You are the Man he says.

Turner. Did you see me at the Consult?

Dr. *Oates.* I saw the Man that speaks to me.

Turner. Who were there? and how many were present?

Dr. *Oates.* There were about forty or fifty.

L. C. J. When you have but one Name apiece, then he can hit it right; but when you have so many Names, then you are too hard for him.

Turner. Did you see me at the *VVhite-Horse*?

Dr. *Oates.* That I will not say; for when they were in lesser Clubs or Colloquies, I was sure of better Acquaintance with them.

Turner. Where was it you saw me?

Dr. *Oates.* At Mr. *Fenwick*'s Chamber.

Turner. At *Whitehal*; you said it was at *Wild-House*.

Dr. *Oates.* My Lord, because the chiefest part of the Consult sat at *Wild-House*, we call'd it all, *The Consult at Wild-House*.

L. C. J. I see your Defence will be little else but Captiousness, to disprove him in Circumstances of Time, Place, Persons, or Numbers; now all these are but little Matters to the Substance: 'Tis true, Mr. *VVhitebread*, if you can prove you were not at that Place at that Time, it will do you great Service. Have you any thing more to say to him?

L. C. J. *North.* I hope your Witnesses are in readiness, that you were speaking of, to fortifie your Testimony?

Dr. *Oates.* Yes, my Lord, they are, I desire they may be heard.

L. C. J. By and by, when occasion is.

Jury. My Lord, I desire he may be asked one Question.

L. C. J. Mr. *Garraway*, what Question would you ask him?

Jury. Where it was that he saw Mr. *Turner* at the Consult.

Dr. *Oates.* I saw him at *Fenwick*'s Chamber, where he was a Member of the Consult; and being so, I saw him Sign the Resolve of the King's Death.

L. C. J. Did you see him?

Dr. *Oates.* Yes, I did.

Sir *Cr. Levins.* Then we desire Mr. *Dugdale* may be Sworn. (which was done.) Come Mr. *Dugdale*, pray will you tell my Lord and the Jury, what you know concerning *Whitebread*, and *Harcourt*? First about *Whitebread*.

Mr. *Dugdale.* My Lord, I have very little Acquaintance with the Man, I have seen him at *Tixall*, with my old Lady *Aston*.

L. C. J. When?

Mr. *Dugdale.* I dare not speak the time, but appeal to him himself, about the truth of it.

L. C. J. Is it Years ago?

Mr. *Dugdale.* It is two or three Years ago.

L. C. J. Well what can you say against him?

Mr. *Dugdale.* Mr. *Whitebread* did write a Letter that I saw under his own Hand, inclosed in a Letter from Mr. *Groves*, to Mr. *Ewers*, wherein he gave Mr. *Ewers* a caution, to be sure to choose those that were very trusty, it was no matter whether they were Gentlemen or no, so they would be but stout and couragious: This was the purport of the Letter, I cannot say the words exactly, but that he should choose those that were hardy and desperate, or to that purpose.

L. C. J. Pray where was it you saw that Letter?

Mr. *Dugdale.* At *Tixall*.

L. C. J. How came you to see it?

Mr. *Dugdale.* Because all the Letters were directed to me, that came to Mr. *Ewers* inclosed in Mr. *Grove*'s Letters: And so I intercepted the Letter, and read it.

L. C. J. What was Mr. *Ewers*?

Mr. *Dugdale.* A Jesuit, my Confessor; for I was entertained by Mr. *Gavan* to be in the conspiracy of the King's Death, and so I was by several others.

L. C. J. You were not acquainted with Mr. *Whitebread*'s Hand, were you?

Mr. *Dugdale.* My Lord, I only came acquainted with Mr. *Whitebread*'s Hand, by seeing him write a Letter at *Tixall*, which he delivered to me to send.

L. C. J. I pray let me understand you: You say that Mr. *Whitebread* did write a Letter to Mr. *Ewers*, inclosed in one from Mr. *Grove*, wherein he advised that he should entertain lusty stout Fellows, and no matter whether they were Gentlemen, or to that effect: Now I ask you, how you do know that was *Whitebread*'s Hand? or was it his Name only that was to it.

Mr. *Dugdale.* My Lord, I saw his Name at it.

L. C. J. When you saw that Letter, had you seen his Hand before?

Mr. *Dugdale.* Yes, my Lord, I saw it to another Letter which I saw him write.

L. C. J. And that was like the Hand in the Letter to *Ewers*, was it?

Mr. *Dugdale.* Yes, I do almost positively Swear it was the same Hand.

L. C. J. But what say you to *Gavan* and *Ewers*?

Mr. *Dugdale.* There were several Consultations

in

in Mr. *Ewers*'s Chamber, my own, and at *Boscobel*, and several other Places, Mr. *Gavan* might be so ingenious to confess it.

L. C. Bar. What were those Consultations for?

Mr. *Dugdale.* For conspiring the King's Death, and introducing of Popery, Mr. *Gavan* was chiefly made use of, as a good Orator and Learned Man, and a good Scholar to perswade People into the Design; this I speak as to these Persons.

L. C. J. Pray go on Sir, for you shall have a full Scope, for you never were a Witness in any of the Trials before: and you may take your own way, and you shall be heard, you shall not be interrupted; for what you say, is very considerable.

Mr. *Dugdale.* One meeting I think was in *September* last, it was at *Tixall*, and there was my Lord *Stafford*, and several others.

L. C. J. Was *Gavan* there?

Mr. *Dugdale.* Yes, Mr. *Gavan* was there, I suppose he will not deny it.

Mr. Just. *Pemberton.* Don't rely upon that, he will deny it, you may be sure; go on. You say he was there?

Mr. *Dugdale.* Yes, and that was to carry on the Design: And I was by to hear. I think Mr. *Ireland* was in the Country then, there was you, (speaking to Mr. *Gavan*) Mr. *Peters*, Mr. *Lewson*, and Mr. *Ewers*, at this Consult, and there was another, my Lord *Stafford*, and others that I cannot now Name.

Gavan. What time?

Mr. *Dugdale.* It was in *September*, 1678.

Gavan. What Day?

Mr. *Dugdale.* I think it was 21st *September*.

L. C. J. What was that Consult and Conspiracy about, in short?

Mr. *Dugdale.* It was for the introducing of Popery, and taking away the Life of the King, I being a Person chosen out for that purpose, and was to be sent to *London* by Mr. *Harcourt*, to be under the Tuition of Mr. *Parsons*.

L. C. J. Pray who mentioned this? was that the first time that ever they discoursed of the death of the King?

Mr. *Dugdale.* No, my Lord, it was two Years ago, but I speak of a shorter time.

L. C. J. Who began the Discourse?

Mr. *Dugdale.* Mr. *Gavan* often discoursed of it, and incouraged me to it.

L. C. J. Who broke it first to you? who seemed that Principal Man?

Mr. *Dugdale. Ewers* and *Gavan.*

L. C. J. By the Oath that you have taken, Repeat it once more, for this is new to us.

Gavan. 'Tis so to me too upon my Soul, for upon my Conscience I never heard of it before.

L. C. J. 'Tis a mighty Confirmation of what was before Discovered.

Mr. *Dugdale.* But I speak to Mr. *Gavan*, and appeal to him himself.

Gavan. Look upon me with Confidence, if you can.

Lord Just. *Pemberton.* You must not threaten the King's Witnesses.

Mr. *Dugdale.* Mr. *Gavan*, I desire you to inform the Lords and all here present, whether I was not under your Tuition? And whether you knew any unjust Action by me?

Gavan. You were never under my Tuition.

L. C. J. Did you ever know him?

Gavan. Yes, my Lord, he used to come sometimes where I was, and so we were acquainted: and I lived within 11 Mile of *Tixall*, my Lord *Aston*'s, and having Acquaintance in that Family, Mr. *Ewers*, whom I know very well, I used to come there sometimes, but I never was in his Chamber in my Life. In what Room of my Lord *Aston*'s House was this Discourse?

Mr. *Dugdale.* Some of it was in the little Parlour, and some in Mr. *Ewers*'s Chamber.

Gavan. Were any present there? And who were they?

Mr. *Dugdale.* I have told you there was Mr. *Ewers*, and Mr. *Lewson*, and Mr. *Petre*'s, and some others; and for a further Confirmation of this, That Mr. *Gavan* may know that I had a great Zeal for him, and that they did love me well, I gave them an Estate, or else I believe they would not have trusted me so well as they did. I gave them 400 *l.* to pray for my Soul, and for the carrying on of this Design, and when they told me they doubted they should want Money, I promised them 100 *l.* more for the carrying on the Work. Upon which Mr. *Gavan* promised me that I should be Canoniz'd for a Saint.

Mr. Just. *Pemberton.* Mr. *Gavan* himself?

Mr. *Dugdale.* Yes, my Lord.

Mr. *Belwood.* What do you know of any Foreign Assistance?

L. C. J. I would feign have all the World hear this; pray what was Discoursed in the Parlour in my Lord *Aston*'s House, and in *Ewers*'s Chamber?

Mr. *Dugdale.* It was about taking away the King's Life, and Introducing the *Popish* Religion.

L. C. J. By the Oath you have taken, was that their Discourse?

Mr. *Dugdale.* Yes, my Lord, They were contriving how to kill the King and Introduce Popery.

Sir *Cr. Levins.* Pray, have you heard any Discourse of an Army, or about making a Massacre?

Mr. *Dugdale.* It was spoken in my hearing, and there was some Discourse why they should expect Forces from *Beyond Sea*, and this Gentleman said (*meaning* Mr. Gavan) tho' they *Beyond the Seas* had Troubles enough upon themselves, yet if we could effect it, Men and Money would not be wanting. I will add nothing more than the Truth in what I say.

L. C. J. You deliver your Testimony like a sober modest Man, upon my word.

Sir *Cr. Levins.* What say you as to a Massacre?

Mr. *Dugdale.* My Lord, I have at some Consultations heard speak of it, but the Chief Thing that they aimed at was first, there was a Letter that came out of *Paris*, and came thro' Mr. *Harcourt*'s Hands, and so came down into the Country, to prove that it was the Opinion of them at *Paris*, and St. *Omers*, to fling all this upon the *Presbyterians*, that is, the Death of the King; That if any thing of that nature should happen, they should be ready to give the first Alarm, and give out, That it was those *Still King-killing Presbyterians*, that had done the Fact: And so they thought they should easily have brought in the *Episcopal Party* into their Company, to revenge themselves of the *Presbyterians*.

L. C. J. It was pretty Advice indeed, to have it first laid on the *Presbyterians*, that they might get *Protestants* to joyn and cut them off, and then their own Throats should be cut.

Mr. *Dugdale.* And then my Lord, there was to be a Massacre; and if any did escape, that they could not be sure of were *Papists*, they were to have an Army to cut them off.

Mr. *Belwood.* Did he ever use any Arguments to you, to prove the Lawfulness of the Design?

Mr. *Dug-*

Mr. *Dugdale.* Yes, my Lord, he hath, and ſhewed me ſeveral Examples for confirming me in it.

L. C. J. What, for killing the King?

Mr. *Dugdale.* For the killing of any, to introduce their own Religion.

Mr. *Belwood.* Pray, will you name ſome.

Mr. *Dugdale.* He endeavoured to prove it by Scripture, I can't now call the Text to mind; but it was to ſhew, how it was lawful and good to deſtroy any for the Advantage of their Religion, and then he ſhew'd the Example of Father *Garnett.* How ſeveral of his Reliques being *Beyond Sea,* Great Miracles had been done by them.

L. C. J. And ſo now there is by St. *Coleman* too.

Sir *Cr. Levins.* What Letters have you received from Mr. *Harcourt?*

Mr. *Dugdale.* I have received ſeveral Pacquets of Letters from ſeveral Perſons *Beyond Seas,* which were, by his Inſtruction, communicated by Mr. *Grove,* to Mr. *Ewers,* which Letters did contain Treaſon in them, for the introducing of Popery, and killing and deſtroying the King.

L. C. J. How can you tell that?

Mr. *Dugdale.* Mr. *Harcourt* hath given it under his own Hand, and I have intercepted the Letters, and read them.

L. C. J. You were acquainted with the Hand.

Mr. *Dugdale.* Yes, my Lord.

L. C. J. You read the Letters?

Mr. *Dugdale.* Yes, my Lord, I did.

L. C. J. How many Letters have you intercepted? Have you intercepted Twenty?

Mr. *Dugdale.* Yes, 100 my Lord? Mr. *Harcourt* was the firſt that gave intelligence into the Country (as I know of) of the Death of Sir *Edmund-bury Godfrey.*

Sir *Cr. Levins.* Tell when it was given and how.

Mr. *Dugdale.* I have made it out already upon Oath, and I have Witneſſes to prove it.

Sir *Cr. Levins.* Pray Sir tell it now.

Mr. *Dugdale.* It was directed to Mr. *Ewers,* and it was three Days before he was found, for it was received on the *Monday,* and he, as it is proved, was killed on the *Saturday.* The words were theſe, *This very Night Sir* Edmond-bury Godfrey *is diſpatched.* And I very much rejected Mr. *Ewers* for this Action, and then told him, This will overthrow the Deſign, or I will be hanged.

L. C. J. What Day did you receive the Letter?

Mr. *Dugdale.* I have proved I received it on a *Monday.*

L. C. J. But pray what Date did it bear?

Mr. *Dugdale.* That Letter muſt come by *Saturday* Poſt, for it ſaid, *This Night Sir* Edmond-bury Godfrey *is diſpatched.*

L. C. J. He did not name any Body, by whom?

Mr. *Dugdale.* No, but it ſaid he was kill'd, and we knew by whom.

Mr. Juſt. *Pemberton.* And are you ſure that was Mr. *Harcourt's* Letter?

Mr. *Dugdale.* Yes; for he did uſually ſign his Letters with two Letters *W. H.* which ſtood either for *Harcourt,* or *Harriſon.*

Mr. *Belwood.* Did you acquaint any Body with this, or did you conceal it?

Mr. *Dugdale.* I did go to an Alehouſe that is hard by my Lords the next Day, which was *Tueſday,* and there I asked, If they did not hear ſome News of a Knight's being kill'd at *London?* And I have an Evidence here, if your Lordſhip pleaſe, I will call him, who, I deſire, may teſtifie the ſame thing.

L. C. J. Yes by all means.

Sir *Cr. Levins.* Mr. *Dugdale,* Pray, will you give us ſome more account of the Letter that came from Mr. *Whitebread* to Mr. *Ewers.*

Mr. *Dugdale.* I remember one particularly, but I cannot tell what number I have ſeen.

Sir *Cr. Levins.* Did you ſee more than that one?

Mr. *Dugdale.* I particularly remember that.

L. C. J. What was that one particularly?

Harcourt. My Lord, I deſire to ask him one Queſtion, When was the laſt time that you received any Letters from me?

Mr. *Dugdale.* The laſt I received from you (to my beſt remembrance) was that about Sir *Edmund-bury Godfrey,* and it was in *October.*

Harcourt. I have not writ to that Perſon this Year and half.

L. C. J. Let that Man be called, that proves this buſineſs of the Death of Sir *Edmund-bury,* and the talk of it.

Mr. *Dugdale.* Mr. *Harcourt,* you know very well, that when Mr. *Ireland* was laſt in the Country laſt Year, you were to ſend him the Anſwers that came by Letters from St. *Omers,* and thoſe were ſent down to my Lord *Aſton's,* and I ſaw them, eight of thoſe Letters, I am ſure. And I can prove it by one Circumſtance, two of them came relating to Mr. *Edward Aſton's* Death, from *Paris*; I intercepted them, and talking of it, that I could Conjure, and tell of the Death of Mr. *Edward Aſton,* before any of his Friends knew of it. And Mr. *Ireland* writ a chiding Letter about it, that he had not heard it ſooner, and you ſent down word, That you did write thoſe Letters, and yet you ſay you have not written to me of a Twelve-month, or more.

Harcourt. This Gentleman does pretend to know my Hand, and 'tis true, I have writ ſeveral Letters for Mr. *Ewers,* and directed to him; but as to this Time he ſpeaks of, I have left off Writing for divers Years. He pretends to know me, and yet this Gentleman before the Committee of Commons in Parliament, which was Yeſterday was five Weeks, as well as he knew my Hand, came and ſaid I was a Gentleman he did not know. He came alſo to entrap me at the *Gatehouſe* before thoſe Gentlemen of the Committe of the Houſe of Commons; but becauſe he ſaid he knew my Hand ſo very well, and teſtifies thoſe Expreſſions in the Letter, I muſt ſay this, I never did write any ſuch Letter, nor did I ever in my Life ſeem to approve of any Man's Death or Murder. But the thing is this, he pretends to know my Hand and to prove it, the Gentlemen deſired me to write my own Hand and my Name, and he in the mean time did withdraw, and three of them did write their Names, and afterwards they called him in again, and asked him which was *Harcourt's* Hand, and he was not able to ſay which it was.

L. C. J. You write more Hands, as well as have more Names, and can counterfeit your Hands as well as change your Names.

Mr. Juſt. *Pemberton.* You ſpeak before your time, and your bare word goes for nothing.

L. C. J. But, Mr. *Dugdale,* where is your Witneſs?

Harcourt. I don't know any thing of this.

L. C. J. But if he calls up a Witneſs, of whom you can have no Suſpicion, that can teſtifie, that at this time Mr. *Dugdale* ſpoke about the Death of Sir *Edmund-bury Godfrey,* what will you ſay to that?

Harcourt. I believe there is no ſuch thing at all.

Sir

Sir *Cr. Levins.* My Lord, here it Mr. *Chetwin*, pray ſwear him? (which was done.)

L. C. J. Mr. *Chetwin*, Do you remember that Mr. *Dugdale* came to you any time laſt Summer, and what time, and what Diſcourſe had you.

Mr. Chetwin. My Lord, if your Lordſhip pleaſe, I was moſt part of the Summer in the Country, I came into *Staffordſhire* about the 29th of *Auguſt*. My Lord, there is a Gentleman, one Mr. *Sanbidge*, that is a Kinſman of my Lord *Aſton's*, that was very well acquainted with the Family where I was, which was half a Mile off my Lord's, and uſed to come and play with me at Tables. My Lord, at that very time in *October* he came to me, and there, ſays he, Do you hear nothing of a Juſtice of Peace in *Weſtminſter*, where you Live, that is killed? or to that effect. No, ſaid I, and I had Letters yeſterday, and heard nothing of it. Saith he, I was this Morning at *Elds*, and there a Girl of the Houſe told me, Mr. *Dugdale* had been there, and reported that there was a Juſtice of Peace of *Weſtminſter* was killed; but who he ſhould be I never heard named, and on *Saturday* following my Letters brought it down to me.

L. C. J. When was it that this was ſpoken?

Mr. *Chetwin.* It was *Tueſday* Morning, (as I remember) and that by a very good circumſtance, I went that day for *Litchfield*, and the *Saturday* after the News came to me to *Litchfield*, that Sir *Edmund-bury* was found Murdered.

L. C. J. The Jury would do well to obſerve this in point of Time, Sir *Edmund-bury Godfrey* was kill'd, as it was ſince proved, a *Saturday*, but on *Monday* he was miſs'd, on *Thurſday* he was found, and on *Saturday* the News was ſpread all over the Country. Now, ſaid he, the *Tueſday* before the News came down, which muſt be the *Tueſday* after the *Saturday* he was kill'd, one comes from the Alehouſe and asks, Do you not hear of a Juſtice of Peace at *Weſtminſter* that is kill'd? for the Wench at yonder Alehouſe ſays, Mr. *Dugdale* was here this Morning and reported ſuch an one was kill'd. So that it is moſt notorious, as any thing in the World can be, that this thing was known to them, before any of us knew what was become of him.

Mr. Juſt. *Pemberton.* How do you further know it to be upon *Tueſday*?

Mr. Chetwin. I know it to be that *Tueſday*, my Lord, very well, for we all went about ſuch a time to my Couſin's Mother, to ſtay a Week there, and after I returned back, and on *Tueſday* the 15th of *October* I went to the Race to *Litchfield*, and ſtay'd till *Saturday* there, and came thence to *London*, and was here the *Wedneſday*, being the firſt Day of the Term. But I remember particularly the firſt Information Mr. *Dugdale* gave in the Country, came to my Couſin's Hands from the Mayor of *Stafford*, and I happen'd to ſee him, I think it was *Chriſtmas*-Day. It came incloſed in a Letter, upon the Apprehenſion of Mr. *Dugdale*, I remember I met him, and he told me of it, and, ſaid he, the Parliament did not ſit that Day: So he went to acquaint the Lord Lieutenant of the County, that is, the Duke of *Monmouth* with it, who carried it to the King. But when Mr. *Dugdale* was ſent for, my Couſin went down, and writ me a good Character of him. As ſoon as ever *Dugdale* came to Town, before he went to be examined by the Council, as I remember, I went with ſome Gentlemen to ſpeak with him, and ſaid I to him, *Can you ſay any thing about Sir* Edmund-bury Godfrey's *Death?* Said he, *I remember ſuch a Letter came at ſuch a time from Father* Harcourt *to Father* Ewers, *wherein were theſe words; This Night Sir* Edmund-bury Godfrey *is diſpatched.* And, ſaid he, *I remember I asked the Queſtion of* Ewers, *Is not this likely to ſpoil all the Deſign? No,* ſaid he, *he was a Man that proſecuted Perſons that went to debauch'd Houſes, and it will be ſaid to be ſome of them that did revenge themſelves of him*; or words to the ſame effect. This made me recollect the Time I had the Diſcourſe with the Gentlemen in the Country, I happened to be out of Town when the Murtherers of Sir *Edmund-bury Godfrey* were Tryed; as ſoon as I came to Town, and found that the Murtherers of Sir *Edmund-bury Godfrey* were Condemned, I was at a Coffee-houſe enquiring how it was managed; ſome I found ſlighted it, others did not know what to make of it. *Was not Mr.* Dugdale *there?* ſaid I. *No,* ſaid they. *Then I preſume,* ſaid I, *that a very material Evidence was omitted.* Upon this I went to Mr. *Dugdale's* Chamber, and there, ſaid I to him, *What was the Reaſon you were not produced as an Evidence, at the Tryal of Sir* Edmund-bury Godfrey's *Murtherers?* Said I, *You told ſuch a thing, and I hope you told Truth, for I don't hear that you have ever contradicted it, that you ſaw a Letter about the* Monday *after he was murthered. In my judgment it is very material, if you have ſworn it; if your Depoſition be true, or elſe you did ill to report it.* Said I, *Pray let me ſee the Copy of your Depoſition ſworn before the Council.* He ſhew'd it me, and there was not a Syllable of it, that I could ſee, but afterwards appear'd to be there.

L. C. J. That is not very material, if the thing it ſelf be true.

Mr. *Chetwin.* But its not being there, made me remember it.

Mr. *Recorder.* Pray ſet up Mr. *Dugdale* again. Now pray tell the Contents of Mr. *Whitebread's* Letter.

Mr. *Dugdale.* The Contents of it was, to encourage Mr. *Ewers* to go on to be careful whom he did intruſt, that they ſhould be ſuch Fellows as were deſperate, hardy, couragious and ſtout, or to that purpoſe; it was no matter whether they were Gentlemen or no, ſo they were but courageous and deſperate.

Mr. Juſt. *Atkins.* What were they to do?

Mr. *Dugdale.* For the killing of the King.

L. C. J. Was that in *Whitebread's* Letter?

Mr. *Dugdale.* Mr. *Whitebread* did write thoſe words, they were in the Letter.

Whitebread. Was that very word in the Letter, *for killing the King?*

Mr. Dugdale. It was, that they ſhould be ſtout and couragious Perſons.

L. C. J. For what End?

Mr. Dugdale. It was for taking away the King's Life.

L. C. J. I ask you, recollect your ſelf, was it by way of deſcription of ſome Deſign or Plot, that thoſe Perſons were to be choſen out? or was it in downright words, *for killing the King?*

Mr. Dugdale. To the beſt of my remembrance they were thoſe very words.

L. C. J. It was much he would write ſuch words in a Letter.

Mr. Dugdale. I was one that was made choice of about it.

Mr. Juſt. *Pemberton.* Were you to be one?

Mr. Dugdale. Yes, I was.

Mr. Juſt. *Pemberton.* Mr. *Gavan*, you know who it was you entertain'd for this Buſineſs, and you could truſt them.

L. C. J.

L. C. J. How were theſe Letters conveyed? Were they ſent by the Ordinary Poſt?

Mr. *Dugdale.* Yes, they were, and they truſted me with them, becauſe, being directed to me, if they were intercepted, I ſhould be hang'd, and they ſaved.

Mr. Juſt. *Pemberton.* Upon theſe Letters, what were you entertained to do?

Mr. *Dugdale.* My Lord, I was entertained before by my Lord *Stafford*, and Mr. *Ewers*.

Mr. Juſt. *Pemberton.* What to do?

Mr. Dugdale. To kill the King.

Whitebread. Pray, Sir, how came you to ſee theſe Letters? Did you intercept them, and read them your ſelf?

Mr. Dugdale. I did intercept them, and open them of my own ſelf.

Whitebread. Pray take notice of what he ſays, Gentlemen.

Mr. Recorder. The Jury do take notice.

L. C. Baron. Do you know any thing againſt Mr. *Turner* and Mr. *Fenwick?*

Mr. Dugdale. Mr. *Ewers* hath told me by Word of Mouth, that he was to carry on the Deſign in *Worceſterſhire*, but I ſaw him with Mr. *Ewers* and *Lewſon*, and others, when he was going to his Brother *Turner*'s, then in *Nottinghamſhire*, and they did conſult and agree there, in my Hearing, to all that I have ſaid before.

Turner. What did I aſſent to?

Mr. Dugdale. Why this Deſign, you and Mr. *Ewers* and *Lewſon*, and others, agreed to what I ſaid before.

Turner. Where was this?

Mr. Dugdale. At *Tixall* and other Places.

Turner. In what Month?

Mr. Dugdale. It was about two Years ago, about the beginning of the Buſineſs.

Turner. Where was it?

Mr. Dugdale. It was at Mr. *Ewers* Chamber, you know me very well.

Turner. I have not been in *Staffordſhire* theſe four Years.

L. C. J. Why, don't you know him, Mr. *Turner?*

Turner. I do know I have been there a matter of three or four times in my whole Life, but have not been there theſe four Years.

Mr. Juſt. *Windham.* Have you any thing to ſay againſt *Fenwick?*

Mr. Dugdale. I don't know that I ever ſaw him before.

Mr. Recorder. But he ſpeaks fully as to the other Four.

Sir *Cr. Levins.* Call Mr. *Prance*, and ſwear him. *Which was done.*

Sir *Cr. Levins.* Come on, Mr. *Prance*, What can you ſay to Mr. *Fenwick*, or any of the others?

Mr. Prance. Mr. *Harcourt*, I made him an Image of our Lady about a Year ago, and when I was receiving Money for it, (it was to be ſent into *Maryland*) you told me then that there was a Deſign of killing the King.

L. C. J. Who told you?

Mr. Prance. Mr. *Harcourt*, that very time.

Sir *Cr. Levins.* When was it?

Mr. Prance. It was when it was ſent to *Maryland*, in the *Portugal*'s Country; you know it well, Mr. *Harcourt*.

Harcourt. I know nothing of it.

Sir *Cr. Levins.* Pray let him alone, till we have done with him.

Harcourt. I deſire but to know when it was.

Mr. Prance. When I received the Money for the Picture, it was a Year ago.

Sir *Cr. Levins.* What ſay you to Mr. *Fenwick?*

Mr. Prance. I was in Mr. *Ireland*'s Chamber in *Ruſſel-ſtreet*, and there was *Ireland*, *Fenwick*, and *Grove*, and they were talking of 50000 Men that ſhould be raiſed, and be in readineſs to carry on the Catholick Cauſe, and ſettle the Catholick Religion. I asked who ſhould Govern them? They told me, my Lord *Bellaſis*, my Lord *Powis*, and my Lord *Arundel*.

L. C. J. Who told you ſo?

Mr. Prance. Mr. *Fenwick*.

L. C. J. How long ago?

Mr. Prance. About a Fortnight *Michaelmas* laſt. Mr. *Grove* came to me two or three Days afterward, to buy two or three Silver Spoons to give away at a Chriſtning, and then I asked him, What Office he ſhould be in? He told me, He could not tell: But he told me, My Lord *Arundel*, my Lord *Bellaſis*, my Lord *Petre*, and my Lord *Powis*, had Commiſſions for theſe Things to give.

L. C. J. This *Grove* told you?

Mr. Prance. Yes, my Lord.

L. C. J. But what did *Fenwick* tell you?

Mr. Prance. He told me who were to Govern the Army, my Lord *Bellaſis*, my Lord *Powis*, and my Lord *Arundel* of *Wardour*.

Sir *Cr. Levins.* Had he any Diſcourſe with you about Trade?

Mr. Prance. He ſaid, I ſhould not fear Trade, I ſhould have Church-work enough.

Mr. Belwood. Pray ſpeak that again.

Mr. Prance. I asked him, What ſhall we poor Tradeſmen do, if we have Civil Wars in *England?* O, ſaid he, you need not fear having Trade enough, you ſhall have Church-work enough, to make Images, Chalices, and Crucifixes, and Vaſes, and ſuch like Things.

Mr. Belwood. If you will ask Mr. *Prance* any Queſtions, pray do.

Fenwick. My Lord, I am certain of this, that he never ſaw me at Mr. *Ireland*'s Chamber, in that Company, nor did I ever ſpeak of any ſuch Thing before him.

Mr. Prance. Mr. *Ireland* and he have been ſitting together whole Hours, and conſulting about ſome Concern or other, Miſchief, no doubt. My Lord, I went to Mr. *Fenwick*'s Chamber, after my Ghoſtly Father was dead.

L. C. J. What was his Name?

Mr. Prance. Father *James*. And he importuned me to come to Confeſſion to him; I told him, I was not yet very well ſatisfied who I ſhould go to, to be my Ghoſtly Father.

Fenwick. When was this, Mr. *Prance?*

Mr. Prance. Before *Michaelmas*, about a Week or Eight Days.

L. C. J. Did not you know him, Mr. *Fenwick?*

Fenwick. Who, Father *James?* yes, very well, and I know Mr. *Prance*, but not upon that Account.

Mr. Prance. And I brought you a Bell home, for the Altar, at the ſame Time.

Mr. Juſt. *Pemberton.* Who was it importuned you to have him for your Confeſſor?

Mr. Prance. It was Mr. *Fenwick*; and I told him, when I did come to Confeſſion, I would come to him. And he injoined me, once or twice, to ſay nothing of what I heard ſaid.

L. C. J. If *Harcourt* have any Queſtions to ask him, let him.

Harcourt. Can you ſay that ever I ſpoke to you about any ſuch Buſineſs?

Mr. Prance. Yes, as ſure as I ſtand in this Place, and you in that. And one *Thompſon* came with you, when you paid me for four Candleſticks.

L. C. J. Do you know Mr. *Thompſon?*

Harcourt. Yes, I do.

L. C. J. Had you any Candleſticks from Mr. *Prance?*

Harcourt. I had, a great while ago.

Mr. Prance. He paid me 44 *l.* that Time for them.

Mr. Recorder. Call Mr. *Bedlow.* *Who was Sworn.*

Sir *Cr. Levins.* What can you ſay to any of the Priſoners at the Bar?

L. C. J. What can you ſay, as to Mr. *Whitebread* and Mr. *Fenwick?*

Mr. Bedlow. My Lord, I do not queſtion, but Mr. *Whitebread* and Mr. *Fenwick* will object againſt me, my refuſing to give in Evidence againſt them at the former Trial, but I think that there are ſome upon your honourable Bench, that can make my Apology for not giving in all my Evidence againſt them then; for it was not convenient, becauſe it would have ſtopt a Deſign I was then upon, and could not get off from, that was about Mr. *Reading*, whom I was then treating with, for Mr. *Whitebread* and Mr. *Fenwick*, as well as the Lords in the *Tower*, and he told me, that he would depend upon my Confidence and Juſtice as to the Lords, according as I did deal with theſe Men; if I brought them off, he would believe, and the Lords in the *Tower* would believe that I would bring them off too. So that I did make an Apology then in the Court, that I could not ſafely ſay all that I had to ſay at that Time. Some of the Juſtices, I believe, do remember it, and in that which I did give in againſt them, I did not ſay all, nor half, that I could have ſaid.

Whitebread. Did you ſay any thing of that at the laſt Trial?

Mr. Bedlow. I will anſwer that Matter to the Court, but 'tis the Meaſure they always take to intrap the Witneſſes; for now I am out of a Country that will give me an Indulgence and Diſpenſation to ſpeak exactly to a Day, or an Hour, as their St. *Omer's* Witneſſes have.

L. C. J. But what ſay you now to them?

Mr. *Bedlow.* I did then ſay, that I did ſee Mr. *Whitebread*, and he hath been in ſeveral Conſultations for the carrying on of the Plot; but then I did it with a Caution, that I never heard of Mr. *Whitebread*, that he was ſo very much concerned; and indeed I had no Reaſon to ſay ſo, becauſe I heard him my ſelf, and could not well ſpeak from the Hear-ſay of another. And as for Mr. *Fenwick*, I never heard him give in any Anſwer, but I have ſeen *Fenwick* at the Conſult there.

L. C. J. Have they ever told you any thing concerning the killing of the King?

Mr. *Bedlow.* *Whitebread* told *Coleman*, at Mr. *Harcourt's* Chamber, the Manner of ſending the four Ruffians to *Windſor*, about *September.*

Harcourt. I never ſaw him twice in all my Life, before.

Mr. *Belwood.* Do you know of any Reward thoſe Ruffians were to have?

Mr. *Bedlow.* Yes, I ſaw *Harcourt* take the Money out of a Cabinet, I think it was Fourſcore, or One Hundred Pounds; the Summ I don't well remember. *Harcourt* paid them the Money, by Mr. *Coleman's* Order, and gave the Meſſenger a Guinea from Mr. *Coleman*, to drink his Health. Mr. *Coleman* was gone a little before I came in, and ſo I could not know that *Coleman* gave it, but he ſaid ſo.

Sir *Cr. Levins.* What was *Pickering* and *Grove* to have?

Mr. *Bedlow.* *Grove* was to have 1500 *l.* and a Promiſe of the Favour of the Lords: 1500 *l.* was the Sum appointed at Mr. *Harcourt's* Chamber, and doubtleſs in ſeveral other Places, but there I heard it from Mr. *Whitebread*, and *Pritchard*, and *Le Faire*, and *Kaines*; and *Pickering* was to have a Number of Maſſes, I can't tell exactly how many, but they were ſo many, as at 12 *d.* a Maſs would amount to be equal to Mr. *Grove.*

Mr. *Belwood.* Pray, Sir, what was that for?

Mr. *Bedlow.* For killing the King. But *Pickering* had been diſciplined before, and received a Check from the Superiors, becauſe he had been negligent, and ſlipt many Opportunities. One Time the Flint of his Piſtol was looſe, another Time there was no Powder in the Pan, another Time, he had Charged with all Bullets, and no Powder.

L. C. J. Did you ſee *Harcourt* deliver the Guinea, for the Expedition of the *Windſor* Buſineſs?

Mr. *Bedlow.* Yes, my Lord, as from *Coleman*, to drink his Health.

Mr. *Belwood.* Pray, was either *Whitebread* or *Fenwick* knowing of the Agreement, when it was ſpoken of?

Mr. *Bedlow.* I have ſeen *Fenwick* at *Harcourt's* and *Whitebread's* Chamber, when it was ſpoken of; they were all of one Opinion, they had decreed it. I never ſaw *Whitebread* but twice at *Harcourt's* Chamber, where one time was *Harcorrt* himſelf, at another time was *Pritchard*, and *Le Faire*, and others; at which Time Sir *George Wakeman's* Buſineſs was ſpoken of, and becauſe he would not accept the 10000 *l.* 15000 *l.* was agreed to be given him; and upon Sir *George's* Trial, I ſhall let you know where he had the Money too, but I deſire to be excuſed at preſent. I ſhall ſpeak it to Morrow.

L. C. J. What did they conſult there?

Mr. *Bedlow.* They were Conſulting how it ſhould be done, and what ſhould be done, if they did not do it. Then *Ireland* propoſed, that the moſt certain Way was to do it at his Morning-Walks in *New-Market*; *Fenwick* was to go, and with him went *Conyers*; I heard Seven or Eight of them were to go.

L. C. Baron Montague. What ſay you to *Turner?*

Mr. *Bedlow.* Of Mr. *Turner*, I know nothing, but what I have heard others ſay.

L. C. Bar. What ſay you to *Gavan?*

Mr. *Bedlow.* I know nothing of him, but only I have heard Mr. *Harcourt* ſay he hath been a great Manager of this Buſineſs.

L. C. J. That is nothing to the Purpoſe, what others ſay.

Mr. *Bedlow.* Mr. *Harcourt* is no Stranger to my bringing of Pacquets and Portmantles over to him, from *Beyond the Seas.*

Harcourt. He never brought but one in all his Life-time.

Mr. *Bedlow.* What, Did I never bring but one Pacquet? Have not I brought divers, and divers Portmantles?

Harcourt. You never brought a Portmantle in your Life.

Mr. *Bedlow.* I have brought divers.

Harcourt. You know I never ſaw you but twice in my Life, before to Day, and when I met with you at the Privy-Council.

Mr. *Bedlow.*

Mr. *Bedlow*. My Lord, the Trials have been ſo put off, that I could never get all my Witneſſes together, but I have Seven or Eight of my Witneſſes that are out of Town, that would make this very clear. My Lord, there was never a Pacquet of Letters that I brought over to Mr. *Harccurt*, but did contain in it a Deſign of the Subverſion of the Government; and it muſt be more than two Pacquets that I have brought over; for I have brought Letters from *Watton*, and Letters from *St. Omers*, and Letters from *Bruges*, and from *Paris*, and from *Valledolid* and *Sallamanca*; and all theſe Letters contained in them the Management of this Plot, how far they had proceeded beyond Sea, and Anſwers how far they had proceeded in *England*, from him, and to them, to and again, from Time to Time, in carrying on the Deſign of Subverting the Government, and altering the Religion; wherein was given an Account of the Army and Forces that were to be raiſed, both Here, and Beyond Sea; what Contributions were made, or expected, at Home, or Abroad, all was lodged in Mr. *Harcourt*'s Hands, at leaſtwiſe an Account of the greateſt part. And I have been ſent to Mr. *Langhorne* with Papers from *Harcourt*, about this Affair, to Regiſter them; and of that I ſhall give you an Account, upon Mr. *Langhorne*'s Trial.

L. C. J. Well now ask him what you will.

Whitebread. Sir, I deſire to ask you one Queſtion.

Mr. Bedlow. I deſire it may be asked the Court.

Whitebread. I deſire to ask him whether he was a Lieutenant in *Flanders* or no?

Mr. Bedlow. Yes, I was.

Whitebread. Of Horſe or Foot?

Mr. Bedlow. Of Foot.

Whitebread. Take notice, there is no ſuch Officer of Foot in all *Flanders*.

Mr. Bedlow. I was then in the Regiment of the Prince of *Freizland*.

Whitebread. There are no Lieutenants in all the *Flanders* Companies, only Captains and Alfara's.

Mr. Bedlow. My Lord, I had a Commiſſion, and I have a Commiſſion to be ſo, and I deſire I may ſend for it.

L. C. J. It is no very material Thing, as ſoon as it comes, they ſhall ſee your Commiſſion.

Harcourt. You ſay you have had Papers from me, and been very familiar with me; Pray how can this be, when, as I did declare before the Lords in Council, that was the third Time I ever ſaw your Face? The firſt Time he came to me, he brought Letters from *Dunkirk*, five Years ago; when I opened them, I found them directed to other Perſons, and to them I ſent them, my Name being only uſed in the outſide Cover; and it ſeems upon that Confidence that he had in me at that time, not long after, he came to my Chamber, and told me, He had lately become a *Roman* Catholick, and by that means had loſt his Friends, and that he then was in Want, and, unleſs I did aſſiſt him, it would be very hard with him; tho' his Father diſſerted him, yet he had ſome Friends, whom he expected would do ſomething for him, and then I will repay you.

L. C. J. When was this?

Harcourt. The ſecond Time that I ever ſaw him in all my Life, and this is four Years ſince. Then ſaid I, What will ſerve your Turn? He told me, 20*s.* which I lent to him; and I never ſaw his Face afterwards, till I met him at the Privy-Council; and therefore, how ſhould a Man believe a Word he ſays?

L. C. J. But how ſhall a Man know, that what you ſay is true?

Mr. *Bedlow*. I will make it appear, at the Trial of the Lords, that I ſent to him for 10 *l.* and had it, I cannot now prove it, without bringing ſome Witneſſes that I have behind a Curtain, and I will not diſcover them till then, they ſhall not know who they are.

Mr. Juſt. *Windham*. Will you ask him any Queſtions?

Mr. *Bedlow*. My Lord, I have not ſaid the One hundredth Part of what I can ſay, honeſtly, and like a Chriſtian, of Mr. *Harcourt*.

Harcourt. You may ſay what you will, but you won't ſpeak Truth.

Mr. *Bedlow*. Mr. *Harcourt* went with me to Mr. *Coleman*'s, when I carried over the Conſult. There was the greateſt part of the Deſign, in that which I was to carry over to St. *Omers*, and that Conſult did I fetch from Mr. *Coleman*, and Mr. *Harcourt* was with me, and I had Thanks from Mr. *Coleman* for my Fidelity in the Buſineſs, and Expedition in bringing and carrying the Pacquets. I was recommended to my Lord *Arundel*, by Mr. *Harcourt*, and was promiſed, by his Lordſhip, all the Friendſhip and Favour imaginable, when the Times were turned.

L. C. J. Why here, you ſee, he names ſeveral Places, and Times, wherein he met with you.

Harcourt. Not one Word of all this is true.

Mr. *Bedlow*. I deſire you to ask Mr. *Harcourt*, my Lord, Whether he was not, in *Auguſt*, or *September* laſt, in Company with me and *Le Faire*?

Harcourt. *Le Faire!* I know no *Le Faire*.

Mr. *Bedlow*. *Le Fevre*, then.

Harcourt. *Le Fevre*, I believe I did ſee at that Time, but not ſince.

Mr. Bedlow. *Pritchard* did recommend the Care of me to him.

L. C. J. There, he names another Time, when you and *Pritchard* were there together.

Mr. Bedlow. *Pritchard* was my Confident, and my great Friend, and told them, This is a Perſon whoſe Fidelity you have tryed, in carrying over ſuch and ſuch Letters, and therefore you may very well truſt him, and take care of him: And ſo he recommended me, as one that was really fit to underſtand the Bottom of the Deſign. And *Pritchard* did tell me, before them, that the King's Death was intended as a part of it; and he ſent again another Time to Mr. *Harcourt*, but it was about no material Buſineſs; and *Harcourt* gave a Bill of Exchange to carry to what Citizen I don't know, but to Sir *George Wakeman*, to have 2000 *l.* by whoſe Orders, as they ſaid, your Lordſhip ſhall know upon his Trial, but I ſaw *Harcourt* give him the Bill of Exchange.

Mr. Juſt. *Dolben*. Who gave the Bill?

Mr. Bedlow. It was *Harcourt*, my Lord.

Harcourt. Who was by, when this Bill was given?

Mr. Bedlow. *Kaines*, and Sir *William Anderſon*.

Harcourt. How was this Bill drawn?

Mr. Bedlow. It was drawn upon a Citizen, and left in your Hands.

Harcourt. I deſire he may name the Citizen, and, if he can, make it out; if he do, it will appear upon the Merchants Books.

Mr. Bedlow. Sir *George Wakeman* received a Bill of Exchange from Mr. *Harcourt*, and he was told, Here is a Bill of Exchange for 2000 *l.* as part of a greater

greater Summ; to which Sir *George Wakeman* answered, That 15000 *l.* was a small Reward for the settling of Religion, and preserving of the Three Kingdoms from Ruin; but if it were not for such a Woman, he would never undertake it, but for her he would do any thing. And after he had given Sir *George Wakeman* the Bill, Sir *George Wakeman* opened it, and read it, but I did not read the Name that was to it.

Fenwick. My Lord, it seems not sufficient Proof, that he says, he saw a Bill of Exchange, unless he says from whom, and to whom, that it may be proved by the Books, or otherwise.

L. C. J. You say well, Mr. *Fenwick*, if so be he had been the Person concerned in the Bill, that he were either one that drew it, or was to receive the Money, then it were strange that he should not know the Parties to it; but I must tell you, where he was not one nor the other, it was a collateral Matter. Do People take notice of every particular Bill of Exchange that they see, which they are neither to pay nor receive?

Fenwick. But what Reason does he give your Lordship, or the Jury, to believe that there was such a Bill, unless he does produce either the Bill, or the Person that paid it?

Mr. Bedlow. I did only see the Bill out of Mr. *Harcourt*'s Hand, but it was read there only by Sir *George Wakeman*.

L. C. J. Is it a Pin matter, whether there was such a Bill or no, or whether he had mentioned it or no?

Fenwick. But seeing he hath mentioned it, I say there is nothing of Proof of it, but only his bare Word.

L. C. J. Yes, there is his Oath.

Sir *Cr. Levins.* And I desire the Jury to take notice how unreasonable a Thing it is that you ask. You would have Mr. *Bedlow* produce the Bill of Exchange, that was given to Sir *George Wakeman* to receive Money.

Mr. Bedlow. I have only one Word more. Sir *George Wakeman* received the Bill of Exchange from Mr. *Harcourt*, read it himself, folded it up, and went and received the Money; and that the Court will be pleased to see my Commission, for now I have it here.

Which was read, by my Lord Chief Justice North, *and several others.*

Sir *Cr. Levins.* We have only this one Matter to trouble your Lordship and the Jury with. You perceive by the Evidence that hath been given, that the main Matter begins at the Consult of the 24th of *April*, when the Consult was; now to fortify this Evidence, we are now to produce a Letter, that was written from one *Petre*, a St. *Omers* Jesuit, wherein is mention made, that he was to give Notice, Mr. *Whitebread* had appointed a general Meeting, just at that Time, in *London*, at which they were to consult of very great Matters; and they were to be very private in their coming to, and appearing about the Town. And this Letter was taken amongst Mr. *Harcourt*'s Papers, and to prove it, we call Sir *Thomas Doleman.* Who was Sworn.

Sir *Cr. Levins.* Pray what can you say where this Letter was found?

Sir *Thomas Doleman.* It was found amongst Mr. *Harcourt*'s Papers, in a Bag of his Papers that was committed to my Care to search.

L. C. J. Can you tell what Day you found it?

Sir *Thomas Doleman.* It was a matter of six or seven Days after Mr. *Oates* had given his Information of this Plot to the Council.

Harcourt. What Paper is it?

Mr. Just. *Atkins.* Hear it first.

L. C. J. It is a Letter found amongst your Papers.

Harcourt. Who is it from?

L. C. J. It is from one Mr. *Petre*, do you know such a one?

Cl. of the Cr. It is subscribed, *E. P.*

Harcourt. Yes, my Lord, I do; I will deny nothing of the Truth.

Then the Letter was read, *in hæc verba.*

Honoured Dear Sir.

I Have but Time to convey these following Particulars to you. First I am to give you notice, that it hath seem'd fitting to our Master Consult, Prov. &c. *to fix the* 21st *of* April *next*, Stilo veteri, *for the Meeting, at* London, *of our Congregation; on which Day, all those that have a Suffrage, are to be present there, that they may be ready to give a Beginning to the same on the* 24th, *which is the next Day after St.* George's Day: *You are warned to have* jus suffragii, *and therefore, if your Occasions should not permit you to be present, you are to signify as much, to the end, others, in their Ranks, be ordered to supply your Absence. Every one is minded also, not to hasten to* London *long before the Time appointed, nor to appear much about the Town, till the Meeting be over, lest Occasion should be given to suspect the Design. Finally, Secrecy, as to the Time and Place, is much recommended to all those that receive Summons, as it will appear of its own Nature necessary.*

Tertio pro Domino Solono Disco.
Benefact. Prov. Lunensis.

I am straitned for Time, that I can only assure you, I shall be much glad of obliging you any ways.

SIR,
Your Servant,
Edward Petre.

L. C. J. Come, now, Mr. *Harcourt*, will you expound this Letter to me, that speaks of this Meeting and Privacy?

Harcourt. Yes, my Lord, tho' it was not my Letter, yet I will tell you what the Meaning of it was. That Letter was writ to one, who had *Jus Suffragii*, a Right to come and vote in our Congregation, which, according to the Constitution and Orders of our Society, is within the Compass of three Years, where they meet about the particular Affairs of the Society.

L. C. J. What was it about?

Harcourt. It was about choosing an Officer; choosing a Procurator to send to *Rome*; that was the chief Point: And Secrecy was a Thing that was recommended to every one, as it was fit it should be, we living in a Country, where every one's Eye was upon us, and we were an Eye-sore to them, we ought to be cautious of meeting in such Numbers, as might give an Offence, and this was the only Thing, indeed.

L. C. J. Look you, Mr. *Harcourt*, you say well, but we are not to be altogether Disciples of yours, so as to have no Sense of our own, and to be impos'd upon so weakly as this. Here is the Thing, says the Letter, *I would not have you come too soon to* London, *nor appear too much in publick, for fear of discovering a Design, which requires Secrecy in its own Nature.* What, was that your Design, of choosing a Pro-

a Procurator? Tell me but one Thing that can bear the Name of a Deſign, which muſt have that Secrecy in it, that People muſt not appear much about Town, and that in its own Nature requires ſuch a Thing.

Whitebread. My Lord, the Thing it ſelf is Evident, what was the Deſign.

L. C. J. Come, Mr. *Whitebread*, you will do it better.

Whitebread. It is evident it was a Deſign to chooſe an Officer.

L. C. J. Why, good Mr. *Whitebread*, do any write after that manner? Were you to write to any one, or ask the Jury, if they were to chooſe ſome Collector for the Receipt of ſome charitable Money that ſhould be employed for the Relief of Proteſtants in *France*: Do you think any Man would ſay, *Do not appear much in* London *before-hand, nor come too ſoon, for fear of diſcovering the Deſign, which in its own Nature requires Secrecy*: Will this endure the Name of a Deſign?

Whitebread. Firſt, it is a very hard Thing to bring ſo many Mens Lives in Danger, meerly upon the Interpretation of a Word, which may as properly ſignify one thing as another. Is it not proper for me to ſay, I have a Deſign to Dine with ſuch a Man, to morrow, or the like?

L. C. J. 'Tis true now, but hearken ———

Whitebread. But that was the Thing deſigned, to have a Congregation for the chooſing of an Officer, and it was, I think, very properly ſaid, and that it ſhould be kept ſecret, was as prudential a Thing as poſſibly could be. Was it not proper here, becauſe our Profeſſion was not publickly permitted in this Kingdom; and therefore that was the Reaſon, why Secrecy was injoin'd? And this, upon my Salvation, was all that ever was intended or thought.

L. C. J. North. This now is the Interpretation you put upon the Letter, but we underſtand by the Witneſſes what was done at that Meeting.

L. C. J. Look you, Mr. *Whitebread*, this Letter without Queſtion, hath been well ſtudied by you all; and it requires it mightily.

Whitebread. It needs none.

L. C. J. This is not the natural Expoſition of the Words of the Letter, that you give, but a forced one; for firſt, there is a difference between ſaying, I do deſign to Dine to Day, tho' it be a uſual matter, but it is another Thing, when I call a Thing by the Name of a Deſign, accompanied with a requiring of Secrecy in its own Nature, and when I give Advice, that they muſt not appear in Town too ſoon, nor too much about the Town, for fear of diſcovering the Deſign, *which in its own Nature requires Secrecy*: Muſt all this amount but to the chooſing of an Officer? You'll never make one Papiſt of all this Company, if you make no better Work of it.

Whitebread. My Lord, I humbly deſire your Lordſhip would not ſtrain a Word which may be well enough ſaid, whether it be properly ſaid or no.

L. C. J. 'Tis not one Word alone, but 'tis the whole Senſe.

Whitebread. 'Tis evident, there was juſt Cauſe of Secrecy, becauſe of our Profeſſion.

L. C. J. Mr. *Whitebread*, 'Tis not one Word that is relied upon, for the Buſineſs is perſued. 'Tis not ſaid, *Pray meet at ſuch a Time*, but, *Be careful you do not diſcover the Deſign*; if it had been only ſaid ſo, it would have been a Strain, to have made this Conſtruction of a ſingle Word, to make this that Deſign, but as it is here, we make no ſuch Conſtruction; it had been hard indeed to put that Meaning upon it as you do, even then, for 'tis ſeldom ſo uſed, for no Man writes after that manner; but when it follows in a continued Senſe of ſo many Lines, *be ſure you meet on the* 24th *of* April, *the Day after St.* George's *Day, but come not too ſoon to Town, nor appear too much about the Town, for fear of diſcovering the Deſign, which you know in its own Nature does require Secrecy*: Can we make any ſuch Interpretation of it? If you have no better Arguments than theſe, you muſt have People loſe their Underſtandings, or have a very blind Obedience to yours, or it will never down. Ay; Come, Mr. *Gavan*, how do you ſay is the Meaning of this?

Gavan. For my part, I'll aſſure your Lordſhip, I was not there, but this is known to all the Chriſtian World, that there is ſuch a Meeting in *Spain*, *France*, *Germany*, &c. that wherever the Jeſuits are, once in three Years they have a Meeting among themſelves, for the ſettling of their Affairs. Indeed the Words have given your Lordſhip an occaſion to raiſe a Difficulty, what the Word *Deſign* ſhould mean? Which I do give this Anſwer to: Your Lordſhip's Difficulty is, That the Word *Deſign*, here, ſhould not be made uſe of to ſend one poor Jeſuit to *Rome*. My Lord, do but mark the End of the Congregation, and you will ſay to us, that we might well uſe that Word, becauſe the Word may import ſome great Buſineſs of Concernment; now what Buſineſs of greater Concernment for poor religious Men to meet together about, than thoſe Things that may promote their better State in another World, and the Regulation of what is amiſs in their Order. My Lord, upon my Conſcience and Salvation, this was the End of the Congregation, to meet, and ſee what is amiſs in their Order, who do their Duties, and who not, who are irregular in their Offices, and whoſe Office is vacant, and to be ſupplied.

L. C. J. But muſt no body come to Town, nor appear too much about the Town for this?

Gavan. Therefore, my Lord, as to the Word *Deſign*, it concerning the whole ſpiritual Good of the whole Body of the *Engliſh* Jeſuits, it might well be uſed for the Conſultation of that Body, about all their Good, Temporal and Spiritual, which was all concerned in it.

L. C. J. Theſe are a many Words, but to no Purpoſe.

Gavan. Now, my Lord, for the ſecond Thing that you object, your Lordſhip remembers very well, that the Continuation of the Senſe in ſo many Lines made the Thing the more ſuſpicious, that more was intended by it than ſo: Now to this I ſhall be able to anſwer, if there can be given a particular Reaſon why we ſhould add that Word of *Secrecy*, to the other of *Deſign*, having anſwered to the one Part, we now give an Anſwer to the other, and ſo to the whole. Now, my Lord, becauſe of the Time, the Parliament was then Sitting, and that we might not offend the King and all Civil Magiſtrates (whom we honour from our Hearts and Souls) that Word was uſed that it might be kept ſecret.

L. C. J. It was not out of Love to the Parliament, it was *the Nature of the Thing required it*, nor was it out of Fear you had of them. I did never find, tho' you are as good at it as ever any I met with (for I never met with a Prieſt that had much more Underſtanding) but really you do not anſwer me. You are ſo far from Scholars, and Arguing like ſuch, that you do not maintain the Matter

ter with common and rational Underſtanding, but only heap up ſo many vain Words (like a Rope of Sand put together) which hath no natural Coherence, for you cannot poſſibly make this reaſonable, that People ſhould have ſo much Caution, that they ſhould not come too long to Town before-hand.

Gavan. Not to be taken Notice of.

L. C. J. Not to appear in Town when they come.

Gavan. Not to be taken Notice of.

L. C. J. I ſay ſo, you cannot tell why all theſe Cautions ſhould be uſed, meerly for chooſing an Officer.

Gavan. My Lord, our Lives depended upon it, if we were taken, being ſuch Men as we are.

L. C. J. You can make nothing of it, and you will find it an hard Task to Anſwer it; for if half the Evidence that hath been given, were not given, yet this Letter of your own, which cannot be denied, is an unanſwerable Proof. It does monſtrouſly confirm Mr. *Oates*'s Teſtimony to be undeniable, as to the Meeting at the Conſult; for he, four or five Days before-hand, comes and tells the Council, the very Day which, five or ſix Days after, this Letter makes good, which is found in *Harcourt*'s Cuſtody. Then there was a Conſultation upon the Day, the very Day that Mr. *Oates* ſays, and what he calls a Conſultation, your own Letter ſays is a Deſign.

Gavan. It was a Deſign of a Congregation.

L. C. J. What Senſe is there in that? Will any Man in *England*, or did any Man in *England* ever ſay, Take heed of diſcovering our Deſign of going to Church, or chooſing a Collector?

Gavan. There is Reaſon for the one, and Reaſon for the other too.

L. C. J. I would appeal to your ſelves, and all here preſent, what the natural Import of ſuch a Letter is, whether it does not carry a Matter more than ordinary, whether its natural Intendment doth not look at that? And the next Thing is this; Does any Man write plainer than this, when they write of a Thing that is of ſuch a Nature? Is not the Danger too great to hazard that Fact, which they call the Nature of the Thing, to intruſt it in a Letter? Is it not vain to put that in a Letter, in Words at length, which they, to whom it is writ, know what the Thing means? And if it ſhould be further known than they would have it, the Thing could never be done: And if you conſider the Perſon that writes, a Jeſuit, or a Prieſt; Are Prieſts ever plain? And will you expect Plainneſs here, when, in Things of Ten thouſand times leſs Moment, they don't write plainer? Is it not known, you have not a Proſelite, that you do not keep under Obligations as cloſe as your Confeſſions are? Have you not taken here, as it is ſworn, a Sacrament of Secrecy? Is there a Woman that you Convert, but in the dark? Or a Papiſt made, out of a Prieſt's Hole? Are not all your Deeds underground? and do you work with any Light, but that of a Dark-Lanthorn? This is plain, unleſs you give a better Anſwer to this Letter, the Letter will hang about your Necks.

L. C. J. North. Mr. *Oates* will tell you what the Deſign was.

Mr. Juſt. *Ellis.* He can tell you what it was.

L. C. J. The Letter ſpeaks it ſelf.

Dr. Oates. Mr. *Gavan* and they, now, tell your Lordſhip what this Conſult was for, but they deny'd this Conſult at firſt, when there was but one Man to juſtify it. I juſtified it before Mr. *Fenwick*, who denied it at the Council-Board, though now they pawn their Salvation upon the Juſtification of it.

Fenwick. I never denied that there.

L. C. J. Come, have they any thing to ſay for themſelves?

Mr. *Bedlow.* My Lord, whereas, as Mr. *Gavan* ſays, that in Obedience to the King and Parliament they would have their Conſultations ſecret, and that they always deſired to conceal themſelves then; the Time of Seſſions of Parliament was the only Time that I and others have been employed to fetch over more Jeſuits than at any other particular Time.

Dr. *Oates.* And there are more of them then, in the Court of Requeſts, and in the Lobbies, barefaced, and threatning the Proteſtants, than at any other Time.

Mr. *Bedlow.* We uſed to fetch them againſt the Parliament always; they were in leſs Danger then, than at other Times.

L. C. J. You could give a very good Interpretation of the Letter, I ſuppoſe, that Mr. *Dugdale* ſpeaks of, that came from *Whitebread*, That he ſhould be ſure to entertain ſuch as were hardy, ſtout Fellows: I ſuppoſe you can make all this to ſignify nothing more than a Deſign for a Game at Cudgels.

Sir *Cr. Levins.* If your Lordſhip pleaſe, we muſt deſire that one Letter more may be read. Your Lordſhip hath been told of Commiſſions for raiſing an Army, here is a touch of them mentioned in this Letter, found amongſt Mr. *Harcourt*'s Letters too.

L. C. J. Look you, Mr. *Harcourt*, you had beſt attend, here is another Letter found amongſt your Papers, concerning ſome Commiſſions. You look ill to your Letters; you are to blame, indeed, Mr. *Harcourt*.

Sir *Cr. Levins.* Pray, Sir *Thomas Doleman*, look upon that Paper, and tell us how you came by it.

Sir *Tho. Doleman.* This Letter in my Hand I found amongſt Mr. *Harcourt*'s Papers, about ſome two Days after I found that other that was read before. Having heard Mr. *Oates* give in his Information to the Council, That there were ſeveral Commiſſions given out to ſeveral Perſons, and finding ſome doubtful Clauſes and Expreſſions in the Letter, I did preſent this Letter to the Council, and made a Mark upon it, *Enquire what is meant by the Word* Patents.

L. C. J. Pray let it be read, becauſe we ſhall deſire a little more of their Interpretation.

Cl. of the Cr. It is Signed, *Chriſtopher Anderton*, *Hilton*, *February* the 5th 167⅞.

Dr. *Oates. Hilton*, that is *Rome*.

L. C. J. Mr. *Harcourt*, you underſtand, that by *Hilton*, is meant *Rome*?

Harcourt. Yes, my Lord, I do.

L. C. J. Well, then go on, and read it.

Cl. of the Cr. *Worthy Sir, I know not from whence it proceeds, but I perceive that both your Letters and mine have bad Fortune by the way, for my Correſpondents with you complain, they hear not from me, whereas I write conſtantly intire Pacquets; and ſince the Bills I received from your ſelf, for Sir* William Goring, *and for Mr.* Ireland, *from Mr.* Shelly, *I have not had one Letter, but what I received this Week, which, in part, made recompence for the former, for it brought me three of yours, and one of Mr.* Ireland's, *for which I render you many humble Thanks, and acknowledge the Fifteen Pounds from my Lord* Caſtlemain, *tho' Mr.* Ireland *made no mention of it in his. We are all here very glad of the Promotion of Mr.* Thomas Harcourt. *When I writ*

that

that the Patents were ſent, altho' I gueſs for whom they were, yet I knew not for certain, becauſe our Patrons do not uſe to diſcover things or reſolutions till they know they have effect. And therefore in theſe kind of Matters I dare not be too haſty, leſt ſome might ſay, A Fool's Bolt is ſoon ſhot.

L. C. J. What is the meaning of theſe Patents?

Fenwick. This Gentleman will tell you, my Lord

Whitebread. My Lord, they were the Patent for my being Provincial.

L. C. J. How many Patents had you?

Whitebread. But one, my Lord.

L. C. J. Is that Patents?

Whitebread. Literæ Patentes.

L. C. J. Is it Patent or Patents?

Cl. of *Cr.* Patents.

L. C. J. Read thoſe words again.

Cl. of *Cr. We are all here very glad at the promotion of Mr.* Tho. Harcourt, *when I writ that the Patents were ſent, altho' I gueſs for whom they were, yet I knew not for certain, becauſe our Patrons do not uſe to diſcover things or reſolutions, till they know they have effect.*

L. C. J. Now you have not interpreted well this neither.

Sir *Cr. Levins.* It is ſaid, *I knew not for certain who (they) were for*; but to make it clear, I would deſire Mr. *Whitebread* to anſwer me one Queſtion, How long is it, Sir, ſince you were made Provincial?

Whitebread. The 14th of *January* was Twelvemonth.

Sir *Cr. Levins.* And this was dated the 5th of *February*, which was after your Commiſſion.

Whitebread. That may be, and they not know till then.

L. C. J. And ſo you expound thoſe latter words of the Letter, That the Reſolution of making you Provincial was not diſcovered till the Effect was known.

Whitebread. Becauſe it is not known, whether the Perſon that is nominated might not be excepted againſt: and it is *Literæ Patentes.*

L. C. J. But here is but one Perſon to anſwer the word Patents, and there ſhould be more than one Man.

Whitebread. Every Patent is called *Literæ Patentes*, tho' it be but for one Perſon.

Mr. *Recorder.* They were in great doubt that you would refuſe the Place, I warrant.

Dr. *Oates.* He is bound on pain of Damnation not to diſobey his Superiours, if they chuſe him to a Place, he muſt take it upon him.

Whitebread. It is not the firſt, ſecond, or hundreth time that one hath been appointed by the Superiour to a Place, and hath refuſed it; and if I had known the hundredth part of what I do now, of the Trouble of the Place, I would never have accepted it.

Mr. *Recorder.* Ay, if you had known the difficulty of this Deſign, you would never have ingaged in it, eſpecially if you had known what is come to paſs.

Whitebread. No, Sir, I never had a Hand in any ſuch thing in all my Life: this is *coram Deo* that I now ſpeak, and as I am to appear before the great Tribunal at the Day of Judgment, I know nothing of all this Matter.

Dr. *Oates.* My Lord, theſe Patents, of which this Letter makes mention, a great many of them came down in the months of *April* and *May* before.

L. C. J. Methinks he interprets them plainer than you do.

L. C. Baron. Now what have you to ſay every one of you for your ſelves, make your Defence?

L. C. J. Mr. *Whitebread*, do you begin.

Dr. *Oates.* While the Priſoner's Evidence is calling in, I deſire that my Witneſſes may be ſworn.

Mr. Juſt. *Pemberton.* Mr. *Oates*, be quiet, there is no need of it yet, till they have made their Defence.

L. C. J. But ſend for them, that they may be ready.

Whitebread. My Lord, that which I have to ſay for my ſelf is this, I thank God, my Lord, I am not afraid of Death; but I ſhould be very loth to die unjuſtly, and I hope your Lordſhip will conſider, that every Man's Blood is dear to him, and is concerned for his own Life to preſerve it, he ought to be allowed Liberty and Freedom to preſerve himſelf as much as he can. Life is a thing not to be thrown away, but charily to be lookt after, and that there is ſuch a thing as taking away Mens Lives by Perjury, as well as by a Knife or Piſtol, is without contradiction. Now whoever comes againſt a Man for his Life, I ſuppoſe he is to be looked upon not only by the Priſoner, but alſo by the Jury and the Court, that he ought to be *Probus Teſtis*, and a Man fit to be admitted to be a Witneſs. Now I have ſomething to offer, That Mr. *Oates* is not any ſuch Perſon. Your Lordſhip was pleaſed to ſay, That he was the Perſon who proved the Deſign mentioned in the Letter that was read. Now I hope your Lordſhip will give me leave (and I hope I may do it without offence to this Court) to ſay that he is perjured in what he ſays.

L. C. J. You mean that his Evidence is falſe, you may do it if you can.

Whitebread. He ſays he came over hither, and was here preſent the 24th of *April* with me, and that I did appoint him to do ſuch and ſuch things, and diſcovered the whole Buſineſs to him. Now I deſire your Lordſhip would be pleaſed to conſider whether this were probable, and whether I had not been a very much miſtaken Man all this while to truſt a Man with ſuch a Buſineſs, and whether I ought not rather to be ſent to *Bedlam* than *Newgate*, for truſting ſuch a Man as he, whom by his own confeſſion I never ſaw till that time. 'Tis not rational that a Man would truſt him; and then, my Lord, that this Buſineſs ſhould be diſcovered to him, a Man that depended wholly upon us to live, and had no Livelihood but what he had from us, who maintained him at St. *Omers* long, as well as the beſt Man in the Houſe.

L. C. J. Did you do it?

Whitebread. Yes, my Lord, I did.

L. C. J. You ſhould conſider how in that you anſwer your ſelf.

Whitebread. I, that is, when I came to the Office, and I and my Predeceſſors. When I was Superiour I found him not a fit Man for that Purpoſe and Deſign he pretended to. He was very zealous to be entertained amongſt us, and therefore I deſired him to abſent himſelf.

L. C. J. Why was he not fit to be employed among you?

Whitebread. For ſeveral Reaſons of our own: Firſt of all it was doubtful, whether he was a good Catholick: for he had oftentimes maintained ſeveral Propoſitions that were not ſoundly Catholick: and then, ſecondly, he led a very idle Life,

Life, and he was not found a Man we were obliged to accept of, and therefore we desired him to retire. And to that purpose we furnished him, gave him a good Suit of Cloaths, and a Periwig, and four Pounds in his Purse, and he promised me to pay me again when he had sold his Library, which he said he had a very good one in *London*, but he never did. But that I should be so strangely overseen and mad, as at the first sight of such a Man as this, to trust him with such a great Intrigue as this was, and to write in such a plain strange Manner, and send by Post to Mr. *Dugdale*, as your Lordship did and justly might wonder at, had been a Madness. It was much that any Man would write so plain of such a thing. But then my Lord, the chief thing is this, That I hope your Lordship will give us leave to produce our Witnesses to prove, that he was not from St. *Omers* from the 10th of *December* till the 23d. of *June* following, and never lay out of the House but one Night from *December* till *June*.

L. C. J. Name your Witnesses.

Whitebread. I desire first Mr. *Hilsley* may be called.

L. C. J. Call him; but I'll tell you what is strange, You say it is wonderful that you should trust a Man you had so little Opinion of his Abilities or Fidelity; but I wonder that you should maintain him after that.

Whitebread. No, my Lord, we did not.

L. C. J. You say you did.

Whitebread. No, my Lord, he pretends he was here in *England* sent over by us, but we will prove he was not.

L. C. J. But you maintained him abroad?

Whitebread. That was before?

L. C. J. Is it so great a wonder that you should take into your Confidence and Consultation that Man, whom for a considerable time before you had maintained abroad?

Whitebread. But, my Lord, I suppose there is some difference between charitable Acts to a Man in Want and a Scholar, and trusting him with such an Intrigue as this.

Fenwick. Pray my Lord, be pleased to take notice, that this Man's Evidence all along is, that he saw such and such Letters from such and such Persons. They have no Evidence but just that they saw such and such Letters, and how is it possible that a Man who was turned away from St. *Omers* for his Misdemeanors, that I should shew him all my Letters? Now, my Lord, I have had a thousand Letters taken from me, not any of these Letters had any thing of Treason in them, or solliciting of Persons to come into *England*, let the Letters be produced, and then your Lordship will see what is in them. All the Evidence that is given, comes but to this; there is but saying and swearing. I defie them all to give one probable Reason to satisfie any reasonable uninterested Man's Judgment how this could be.

L. C. Baron. There can be no Reason given why you should sign an Instrument to kill the King.

L. C. J. You say there is nothing but saying and swearing, but you do not consider what you say in that Matter. All the Evidence and all the Testimony in all Trials is by swearing. A Man comes and swears that he saw such a Bond sealed, or heard such words spoken, this is saying and swearing, but it is that Proof that we go by, and by which all Mens Lives and Fortunes are to be determined. But then say you, 'tis wonderful, that since they say they saw such and such Letters, they should not produce them; why? they did not belong to them: Ay, but then say you, 'tis strange they should not find one Letter in all those numerous Papers that were taken that contains any Traiterous Matter; but, I say, 'tis forty times more a wonder that one should be taken, than for all the rest to be undiscovered. I suppose Mr. *Harcourt*, amongst those Papers that he let be surprised did not think that Letter that hath been read to have been of such Consequence, nor the sence of it to be so bad.

Fenwick. I dreamt no more of my Apprehension, when I was taken, than the Day of my Death, it was so unexpected; nor what I should be accused of: I had no fear of it, no thought of it, so that I took nothing out of the way. They took five or six Thousand Pound Bonds and Bills, besides Letters; methinks something of the Effects of those Letters might be produced, and some of the Design appear. For God's sake, where are the Commissions signed, and Moneys paid?

L. C. J. They talk of a Patent. Mr. *Whitebread* construes it, that it is his Commission; if so, does it lie in *Oates* or *Bedlow*'s Power to shew that Commission? (this is just like that of the Bill of Exchange) neither does it in any of the Letters.

Fenwick. Here is Mr. *Hilsley*, my Lord.

Whitebread. My Lord, we pray we may have the favour that they may be Sworn.

L. C. J. *North.* By Law they cannot.

L. C. J. In no Capital Case against the King can the Witnesses for the Prisoner be Sworn, but I will say this to the Jury, That they are not Sworn, is, because they cannot, but the Jury is to take great heed of what they say, and to be governed by it according to the Credibility of the Person and of the Matter.

Gavan. My Lord, if you please to give me leave, my Lord *Coke* in his *Institutes* says expressly, That there is no positive Law against it, his Words are, there is not so much as *Scintilla Juris* against it.

L. C. J. *North.* We know that the constant Usage and Practice is so, and you cannot produce any Man, that in any Capital Case had his Witnesses sworn against the King.

L. C. J. My Lord *Coke* says otherwise, That the Evidence should be so plain that nothing could be answered to it; and therefore no Evidence should be sworn against the King.

Gavan. My Lord, those are the Words of my Lord *Coke*.

L. C. J. You argue against the known Practice of all Ages.

L. C. J. *North.* There was never any Man, in a Capital Cause, sworn against the King. The Common Law is the Custom of the Kingdom, and we are bound to know it, and must be all governed by it.

Whitebread. In Mr. *Ireland*'s Tryal, *pag.* 35, 36. he says, he came over with Sir *John Warner*, Father *Williams*, and Mr. *Hilsley*, from St. *Omers*.

Mr. Just. *Pemberton.* Nay, you must not resort to the printed Tryals for Evidence.

Fenwick. If we can prove him perjured at any time, I hope we may.

L. C. J. Suppose upon the taking of those printed Tryals they mistake, shall Mr. *Oates* therefore be thought guilty of Perjury? If you have any thing to ask of your Witnesses which you can apply to the Evidence given now, you may.

Fenwick. Mr. *Oates*, did not you your self own then you came over with Mr. *Hilsley*?

Dr. *Oates.*

Dr. *Oates.* Ask me any Queſtion about what I have given to Day, and if the Bench think it reaſonable, I will anſwer it.

Fenwick. My Lord, he did then affirm, that he came over with theſe Perſons, in which he is forſworn.

L. C. J. He is not convicted of Perjury, and therefore that muſt not be urged.

Fenwick. My Lord, we will prove by Witneſſes that were at the Tryal, that he did affirm ſo: And I do deſire now to know of you, Mr. *Oates*, whether ever you came over with Mr. *Hilſley*?

Dr. *Oates.* That which I ſaid then, and that which I ſay now, is, (becauſe you ſhould not puzzle your ſelves) that one Mr. *Hilſley* did come over with us when we did.

Hilſley. My Lord, I did not.

L. C. J. How can you tell?

Hilſley. I left him at St. *Omers.*

L. C. J. What ſay you, Mr. *Oates*?

Dr. *Oates.* 'Tis true, Mr. *Hilſley* did leave me at St. *Omers*, becauſe he went out a *Sunday* Morning, and I came out of the *Monday* Morning, but I overtook him at *Calais.*

Hilſley. My Lord, that is falſe, and I have a great many here that can prove it.

L. C. J. What Religion are you of?

Hilſley. I am only to ſerve His Majeſty.

L. C. J. Are you not to ſerve God too?

Hilſley. I am firſt to ſerve God, and then His Majeſty.

Mr. Juſt. *Pemberton.* Are you a Catholick?

L. C. J. Are you a *Roman* Catholick?

Hilſley. Yes, my Lord, I am.

Mr. Juſt. *Pemberton.* Be not aſhamed of your Religion, do not deny that; your Provincial here can give you a Diſpenſation for what you ſay.

Hilſley. I hope a *Roman* Catholick may be a lawful Witneſs?

L. C. J. Yes, I deny it not. This is that you ſay, you left him at St. *Omers*; you muſt call more Witneſſes to back him: Maſter *Oates* ſays 'tis true, you left him at St. *Omers*, but he overtook you at *Calais.*

Dr. *Oates.* This Gentleman loſt his Money at *Calais*, and Father *Williams* did relieve him by my means.

L. C. J. What ſay you to that?

Hilſley. Why, my Lord, yes, it is true, I did loſe my Money there, but it is nothing to the purpoſe, for I will affirm, I was never in the Ship with him in all my Life.

Dr. *Oates.* I deſire he may be asked, whether he be in the Degree of a Prieſt, or not?

L. C. J. That would be a hard Queſtion to put to him, to make him accuſe himſelf. It would bring him into danger of Treaſon.

Mr. Juſt. *Pemberton.* He is a Boy very fit to make a Jeſuit of.

L. C. J. How could he then come to know this?

Hilſley. I confeſs 'tis true, that Mr. *Oates* did never come over with me. And I have Witneſſes to prove, that they ſaw him there next Day at St. *Omers*, and two or three ſeveral Weeks after.

Sir *Cr. Levins.* Mr. *Oates* hath another Circumſtance to prove it by.

Dr. *Oates.* He went from us by the way, and did not come up with us to *London.*

Hilſley. I know how he underſtood this: There was a Gentleman that the Witneſſes will prove he was very familiar with, the ſecond of *May*, that told him.

L. C. J. Is that Gentleman here?

Hilſley. Here is one here to prove it.

L. C. J. And did he tell him how you loſt your Money?

Hilſley. Yes, my Lord, I ſuppoſe ſo.

L. C. J. I ſpeak ſeriouſly, I do not underſtand how he could come by theſe Things.

Parry. My Lord, I can teſtifie, if it were lawful for us to ſwear, and prove that he was at St. *Omers* that Day, when he ſays he came over.

L. C. J. What is your Name?

Parry. My Name is *William Parry.*

L. C. J. What Countryman are you?

Parry. I am a *Flintſhire* Man.

L. C. J. When was he at St. *Omers*?

Parry. He was there that 25th Day, that Day he ſays he came over.

L. C. J. Was he there all Day?

Parry. He did not ſtir thence all the Day.

L. C. J. How can you tell that?

Parry. I din'd with him; that Day he went into the Infirmary, he did not go out of the College, he was ſick.

Fenwick. Mr. *Parry.* How long did Mr. *Oates* ſtay there at St. *Omers*?

Parry. He ſtaid till after the 20th of *June*, I am ſure; for on the 20th of *June* I know he was preſent, by a very good Circumſtance, he was at an Action of ours, a *Latin* Play.

Dr. *Oates.* My Lord, as to the going into the Infirmary at that time, I deny it. My Lord, (if your Lordſhip pleaſe) I will ſhew that this Gentleman is not only a Votary of the Jeſuits, but hath been one of the Sodality ſeveral Years. And they have Diſpenſations, and are bound by an implicit Obedience to ſay what the Jeſuits bid them, who are their Superiors.

L. C. J. What ſay you to the 20th of *June*, the time he ſays you were there at the ſeeing of the Play?

Dr. *Oates.* My Lord, as to that twentieth of *June*, I was there, and there was an Action at that time, for I was then returned thither from *London.*

Parry. I deny all that, for he never ſtirr'd out of the College.

L. C. J. Youngman, in what Quality were you there?

Parry. I was a Student there, a Poet.

L. C. J. How can you ſay he did not ſtir thence all the while?

Parry. I know by a particular thing; I din'd and ſupp'd with him there, but when he was in the Infirmary; but the particular paſſage was this, He did there fall out with a Gentleman that was in the Infirmary too.

L. C. J. When was that?

Parry. It was at the time that he ſays he came away.

L. C. J. When went he in?

Parry. The 25th of *April*, Old Stile, and ſtaid a Matter of three or four days.

Dr. *Oates.* Will you be pleaſed to take notice of this? he ſays that *Hilſley* left me at St. *Omers* when he came away, and that the next Day he dined with me, and that I went into the Infirmary, which, he ſays, was the 25th of *April*, Old Stile. Now we will run to argue *ad hominem*; If this were the 25th of *April*, Old Stile, how did Mr. *Williams* meet with Mr. *Hilſley* at *Calais*, and reſtore him his Money, when the 24th Old

Old Stile, Mr. *Williams* was at the Conſult in *London?*

L. C. J. When was it that you ſay Mr. *Hilſley* was at St. *Omers?*

Fenwick. Anſwer my Lord's Queſtion.

Parry. He went away the 24th of *April*, as I remember.

L. C. J. What, Old Stile?

Parry. Yes, Old Stile, according to the reckoning there.

Dr. *Oates.* But, my Lord, upon the Oath that I have taken; if he mean New Stile, all that this Gentleman hath ſaid about this is falſe, except that I was there the 20th of *June.*

L. C. J. Was it New Stile or Old Stile that you ſay Mr. *Hilſley* went away?

Mr. *Recorder.* He does not know New Stile from Old Stile.

Parry. He went the 24th, that is the Old Stile *beyond Sea.*

Whitebread. I do deſire he may anſwer, whether he does know that Mr. *Oates* was ever out of the Houſe from the time he came in *December* till *June*, but one Night.

Parry. No, he never was out but one Night at *Watton.*

L. C. J. From what time to what time?

Parry. It was but two Days and one Night.

L. C. J. What time was it that he was there firſt?

Parry. He came thither in *December.*

L. C. J. And he did ſtay there all the while?

Parry. He did not ſtir from the College till the end of *June*; and never went out but a Day or two as I know of.

L. C. J. Not as you know of; but might not he go, and you not know of it?

Parry. I am ſure of it.

L. C. J. How can you tell?

Parry. Not a Scholar goes from thence to *England*, but the whole College rings of it.

Gavan. And then, my Lord, when they go out they go in ſecular Cloaths, that none but muſt know when any Perſon leaves the College.

Dr. *Oates.* My Lord, in ſuch caſes, tho' 'tis true in a general ſenſe, yet it is but a general Rule, and every general Rule admits of its Exceptions, and my Caſe was a particular Exception. I put on the Habit of the Houſe as ſoon as I did return from *London*, and did not appear as if I had gone out of the Houſe, nor did I know that it was known that I had been out; for I did never appear in the College in a ſecular Habit.

Whitebread. What his Cloaths were, does not change the Place he ſate in; he being Ancienter than the Boys, had a priviledge to ſit in a particular Place, which muſt be known to all the Houſe at Dinner and Supper. He was viſible every Day there.

L. C. J. I do believe it; and therefore he ſays, not only that he was reported to be there, but that he ſaw him there almoſt every Day.

Then another Witneſs for the Priſoner ſtood up.

L. C. J. What ſay you, Young Lad?

Doddington. I ſay, my Lord——

L. C. J. What is your Name?

Doddington. Doddington.

Dr. *Oates.* Pray, my Lord, ask him if he went by that Name at St. *Omers.*

Mr. Juſt. *Pemberton.* What was your Name at St. *Omers?*

Doddington. My Name was *Hollis* there.

L. C. J. How old are you?

Doddington. Eighteen Years and an half.

L. C. J. What can you ſay? Where was Mr. *Oates?*

Doddington, He never went out of the College, but one Night to *Watton*, till the end of *June.*

L. C. J. When came he into the College?

Doddington. A fortnight before *Chriſtmas*, I did not mind the Day, he ſays himſelf it was the 10th of *December.*

L. C. J. Was he there till *June?*

Doddington. Yes, he never went out till *June* but one Night.

L. C. J. Where was that? At *Watton?*

Doddington. Yes, my Lord.

L. C. J. How do you know that?

Doddington. I only know that by what all the Houſe ſaid.

L. C. J. Did you ſee him every Day, except that Day?

Doddington. I cannot ſay I ſaw him every Day, becauſe he was in the Infirmary once, and he was there that very Day after Mr. *Hilſley* went away.

L. C. J. What Day was it that Mr. *Hilſley* went away?

Doddington. The 24th of *April* New Stile; and that Day he fell ſick, and went into the Infirmary the Next.

L. C. J. What Day of the Week was that?

Doddington. It was of a *Sunday.*

L. C. J. And when did you ſee Mr. *Oates?*

Doddington. On *Monday* or *Tueſday*, I am not certain.

L. C. J. How often did you ſee him from the 24th of *April* to *June?* Did you ſee him every other Day?

Doddington. Yes, that I am ſure of for every other Day, I am not certain every Day.

L. C. J. Are you poſitive?

Jury. We deſire to know what time of the Year he was in the Infirmary.

Doddington. I diſcourſed with him in the Infirmary two or three Days after Mr. *Hilſley* went away.

L. C. J. But what time of the Year was it?

Doddington. He was there firſt in Winter, and then afterwards he was in at this time, which was in *April.*

L. C. J. Have you any more to ſay?

Doddington. I can ſay more, that I ſaw Mr. *Oates* the ſecond of *May* with one *Blood* or *Burnaby*, and I am ſure I ſaw him in his Company.

L. C. J. Where did you ſee him?

Doddington. I ſaw him walking in the Garden with Mr. *Burnaby.*

Mr. Juſt. *Pemberton.* When did you come into *England?*

Doddington. I came over the 24th of *April.*

L. C. J. How long have you been in *England?*

Doddington. About two Months.

Mr. Juſtice *Pemberton.* Why did you come over, were you ſent for over upon this occaſion.

Doddington. No, I was not.

Mr. Juſtice *Pemberton.* Why did you come over?

Doddington. I came over partly upon the King's Proclamation.

L. C. J. What Proclamation was that?

L. C. J. *North.* That thoſe that were in the Seminaries ſhould come over again.

Doddington. And partly becauſe I had not my Health.

Fenwick. Mr. *Gifford*, what do you know about Mr. *Oates*'s coming from St. *Omers?*

L. C. J. When came you from St. *Omers?*

Gifford.

Gifford. I came over about a Month ago.

L. C. J. Upon what occaſion?

Gifford. To juſtifie that Mr. *Oates* was there all the while that he ſays he was here.

L. C. J. You ſpeak like an honeſt Man, there is no hurt in that.

Fenwick. We did ſend for him over.

L. C. J. When did you ſee Mr. *Oates* there?

Gifford. I ſaw him the firſt of *May* was Twelvemonth with us, and the 21ſt of *April.*

L. C. J. And how long after that?

Gifford. I was in his Company for a whole Week after, I am ſure.

L. C. J. You ſay the firſt of *May* he was there, how can you tell?

Gifford. The firſt of *May* there came one Mr. *Burnaby* to the College, and he fell into Acquaintance with him, and I ſaw him with him: He was with us an whole Week at leaſt every Day after Dinner: We have an hour always after Dinner to recreate in, and this Gentleman was there with us, and Mr. *Burnaby*; for Mr. *Oates* ſeeing us in the Garden at firſt, put himſelf into our Company, and kept with us.

L. C. J. Was he not in the Infirmary?

Gifford. Not at that time, my Lord.

L. C. J. When was he in the Infirmary?

Gifford. The Day after *Hilſley* went away.

L. C. J. Do you remember that?

Gifford. Yes, I do.

L. C. J. North. How long did he ſtay in the Infirmary?

Parry. About three Days.

L. C. J. And for how long together did you ſee him after Mr. *Hilſley*'s Departure?

Gifford. I can ſwear that I ſaw him at leaſt till *June*, if I can believe my own Eyes.

L. C. J. Your Religion does not allow you to believe your own Eyes.

Gifford. I can in my Conſcience ſay, I believe I did ſee him every Day or every other Day.

L. C. J. Which do you ſay, Did you ſee him every other Day, or every Day?

Gifford. If I ſay I ſaw him every other Day, that is ſufficient.

L. C. J. Do you know that he went out of the College at any time?

Gifford. Yes, he went for one Night.

L. C. J. Whither?

Gifford. To a place called *Watton.*

L. C. J. What did he go thither for?

Gifford. For his Relaxation.

L. C. J. How came you to take ſuch particular notice of him, that he was there?

Gifford. It is impoſſible but we ſhould ſee him, and take notice of him, for we Dine all together in one Room, and we could not but take notice of him, for he was at a diſtinct Table by himſelf.

L. C. J. How many are there that Dine in one Room?

Gifford. One hundred and fifty.

L. C. J. How could you know him when there were ſo many?

Gifford. He was at a diſtinct Table by himſelf, between the Boys and the Religious.

Then ſtood up another, one Palmer.

L. C. J. Well, what do you ask him?

Fenwick. The ſame Queſtion as the reſt.

L. C. J. When came you from St. *Omers*?

Palmer. I came two or three Months ago.

L. C. J. Why did you come over?

Palmer. I had no mind to ſtay any longer.

L. C. J. Where does your Father live?

Palmer. By *Windſor.*

L. C. J. When did you ſee Maſter *Oates*?

Palmer. I ſaw him the firſt Day of *May*, New Stile, and I know it for a particular Reaſon; there were Strangers dined at the College that Day, whereupon Maſter *Oates*, and ſeveral other Boys played at Nine-Pins, in the Afternoon, I ſaw them.

L. C. J. Why, you do not count all Boys there, do you?

Palmer. All but thoſe that are the Religious.

L. C. J. Why, you did not count Maſter *Oates* a Boy, did you?

Palmer. He was none of the Religious: He ſate indeed at a Table by himſelf, but he went to School with the Boys, and we called all the Scholars Boys.

L. C. J. How often did you ſee him?

Palmer. I'll tell your Lordſhip, I ſaw him the firſt of *May*, for that Reaſon; the ſecond of *May* I ſaw him with Maſter *Burnaby*, a Man that he had never ſeen in all his life before, and we wondred that he had ſo much impudence to inſinuate himſelf into his Company.

L. C. J. What is he?

Palmer. He is a Gentleman that is now in *Flanders.*

L. C. J. How do you know that Maſter *Oates* had no Acquaintance with him before?

Palmer. Becauſe I know he was in *England*, and came over while Maſter *Oates* was actually at St. *Omers.*

L. C. J. But he might be of his Acquaintance in *England.*

Palmer. I heard Maſter *Burnaby* ſay, he never ſaw Maſter *Oates* in all his life before. The ſecond of *May* I ſaw him at the Action, the fifth of *May* Maſter *Killinbeck* went away, and I ſaw Maſter *Oates* actually there then, and one Maſter *Poole* went away; and I remember *Oates* was there for a particular Reaſon; he was a kind of a weak Man, ſomething ſoft, not over-wiſe, and we were asking him, why he would go away by himſelf; and talking of it afterwards, ſays Maſter *Oates*, (I will not ſay poſitively thoſe were the words, but that was the ſence) *He does not go alone, for there goes Eſquire* Poole *and Eſquire* Fool *together.* The eleventh Day we had an Action, a Play alſo whereupon there was a particular place for the Muſicians to play in, where no one elſe was to ſit; Maſter *Oates* would ſit there, and thereupon there was one Maſter *Watſon* quarrell'd with him, and they had like to have fought.

L. C. J. This was the 11th of *May*?

Palmer. Yes, my Lord, New Stile, and the other was the 5th.

L. C. J. But you ſaw him betwixt that Time?

Palmer. Yes, my Lord, I did.

L. C. J. And ſo for how long?

Palmer. I ſaw him at four a Clock in a Morning, reading Father *Worſley*'s Controverſies, and ſo for ſeveral Days together.

Fenwick. Did he go away before *June*?

Palmer. No, he did never ſtir till *June.*

Sir *Cr. Levins.* Did not you go ſometime by the Name of *Sanders* or *Hill*?

Palmer. No, only by the Name of *Thomas Palmer.*

Sir *Cr. Levins.* Hark you, Sir, who maintained you at St. *Omers*? Do not you know one Mr. *Caryl*?

Palmer. No, my Father maintained me.

L. C. J. Who is your Father?

Palmer. Sir *Philip Palmer.*

L. C. J. What Country Gentleman is he?

Palmer. *Buckinghamſhire.*

Mr. Juſt. *Pemberton.* He is Cup-bearer to the King.

Then ſtood up one Maſter Cox.

L. C. J. How long have you been from Saint *Omers?*

Cox. Two Months.

L. C. J. What Country-man are you?

Cox. I was born at *Bruſſels*, to ſerve you.

L. C. J. Do you know Maſter *Oates?*

Cox. Yes, I did, very well.

L. C. J. Where?

Cox. At St. *Omers.*

L. C. J. When?

Cox. I left St. *Omers* Seven Months ago, and I came away in the Month of *November*, after Maſter *Oates.* My Lord, I can prove that he was there in *April* and *May.* I went from St. *Omers* to *Bruſſels*, and from *Bruſſels* I came ſtrait to *London.*

L. C. J. But when did you ſee Maſter *Oates* there?

Cox. I can prove I ſaw him at St. *Omers*, when he ſays he was in *England*, and that by this Circumſtance; Maſter *Pool*, who was my Muſick Maſter, was ſick there, and Maſter *Oates* was often with him.

L. C. J. Were you there all the Time he was there?

Cox. Yes, I was, till he went away.

L. C. J. When did he go away?

Cox. Maſter *Oates* went away in the Month of *July.*

L. C. J. Are you ſure of that?

Cox. Yes, my Lord, I am.

L. C. J. Not in *June?*

Cox. No, my Lord, *July.*

L. C. J. Why he differs from all the reſt.

Cox. My Lord, I can prove he was at St. *Omers* when he ſays he was in *England.*

L. C. J. Why, what Month did he go away?

Cox. My Lord, I can prove that Mr. *Oates* was never abſent from St. *Omers*, till he went away for good and all.

L. C. J. When was that?

Cox. He went after the Conſult of the Jeſuits, which he ſays was in *England* in *April.*

L. C. J. Come, come, anſwer me plainly, if you can, in what Month Mr. *Oates* left St. *Omers?*

Cox. I ſay, Mr. *Oates* was never abſent from St. *Omers*, till the Conſult of the Jeſuits was over, which he hath confeſſed himſelf to be at.

L. C. J. When was that?

Cox. Why it was after *May*, 'tis no matter what the Month was, whether *June* or *July.* (*At which the People laughed.*)

Cox. What do you laugh at, Sirs? why, ſuppoſe I miſtake the Month, it is no matter.

L. C. J. Look you, we are now upon a Queſtion of Time, and you cannot tell that a Man is there at a certain Time, unleſs you can prove the certain Time when he came away.

Cox. I can prove, that he was there till after the Conſult of the Jeſuits. (*And then the People laughed again.*)

L. C. J. Ay, I believe you there, 'tis enough for you, but you have done a very great Prejudice to thoſe Perſons that you came for, for you come to prove the Concluſion, but do not take Notice of what Mediums you are to uſe. Say you, if I can but prove that he was there till after the Conſult of the Jeſuits, that is the Thing in Queſtion, and I need no more; but this is ſerving a Turn only: Pray can you tell me what Month he came to St. *Omers?*

Cox. Yes, he came thither in the Month of *December.*

L. C. J. And when did he go away again?

Cox. He was never abſent from St. *Omers*, out of the View of the Scholars, except one Night, that he went to *Watton*, and one Day, when he was in the Infirmary, but even at that Time he was ſeen by ſome of the Scholars.

L. C. J. Yet you cannot tell the Time that he went away?

Cox. He was never abſent all the while.

Mr. Juſt. *Windham.* Do you know when the Conſult of the Jeſuits was? upon what Day?

Cox. He ſays he went away with Mr. *Hilſley*, but he did not, I can prove the contrary.

L. C. J. No, no, he ſays he followed him, and overtook him at *Calais.*

Cox. That is falſe, and I can prove it by this Circumſtance: One Mr. *Conqueſt* was to go for *England* that Day, and he came into the Refectory, and told us a Story of this Mr. *Conqueſt*'s being unwilling to riſe in the Morning to go for *England.*

L. C. J. When did he tell that Story?

Cox. That Day that he was to go for *England.*

L. C. J. How long was that after Mr. *Hilſley* went away?

Cox. The Day after.

Gavan. When was the Time that Mr. *Conqueſt* went for *England?*

Cox. In the Month of *May*, as we count.

L. C. J. What Time in the Month of *May?*

Cox. It was the 5th: And he ſays, that Mr. *Pool* and Mr. *Nevil* were in *England* with him, but I can teſtify that they were not abſent, for one of them was my Muſick-maſter.

L. C. J. Was he there all *May?*

Cox. Yes, that I can teſtify upon my Oath.

L. C. J. And all *June?*

Cox. Yes, my Lord, but if I prove he was not in *May* in *England* it is ſufficient.

L. C. J. Upon my word, you deſerve a ſharp Penance, for running into that Fault two or three times: You have done them no Kindneſs in this matter.

Gavan. If your Lordſhip will take Advantage of every Circumſtance, young Men may not remember the particular Day of his going away.

L. C. J. But you hear how he delivers his Evidence, 'tis as if he had been inſtructed, You muſt come and prove that *Oates* was not in *England* in *April* and *May*, and that will do our Buſineſs; for he tells you, it is ſufficient, but we will have it proved to ſatisfy us.

Cox. But why ſhould I ſay more than I know?

L. C. J. You mean, more than you are inſtructed about. I only ask you one ſhort Queſtion, Do you know when Mr. *Oates* left St. *Omers?* Name the Month.

Gavan. If you don't remember the Time, ſay ſo.

Cox. My Lord, I cannot remember it.

L. C. J. Then call another. *Who ſtood up.*

Dr. *Oates.* My Lord, I deſire they may be Examined apart.

L. C. J. You need not trouble your ſelf about that. What is your Name?

Billing. My Name is *Thomas Billing.*

L. C. J. When

L. C. J. When came you from St. *Omers?*

Billing. I came three Months ago, I think, my Lord.

L. C. J. Do you know Mr. *Oates?*

Billing. Yes, my Lord, very well.

L. C. J. When did you ſee him at St. *Omers?*

Billing. My Lord, I ſaw him when he came, the ſame Day, or the Day after.

L. C. J. When was that?

Billing. In *December*, my Lord, the 10th of *December*.

L. C. J. And he ſtaid there, how long?

Billing. Till the latter end of *June*.

L. C. J. Was he never abſent?

Billing. I can very well remember that he went to *Watton* in the *Chriſtmas*. I was then in the Infirmary my ſelf, and he and his Companion came in there to ſee us, and ſaid he had been at *Watton*.

L. C. J. But he was twice in the Infirmary, was he not?

Billing. Yes, my Lord.

L. C. J. When was the ſecond time?

Billing. The ſecond time was in *April*, I went in the Week before *Chriſtmas*: On St. *Thomas* of *Canterbury*'s Day I came out again.

L. C. J. But you ſay the ſecond Time was in *April?*

Billing. Yes.

L. C. J. How long was he there then?

Billing. Truly I was not with him then, but I think three or four Days.

L. C. J. Were you in the College then?

Billing. Yes, my Lord, I was.

L. C. J. Did you ſee him in the College from Time to Time?

Billing. Yes, I did.

L. C. J. How long?

Billing. For all the Time that he ſtaid.

L. C. J. How long was that?

Billing. That was from *December*, till the latter end of *June*.

L. C. J. Was he there all *May?*

Billing. Yes, my Lord. He ſays he was eight Days in *England*, but he could not be ſo, for he entred himſelf into the Sodality the 25th of *March*, and not long after his Admiſſion, he was put to read every *Sunday* morning at Six a Clock. And after that he began once to read, he never was abſent from that Time till the Time he went away.

L. C. J. Why, did he read when he was ſick?

Billing. He was not ſick upon the *Sunday*.

L. C. J. You ſay he was ſick in *April?*

Billing. Yes, my Lord.

L. C. J. But was he not ſick of a *Sunday*, in *April?*

Billing. He was only a little indiſpoſed, and frequented the Infirmary in the Day-time for a matter of three or four Days.

L. C. J. Did he read, at the Time he was ſick in the Infirmary?

Billing. He was not ſick an whole Week.

L. C. J. Did it reach to a *Sunday?*

Billing. No, my Lord, that I remember.

L. C. J. How long did he continue there?

Billing. Till towards the latter end of *June*.

L. C. J. Did you ſee him once in two or three Days?

Billing. Yes, my Lord, I did, conſtantly. And upon the 2d of *May*, I very particularly remember, looking out into the Garden, I ſaw Mr. *Blunt* walking in the Garden, and Mr. *Oates* with him: And obſerving him to be very intimately familiar with him, I asked ſome that were with me, Does this *Sampſon*, for he went by that Name in the College, ſays I, Does *Sampſon* know *Dick Blunt*? No, ſaid they; and we wondered at his Confidence, having no greater Acquaintance; I ſaw him that Day, walking in the Garden with that *Blunt*.

L. C. J. That was the 2d of *May?*

Billing. Yes, my Lord.

L. C. J. And he was conſtantly in this Gentleman's Company that Day?

Billing. Yes; and moreover the ſame Day this *Sampſon* was walking with one *John Ruſhton* in the Garden, and ſeeing me walk alone, *Thomas*, ſays he, have you never a Companion? No, *Sampſon*, ſaid I: Well, ſaid he, prithee come to us. So I was with him walking a little while, and then this *Blunt*, and one *Henry Howard*, were playing one with another, throwing Stones at one another's Shins. At which he was diſpleaſed, and ſaid, If they would not be quiet, he would go tell the Rector. *Howard* was haſty, and ſpoke angrily to him, and ſaid, If he would not be quiet, he would beat him: But Mr. *Oates* perſiſting, and daring of him, ſays he, What, do you dare me? and comes up to him, and throws up Mr. *Oates* his Heels. With that Mr. *Oates* look'd very fretfully upon him, and withdrew himſelf into the Infirmary, as we thought to ſpeak to the Rector. And by theſe Particulars, and ſuch as theſe, I remember to have ſeen him every Day, one Day with another, or every other Day, at St. *Omers*, till he went away, which was in *June*.

Then ſtood up another, one Townley.

L. C. J. Come, Mr. *Townley*, do you know Mr. *Oates?*

Townley. Yes, my Lord.

L. C. J. When came you from St. *Omers?*

Townley. I came a Week before *Eaſter*.

L. C. J. When ſaw you this ſame Mr. *Oates* at St. *Omers?*

Townley. I ſaw him in *June*.

L. C. J. When elſe?

Townley. In *May*.

L. C. J. When elſe?

Townley. In *April*.

L. C. J. Was he there in all *April*, all *May*, and all *June?*

Townley. No, not all *June*. He went away, as I take it, about the 10th of *June*.

L. C. J. Pray, how often did you ſee him? Did you ſee him every Day?

Townley. I converſed with him every Day. He was partly a Scholar, and partly a Father; and ſat at a Table by himſelf. He went to School as a Scholar; 'tis true, indeed, he did not learn, as the reſt of the Boys did, but he went to School, as the Boys did, and was at a Table from the Fathers, as the Boys were, but apart and alone.

L. C. J. But how often did you ſee him? was it every other Day?

Townley. Yes, I believe I did.

L. C. J. What for all *April*, and all *May?*

Townley. Yes.

L. C. J. How came you to take ſuch particular Notice, of it, that you can ſay, you ſaw him every other Day?

Townley. If I conſtantly dine with one, or if he be at a ſingle Table alone, he cannot be abſent, but I muſt take notice of it: And he was neither as a Father, nor as a Scholar, but betwixt both, and therefore the more to be taken notice of.

L. C. J. This then you ſay, He ſitting by himſelf, and being diſtinct from all the others, you might

might more eaſily obſerve his Abſence, than any other's. This is that you ſay?

Townley. Yes, my Lord.

L. C. J. You ſay well. Call another.

Then ſtood up one Fall.

L. C. J. When came you from St. *Omers?*

Fall. About Two Months ago.

L. C. J. When did you ſee Mr. *Oates?*

Fall. I ſaw him when I was in my Syntax, and now I am in Poetry.

L. C. J. What Month did you ſee him in?

Fall. When he came firſt, as I remember, it was at Chriſtmas.

L. C. J. Chriſtmas laſt?

Fall. No, it was Chriſtmas was Twelve-month, Chriſtmas, 1677.

L. C. J. How long did you ſee him there?

Fall. I ſaw him there from that Time till *June*, only when he was at *Watton*.

L. C. J. Was he never ſick?

Fall. I ſaw him in the Infirmary my ſelf.

L. C. J. How can you tell when a Man is ſick?

Fall. I do not pretend to that, but he was in the Infirmary as a ſick Man.

L. C. J. How came you to take particular notice of it?

Fall. I took no particular notice, but I have recollected my Memory.

L. C. J. Upon what Occaſion?

Fall. Upon this Occaſion.

L. C. J. How often did you ſee him?

Fall. I ſaw him every Day.

L. C. J. How long have you been in the Convent?

Fall. My Lord, I have been there two Years and an half.

Then ſtood up John Hall.

L. C. J. When came you from St. *Omers?*

Hall. In *July*, my Lord.

L. C. J. How long have you been there?

Hall. Seven Years, and upwards.

L. C. J. How long is it ſince you came from thence?

Hall. In *July* in the Year 1678.

L. C. J. And did you ſee Mr. *Oates* there then?

Hall. No, my Lord.

L. C. J. When did you ſee him there then?

Hall. I ſaw him there in *April*, *May*, and *June*.

L. C. J. What all *June?*

Hall. No, my Lord.

L. C. J. How long in *June?*

Hall. He went away about the 23d of *June*.

L. C. J. How came you to take ſuch particular notice Mr. *Oates* was there all this while?

Hall. I was a Servant there.

L. C. J. In what Way?

Hall. A Refectorian, a Butler.

L. C. J. Did you keep Books of what Meat and Drink they had?

Hall. No; I laid their Table, drew their Beer, and laid the Bread.

L. C. J. And did you ſerve Mr. *Oates* with Bread and Beer every Day?

Hall. Yes, my Lord, moſt Days.

L. C. J. Did you ſerve the Infirmary?

Hall. No, my Lord.

L. C. J. But you ſay you ſerved him every Day?

Hall. Yes, my Lord, the moſt of the Time he remained there: I acknowledge he was in the Infirmary.

L. C. J. How long?

Hall. Four or five Days, or thereabouts.

L. C. J. Was he in the College in *April?*

Hall. Yes, my Lord, all along.

L. C. J. And all *May?*

Hall. Yes, my Lord, I ſaw him all *May*, I laid his Table near the Door, at a particular Place where he always ſat.

Jury. My Lord, we deſire to know what Employment he is of now?

L. C. J. *Hall*, what made you come into *England?*

Hall. My Lord, I had not my Health there.

L. C. J. How long had you lived there?

Hall. Seven Years, and upwards.

L. C. J. And when began you to be ſick?

Hall. I had not my Health at Chriſtmas, in *December* 1677.

L. C. J. What Employment have you here, for you had a good Place there?

Hall. I live at home, with my Father and my Friends.

L. C. J. What is your Father? where lives he?

Hall. He is a Gentleman; he lives in *Radnorſhire*.

L. C. J. When came you to *London?*

Hall. I came to *England* in *July*, 1678.

L. C. J. But you ſay your Father is in *Radnorſhire*, when came you here to *London?*

Hall. I have been here about a Month, I was ſummoned up as a Witneſs.

Then one Dalliſon *was called, who did not appear; and one* Mauſhel *appearing, but ſpeaking* French, *and no* Engliſh, *and an Interpreter not being ready, he was for the preſent, by the Conſent of the Priſoners, ſet aſide. And then ſtood up one* Cooke.

L. C. J. When came you from St. *Omers?*

Cooke. In *January* laſt.

L. C. J. And where have you been ever ſince?

Cooke. Here in Town, my Lord.

L. C. J. Does your Father live here in Town?

Cooke. No, my Lord.

L. C. J. Do your Friends live here?

Cooke. No, my Lord.

L. C. J. You came over upon this Occaſion, did you?

Cooke. Yes, my Lord.

L. C. J. When did you ſee Mr. *Oates* there?

Cooke. I ſaw him in laſt *June*.

L. C. J. And was he there in *July?*

Cooke. No, my Lord.

L. C. J. What Time did he go away?

Cooke. The 23d, the Eve of the Feaſt of St. *John Baptiſt*.

L. C. J. How do you know?

Cooke. I made him ſome Cloaths.

L. C. J. Are you a Taylor?

Cooke. Yes.

L. C. J. How often did you ſee him?

Cooke. Every Day.

L. C. J. How came he to keep you Company?

Cooke. I could not chuſe but ſee him, ſometimes I ſaw him twenty times a Day.

L. C. J. Where was he in *April?*

Cooke. He was there all *April*.

L. C. J. He might be abſent one Day, or ſo, and you ſee him not.

Cooke. He uſed to come twice a Week to my Shop for things.

L. C. J. Was he there all *May?*

Cooke. Yes.

L. C. J. You

L. C. J. You ſay you ſaw him every other Day?

Cooke. Yes, my Lord.

Sir *Cr. Levins.* Why Sir there are 150 Scholars there, how can you tell he was there ſo well?

Mr. Juſt. *Pemberton.* Can you tell every one that was there all that time?

Cooke. No, I can't tell every one that was there, but he was particular enough.

L. C. J. Did you Live in Town as a Taylor or in the College?

Cooke. In the College.

Mr. *Belwood.* Was Mr. *Oates* at *Watton* any part of the time?

Cooke. Yes, he was.

Mr. *Belwood.* What Day? what Month?

Cooke. I cannor juſtly ſay the Day, but it was in *April.*

L. C. J. How long was he abſent?

Cooke. Only one Night as it ſhall pleaſe you.

Mr. Juſt. *Pemberton.* Hark you, how came you to take notice that he was at *Watton* one Night?

Cooke. It was talked of among all the Scholars.

L. C. J. How can you remember what was ſaid a Year ago of one Man?

Cooke. It was reported all over the Houſe.

Gavan. In one Place of his Narrative, he ſays, he came over with Sir *John Warner*, and Sir *Thomas Preſton.*

L. C. J. *North.* That is nothing to the Purpoſe. If you can contradict him in any thing that hath been ſworn here, do.

Gavan. If we can prove him a Perjured Man at any time, we do our buſineſs.

L. C. J. You ſhould have proved him a Perjur'd Man before. How can we prove one Cauſe in another? and then too he had been provided to make his Defence. Can he come prepared to make good every thing that he hath ſaid in his Life?

Dr. *Oates.* Can I come to make good my Evidence againſt all I have done in my Life?

L. C. J. Look you, if ſo be he hath forſworn himſelf in any former Tryal, if that would appear, you have all the Reaſon to make uſe of it, but you have not taken the right way, you ſhould have Indicted him and Tried him for Perjury in the former Trial, and then he could not have been heard at all in this.

Whitebread. We were all Priſoners cloſe ſhut up.

L. C. J. We know you have a Party ſtrong enough, and willing enough to convict him of Perjury if they could; but look you Gentlemen here is the thing, if you can give ſuch Evidence as will ſatisfie the Jury that he was abſent all *April* and all *May* you have ſaid a great thing. His Evidence will be quite contradicted.

Whitebread. He ſays he came over with Sir *Thomas Preſton* and Sir *John Warner* and others.

L. C. J. He ſays nothing of it now.

Dr. *Oates.* May it pleaſe you my Lord, I will anſwer it, if you pleaſe.

L. C. J. They deſire to know who came over with you when you came over in *April.*

Dr. *Oates.* I will tell you, and to convince the Court, that in neither of the Trials I did contradict my ſelf, I ſay, I did name ſome Perſons at one time that I did not name at another, becauſe ſome Mens Names did occur to my mind at one time that did not at another. There came over with me the Rector of *Liege*, Sir *John Warner*, Father *Williams*, Father *Marſh*, Father *Warner*, Sir *Tho. Preſton* and others.

L. C. J. This is dealing plainly with you.

Then ſtood up one Bartlett.

L. C. J. What Country-Man are you?

Bartlett. I am a Dutch Man.

L. C. J. Can you ſpeak Engliſh?

Bartlett. Yes, a little.

L. C. J. When came you from St. *Omers*?

Bartlett. I came from St. *Omers* the 23d of *May* in the Year 1678. New Stile.

Gavan. My Lord, this Man is come over to teſtifie, that *Oates* is Perjured in a Circumſtance about Sir *John Warner.*

L. C. J. He is to contradict Mr. *Oates*'s Teſtimony, for he ſays he came over with Sir *John Warner*, and you ſay Sir *John* did not come at that time.

Gavan. Yes.

L. C. J. Well when did Sir *John Warner* come over from St. *Omers*?

Bartlett. Whither?

L. C. J. Into *England*?

Bartlett. Sir *John Warner* hath not been in *England* all *May*, and all the Month of *April.*

L. C. J. Where was he?

Bartlett. He was at *Watton.* I did ſee him there.

L. C. J. Were you there all that time?

Bartlett. Yes, I was.

L. C. J. *North.* Were you there all *May*?

Bartlett. Yes, I was.

L. C. J. When did you come over into *England* laſt?

Bartlett. The 23d of *May.*

L. C. J. How long have you been in *England*?

Bartlett. About 5 or 6 Weeks.

L. C. J. What is your Name?

Bartlett. My Name is *Bartlett.*

L. C. J. But you ſay that you came over the 23d of *May.*

Bartlett. I did not come over till the latter end of *June.*

L. C. J. Juſt now you ſaid, you came over the 23d of *May.*

Bartlett. No, my Lord, I thought you had asked the queſtion when Mr. *Oates* came over.

Mr. Juſt. *Pemberton.* He ſays ſo, as your Lordſhip ſays before.

L. C. J. How do you know when Mr. *Oates* came over.

Bartlett. I heard ſo beyond Sea.

Then one *Carlier* a Foreigner appearing and not being able to ſpeak *Engliſh*, Mr. *Tiſſer* the Under-Sheriff of *Middleſex* was Sworn truly to Interpret his Teſtimony.

L. C. J. Mr. *Tiſſer*, you are only to tell us what he ſays: Ask him when he came into *England* laſt.

Mr. *Tiſſer.* He ſays, my Lord, it was between ſeven and eight Weeks ago.

L. C. J. Ask him if he knows where Sir *John Warner* was laſt Summer was a Year ago.

Mr. *Tiſſer.* He ſays, my Lord, he was in *Watton* for two Years laſt paſt.

L. C. J. Ask him where he was all *April* was Twelvemonth, and all *May.*

Mr. *Tiſſer.* My Lord, he ſays, that the laſt *Sunday* in *April* Sir *John Warner* was at his Houſe at *Watton.*

L. C. J. And where was he all *May*?

Mr. *Tiſſer.* In the ſame Houſe.

L. C. J. Ask him how he does know.

Mr. *Tiſſer.* My Lord, he ſaith, that he was a Gardener there.

L. C. J.

L. C. J. It ſeems he ſays to the ſame effect as the laſt Witneſs did. Call another. *Who did ſtand up.*

L. C. J. What is this Man's Name?

Gavan. His Name is *Charles Verron.*

L. C. J. Does he ſpeak any *Engliſh?*

Gavan. No, he does not.

L. C. J. Then, Mr. *Tiſſer*, ask him if he knows Sir *John Warner*, and where he was *April* and *May* was Twelvemonth.

Mr. *Tiſſer.* He ſays, my Lord, that he was at *Watton* all *April* and *May*, and continued there till *September.*

L. C. J. Pray ask this Man what Quality he is of there.

Mr. *Tiſſer.* He goes along with a Veſſel between St. *Omers* and *Watton*, and that he knows it to be true.

L. C. J. Ask him if he did ſee him every Day.

Mr. *Tiſſer.* He ſays, generally, my Lord, daily.

L. C. J. Ask him what Religion he is of.

Mr. *Tiſſer.* He ſays he is of the *Roman* Religion.

Then ſtood up one Baillee.

L. C. J. Ask him, Mr. *Tiſſer*, if he knows Sir *John Warner*; and where he was all *April* and *May* was Twelvemonth.

Mr. *Tiſſer.* He ſays the ſame, that he was at *Watton* all *April* and *May.*

L. C. J. Ask him how he can tell.

Mr. *Tiſſer.* He ſays he is a Servant of the Houſe.

L. C. J. And did he ſee him there Daily?

Mr. *Tiſſer.* My Lord, he ſays that he gave him directions to make a Baſtyment, that he is a Maſon, and that he did give him directions daily about it, and that he ſaw him every Day.

L. C. J. Look you, Gentlemen of the Jury, he ſpeaks to the ſame purpoſe that the three Witneſſes before ſpoke to; he ſays he is a Maſon, and that he built a Baſtyment there by direction from Sir *John Warner*, and that Sir *John Warner* came daily to give directions about it.

Then ſtood up John Joſeph.

L. C. J. Do you know Sir *Thomas Preſton?*

Joſeph. Yes, my Lord.

L. C. J. When did you ſee him?

Joſeph. In the months of *April*, *May* and *June.*

L. C. J. Where was he then?

Joſeph. He was at the Engliſh Houſe at *Liege.*

L. C. J. Did you ſee him there? how often did you ſee him there?

Joſeph. I ſaw him there every Day almoſt.

L. C. J. What occaſion had you to ſee him? what were you there?

Joſeph. I was Porter of the Gate.

L. C. J. And did you ſee him all the month of *April?*

Joſeph. Every Day, moſt commonly.

L. C. J. Did you ſee him once in a Day or two?

Joſeph. I did ſee him in *April*, *May*, and *June.*

L. C. J. That you might do; but did you ſee him every Day?

Joſeph. Every Day moſt commonly, I cannot abſolutely ſay, but two or three Days in a Week.

Sir *Cr. Levins.* Pray do you know of any time that Sir *Tho. Preſton* was abſent from *Liege?*

Joſeph. He was in the time of Vacancy.

Sir *Cr. Levins.* Was he not abſent in *April* or *May?*

Joſeph. No, my Lord.

L. C. J. When are the Vacancies?

Joſeph. In *Auguſt*, my Lord.

Then ſtood up one Peter Carpenteer.

L. C. J. Do you know Sir *Tho. Preſton?*

Carpenteer. Yes, my Lord very well.

L. C. J. Where did you know him?

Carpenteer. I knew him at *Liege.*

L. C. J. How often did you ſee him there in *April* and *May?*

Carpenteer. Every Day I ſaw him there all *April* and *May.*

L. C. J. What Office had you there?

Carpenteer. I was Caterer.

Gavan. My Lord, we have no more Witneſſes as to this Point. But, my Lord, my Caſe is different from the others: Mr. *Oates* ſays he did not ſee me in the Congregation, but he ſays, he afterwards ſaw my Hand to the Conſult: Now, my Lord, I have a Witneſs to prove that I was at that time at *Wolverhampton* in *Staffordſhire.* No Body hath a Right to ſit in the Congregation till he become a profeſs'd Jeſuit, which at that time I was not.

L. C. J. He does not charge you to have been there, tho' he ſays he ſaw your Hand to it.

Gavan. My Lord, I was then in the Country.

L. C. J. North. That will do you ſome, and yet but little ſervice, if you can prove your ſelf at *Wolverhampton* at that time: but call your Witneſſes.

L. C. J. Mr. *Gavan*, he ſays he ſaw a Letter of yours, giving an account how Affairs ſtood in *Staffordſhire* and *Shropſhire*, and that afterwards in *July*, and before that Gentleman, Mr. *Aſhby*, went to the *Bath*, he heard you diſcourſe of the ſame matter: And tho' he cannot charge his Memory to ſay he ſaw you the 24th of *April*, yet, ſays he, I did ſee his Hand to the Conſult; and being asked how he knew your Hand, he ſays he knew it by your writing a Bill of Exchange in his preſence.

Gavan. I could not ſign the Conſult at *London*, and not be at *London.*

L. C. J. *North.* I believe in ſuch a Buſineſs you care not how many Hands you have; but we will not prevent you calling your Witneſſes: You are upon your Life, don't ſpend the time, call them quickly.

L. C. J. What do you call them to prove?

Gavan. To prove that I was at *Wolverhampton* the 24th and 25th of *April.*

L. C. J. Pray hear what he ſays himſelf. You ſay, Sir, you ſaw his Hand to the Conſult that was in *April*; pray when was it that you ſaw it?

Dr. *Oates.* It was in *June* or *July.*

L. C. J. *North.* You might ſet your Hand afterwards to it, if you were not there then.

L. C. J. You ſay you were then in *Staffordſhire*, and might not you ſet your Hand afterwards when you came to Town? I will tell you, Mr. *Gavan*, in *April* they met, and had ſuch a Reſolution; you were then in *Staffordſhire*, might not you come to Town in *July* following, and ſet your Hand to what was agreed in *April* before? And you cannot contradict him, but by ſhewing that all *June* and *July* you were not here: For if you prove your ſelf never ſo much to have been at *Wolverhampton* in *April*, that will not ſerve the turn. You ſeem to make a very great Defence of this: All that Mr. *Oates* ſays is, that the 24th of *April* he was preſent where there was a Conſult had about the Death of the King, and divers Perſons ſet their hands to the Reſolve. Mr. *Gavan* afterwards was in Town, and then, ſays he, I ſaw his Hand ſet to the Conſult; I will not charge my Memory

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to ſay he was preſent, but I will tell you why I believe it was his Hand, becauſe I ſaw him draw a Bill of Exchange, and that was juſt like the ſame Hand.

Gavan. Aye but, my Lord, I was not here in *April*.

L. C. J. But this proves, in effect, that you ſet your Hand to the thing afterwards. And now if you ſhould prove your ſelf never ſo plainly not to have been there in *April*, you do not come to the thing: it is ſtill a *Non liquet* whether you were here *July* or no. And Mr. *Oates* does not poſitively charge you as to *April*. Well, call your Witneſſes, and prove what you will.

Catharine Winford *was called, and appeared.*

Gavan. I deſire you would be pleaſed to ask her, where I was the 23^{d} of *July*.

Winford. My Lord, I am very ſure he was a Sojourner at our Houſe the moſt part of the Summer, in *June* and *July* both: In *July* the 23^{d} he went away from my Houſe, and took another Lodging more convenient for that which he had to do.

L. C. J. Where? in what Town was this?

Winford. At *Wolverhampton* in *Staffordſhire*.

L. C. J. Was he never away from you all that time?

Winford. No; and then he went to another Lodging in the Town.

L. C. J. Do you ſay that he ſojourned with you all *June* and *July* till the 23^{d}?

Winford. He ſojourned with me longer; but I only name thoſe Months, becauſe they are only in queſtion.

L. C. J. Where did he go when he went from you?

Winford. He took another Lodging in the Town.

L. C. J. And did you ſee him then?

Winford. I ſaw him then every Day, or every other Day.

L. C. J. Are you a Roman Catholick?

Winford. Yes, my Lord, I am ſo.

L. C. J. Call another.

Gavan. Call *Mary Poole*. *Who ſtood up.*

L. C. J. Do you know Mr. *Gavan*?

Poole. Yes, my Lord.

L. C. J. How long have you known him?

Poole. This ſix or ſeven Years.

L. C. J. Pray do you know where he was this time Twelvemonth?

Poole. He was at Mrs. *Winford*'s Houſe at *Wolverhampton*.

L. C. J. How do you know?

Poole. I was a Servant there in the Houſe.

L. C. J. And where was he in *April*?

Poole. He was at my Miſtreſſes Houſe.

L. C. J. And where was he in *May*?

Poole. My Lord, I believe he was there.

L. C. J. And why do you believe he was there?

Poole. Becauſe I do not remember his going forth, till the latter end of *July*, and he was there in *June* too

L. C. J. You anſwer readily as to *June* and *July*, why did you ſtick at the Month of *May*, more than the other Months? for you know, when I asked you where he was in *April*, then you ſaid he was at home; why do you doubt whether he was there in *May* or no? pray tell us why it is not as certain to you that he was not there in *May*, as that he was there in *June*; why do you doubt more of it?

Poole. I do not doubt but that he was there.

L. C. J. But why did you not anſwer then as readily to the one as to the other?

Poole. My Lord, any one may miſtake.

L. C. J. This you were not prepared for, and it was a queſtion you did not come ready to anſwer: are you a Roman-Catholick?

Poole. Yes, my Lord. *Here the People laugh'd.*

L. C. J. Look you, you muſt know there is no other uſe to be made of it, but only to ſhew, that Proteſtants are ſo averſe to Popery in *England*, that they will not endure a Roman-Catholick in *England*: But they are good Evidence and competent Witneſſes, I muſt tell you that, and no Man muſt deny it: for tho' you deny Heaven to us, yet we will not deny Heaven to you, nor Witneſſes; tho' you ſay Hereticks will be damn'd, yet we hope they will never, while they do not follow your Practiſes. *At which the People gave a great Shout.*

L. C. J. You muſt pardon the Peoples ſhouting; for you have turned their Hearts ſo, that there is no living for a Papiſt in *England*, I will maintain it. [*And then the People ſhouted again.*] You ſhall have all the Juſtice that can be, and all the favour the Law will allow.

Gavan. If there be but a place for us in Heaven, I am contented: My Lord, I deſire you will be pleaſed to ask this Mrs. *Catharine Winford*, whether ſhe does not remember that I came from my Lord *Aſton*'s the *Monday* before.

L. C. J. Mrs. *Winford*, what ſay you? do you remember any Paſſages about the time he left your Houſe?

Winford. My Lord, I did not know directly and poſitively what I ſhould come to anſwer, and therefore I cannot recollect my ſelf.

L. C. J. Do you know that he went to any Gentleman's Houſe ſome time before he left your Houſe?

Winford. Yes, my Lord, he went often abroad.

L. C. J. To whoſe?

Winford. To my Lord *Aſton*'s.

L. C. J. How long before?

Winford. I cannot tell.

L. C. J. How long did he ſtay at my Lord's? Did he ever ſtay five or ſix Days?

Winford. I cannot tell.

L. C. J. My meaning is this, in plain Engliſh, to ask you plainly, and you ought in Conſcience to ſpeak the Truth as much as if you were upon your Oath; for you are in the Preſence of God, who will judge you as ſeverely for a Falſhood in this Caſe, as in the other: I would ask you, whether he could not poſſibly be abſent, and make a ſtep to *London*, and you be never the wiſer?

Winford. My Lord, I am as confident as I can be of any thing in the World, of the contrary.

L. C. J. Might not he be in *London* the latter end of *June* or *July*, and you not know it, when he pretended to go to my Lord *Aſton*'s?

Winford. I do not know, but I am very confident he did not.

L. C. J. But was he abſent long enough to have done it? Can you charge your Memory with that?

Winford. It was poſſible it might be ſo, but I am confident it was not, becauſe I uſed to order my Maid to get him his Linen ready upon any Journey, and he had none now.

Dr. *Oates.* My Lord, he took a Chamber to go into the Exerciſe; now, my Lord, he taking a Chamber on purpoſe for this very thing, he might

pretend that, and come to *London* the while, and they not know it, becauſe he was ſhut up; for none are to come at them.

Winford. My Lord, I know not any ſuch Thing of him; but this is a Rule amongſt them, that when they are ſo ſhut up, if there be a neceſſary Occaſion to come to them about any particular Buſineſs, as ſending them Linen, or ſo, they have Admittance to them.

L. C. J. Were you employ'd upon any ſuch extraordinary Matter?

Winford. My Lord, I uſed to go and ſee him, and carry him his Linen.

L. C. J. And can you charge your Memory with that?

Winford. Yes, my Lord, I can.

L. C. J. When? the latter end of *July*?

Winford. Yes, my Lord, I often went to ſee him then, when he was gone from my Houſe.

L. C. J. Where was he for all the former part of *July*, till thoſe eight Days?

Winford. He was at my own Houſe.

L. C. J. When went he firſt into this recluſe Way?

Winford. He went from my Houſe, the 23d of *July*.

L. C. J. Was he not cloſe, when he was with you?

Winford. No, my Lord.

L. C. J. And the laſt eight Days you had Acceſs to him?

Winford. Yes, I had.

L. C. J. I ask you, Are theſe People ſhut up at a certain Time, and there is no coming to them, upon any Occaſion?

Winford. My Lord, moſt of thoſe Days I did ſee him, indeed he was ſhut up, but upon any kind of Buſineſs, as the carrying of Linen, and ſometimes a pair of Gloves, and other Things of his own, or ſometimes to ſpeak with him about Buſineſs, we were admitted.

L. C. J. I ſee your Confinements are not ſo great as you would make them to be, or he would have us think: I ask you once more, whether you can ſay, that during the Months of *June* and *July* it was not poſſible for him to make a Step to *London*, and you never the wiſer?

Winford. I am very confident he did not, he was not abſent long enough to do it.

Sir *Cr. Levins.* You ſaid juſt now, You could not ſay poſitively, but he might be abſent for five or ſix Days.

Winford. I do not believe he did; for he had no Linen with him, which he uſed to have, when he went to *London*.

L. C. J. But, ſuppoſing he had no Linen, might he not go to *London*, and you not know it?

Winford. I can't tell whether he was abſent, or no, long enough to do it.

Gavan. Pray, my Lord, let me ſpeak; as I live, an innocent Man will be loſt elſe. He ſays expreſly, I was in Town in *July*; and gives this Argument for it, That Mr. *Aſhby* was in Town, and he met me with him.

L. C. J. No, no; Mr. *Oates* was not ſo poſitive: He ſays, it was either in *June* or *July*; but he rather thinks it was *July*. But, Miſtreſs, might not he, in the beginning of *July*, be abſent ſo long, as a Man might go to *London*, and return again; in the firſt three Weeks of *July*, I mean?

Winford. My Lord, I cannot charge my Memory, becauſe I did not know what I ſhould be asked, and ſo could not recollect my ſelf. I only ſay I am confident of it, becauſe he always told me, when he went ſuch a Journey, that I might make Proviſion of Linen to fit him for it.

L. C. J. Your Reaſons are weak; Becauſe he uſed to tell you, that you might get him Linen: Men, upon extraordinary Occaſions, do extraordinary Things; ſo that you are not to govern your ſelf by what he uſed to do, in his acquainting you, or you in providing his Linen. This was no ordinary Errand, and therefore I don't ask you whether he had Linen from you, or no; but you are only to charge your ſelf with remembring whether he could not be abſent long enough out of your ſight, to have been ſuch a Journey?

Gavan. Pray, my Lord, give me fair Play. He does charge it expreſly, and is preciſe to a Day: He ſaith, I was here in *July*, after that *Aſhby* was come to Town, and before that he went out of Town: And he ſays, That *Aſhby* came to Town in the middle of *July*, and went out of Town about the latter end of *July*, or beginning of *Auguſt*. Now, my Lord, I ſay this, he ſaying that *Aſhby* came to Town the middle of *July*, and ſtaid there a Fortnight, and then went to the *Bath*, and that I came to Town while that he was there; if I prove that I was in *Staffordſhire*, from the 15th or 16th of *July*, to the end of the Month, then I ſhall clear my ſelf evidently; for he does, in effect, charge me to be here, ſome Time in that Fortnight's Time, and I prove, that all the latter Part of *July* I was in the Country.

L. C. J. He does not charge it to a Day, but he ſays it was about a Fortnight.

Dr. *Oates.* Mr. *Aſhby* came to Town in the beginning or middle of *July*; I rather think it was the middle, but I dare not, upon my Oath, be poſitive, as to the Time; and in that Time that Mr. *Aſhby* ſtaid in Town, Mr. *Gavan* came to *London*: For I remember, he ſaid he would go and ſee Father *Aſhby*, who was then at *Wild-houſe*.

L. C. J. Prove where you were now, all *July*. Call your Witneſſes.

Gavan. I prove that I was at *Wolverhampton*, from the 23d, to the end of the Month.

L. C. J. Call your Witneſſes to prove where you were the beginning, that can ſpeak expreſly to it.

Gavan. My Lord, I have them not here.

L. C. J. Why then would you make us loſe all this Time?

Gavan. My Lord, I will tell you; hear the Words of an ingenuous Man: Being as I was, innocent, not knowing what they intended to charge me with, I, in my Mind, run over all that I could imagine I had at any time done, that they could lay hold on. If I had been guilty of any Thing, my own Conſcience would have told me of it; and I ſhould have provided to have given ſome Anſwer to it: But being innocent, I was to ranſack my Memory, to ſum up all the Paſſages of my Life; where I had been, what I had ſaid, what I had done, that would give them any Occaſion of accuſing me. And becauſe I did imagine they might think I was here the 24th of *April*, I brought Witneſſes for that; and becauſe I did imagine that they might ſpeak of ſome Conſults in *April*, I ſent up for ſuch Witneſſes, at my own Charge, as could teſtify where I was then.

L. C. J. But you have not one Proteſtant, that teſtifies for you.

Gavan. And now, my Lord, I humbly caſt my ſelf upon the Honour and Juſtice of this Honourable and Juſt Court; to which I ſubmit my ſelf, with

with all my Heart and Soul, having uſed all the Remedies I can. I have cleared my ſelf, as to the main Day, the 24th of *April*, whereon all the pretended Plot lies: And I'll bring Witneſſes that ſhall ſwear, I was not in *London* in *Auguſt*; and if my eternal Salvation lay upon it, I could averr, I was not in *London*: And I wiſh I may be made an Example of Juſtice before all the World (in the Sight of God I ſpeak it) if I be not the moſt innocent Perſon in the World. And, my Lord, ſeeing there is only his Oath for it, and my Denial, I have only one Demand; I don't know, whether it be not an extravagant one or no; if it be, I don't deſire to have it granted.

L. C. J. What is that Demand?

Gavan. You know, that in the beginning of the Church (this learned and juſt Court muſt needs know that) that for One Thouſand Years together, it was a Cuſtom, and grew to a conſtant Law, for the Trial of Perſons accuſed of any Capital Offence, where there was only the Accuſer's Oath, and the Accuſed's Denial, for the Priſoner to put himſelf upon the Trial of *Ordeal*, to evidence his own Innocency.

L. C. J. *North.* We have no ſuch Law now.

L. C. J. You are very fanciful, Mr. *Gavan*; you believe that your Cunning in asking ſuch a Thing, will take much with the Auditory; but this is only an artificial Varniſh: You may do this with hopes of having it take with thoſe that are *Roman* Catholicks, who are ſo ſuperſtitious as to believe Innocency upon ſuch Deſires; but we have a plain Way of underſtanding here in *England*, and that help'd very much by the Proteſtant Religion: So that there is ſcarce any Artifice big enough to impoſe upon us. You ask a Thing that ſounds much of a Pretence to Innocency, and that it would be a mighty Suffering, if you ſhould miſcarry, becauſe you ask that you know you can't have. Our Eyes and our Underſtandings are left us, tho' you do not leave their Underſtandings to your Proſelites: But you are miſtaken, if you think to impoſe that upon us that you do upon them; and you do ſo impoſe upon them. But I'll tell you, there is ſcarce any Man with us that can be a Papiſt: For you cannot deceive and gull us, as you have done all that you have perverted to your Way.

Gavan. Is it any Harm, my Lord, to ask, whether I might not be ſo Tried?

L. C. J. North. Look you here, Mr. *Gavan*, the Time is far ſpent; if you have any thing to ſay, we will hear you; if you have any Witneſſes, call them, and we will examine them: But if not, the other Priſoners muſt be admitted to make their Defence, as well as you.

Gavan. All theſe Six can prove, that I was at *Wolverhampton* the laſt Week in *July*.

Then another Witneſs ſtood up, for him.

Gavan. Where was I in *July*?

Witneſs. I cannot ſpeak to all *July*; but, my Lord, I can declare, that Mr. *Gavan* was in *Staffordſhire*, the laſt Week of *July*, every Day, I am confident.

L. C. J. Where was he, the firſt three Weeks in *July*?

Witneſs. I cannot ſpeak as to that; but in the laſt Week in *July*, he came to an Apartment of an Houſe that I lived in.

L. C. J. Look you, Mr. *Gavan*, you ſee what this Evidence is; ſhe ſays, that you were in *Staffordſhire* the laſt Week in *July*, for you had an Apartment in the Houſe ſhe lived in. Call another.

Who ſtood up.

L. C. J. Where was Mr. *Gavan* in *July* laſt?

2 *Witneſs.* My Lord, I ſaw him my ſelf, at the latter end of *July*, for very many Days; for he was in a Room of the Houſe that I lived in, I am ſure, moſt of the laſt Week.

L. C. J. Where was he the laſt Fortnight?

2 *Witneſs.* I am confident I ſaw him all the laſt Fortnight, but I cannot be poſitive.

L. C. J. Call another. *Who ſtood up.*

L. C. J. Where was Mr. *Gavan* in *July*?

3 *Witneſs.* My Lord, I lived in the ſame Town with him, and I don't remember that he was out all *July*, but the laſt Week he was in our Houſe.

L. C. J. Well, call another. *Who ſtood up.*

L. C. J. Where was Mr. *Gavan* in *July* laſt?

4 *Witneſs.* He was, in *July* laſt, the laſt Week, in a part of our Houſe.

L. C. J. So then he came home, from *London*, the 23d or 24th of *July*. Well, Mr. *Gavan*, have you any more Witneſſes, to any other Purpoſe? For here are enough to this.

Gavan. No, my Lord.

L. C. J. Mr. *Whitebread*, have you any Witneſſes to call?

Whitebread. My Lord, I have only this, and I deſire to be heard in this Point, to prove that Mr. *Oates* was miſtaken in his Evidence that he gave at the laſt Trial, againſt Mr. *Ireland*.

L. C. J. Look you, I muſt break in upon you; you have been told ſo often, all of you have been told it, and yet you are upon the former Trials again. You are now upon your Trial for your Life, if you could have diſproved any thing that he ſaid at a former Trial, you ſhould have taken a legal Way, and convicted him of Perjury; but now, to charge him with a Printed Paper, is not fair. You muſt ſpeak to what he ſays now.

Whitebread. He ſays the ſame now. But all that I ſay is this, If he be not honeſt, he can be Witneſs in no Caſe. I ſuppoſe, if any one can prove him not *Probus Teſtis*, his Teſtimony is not to be receiv'd in any Caſe.

L. C. J. But how will you prove that? Come on, I'll teach you a little Logick; if you will come to contradict a Witneſs, you ought to do it in a Matter which is the preſent Debate here; for if you would convict him of any thing that he ſaid in *Ireland*'s Trial, we muſt Try *Ireland*'s Cauſe over again. But if you will ſay any thing againſt what he ſays now, do.

Whitebread. That which I would alledge is this, If he be convicted of Perjury in one Caſe, he is not to be believed in another.

L. C. J. You ſay right, if he be convicted.

Whitebread. He is not only then an incompetent Witneſs, for he cannot be ſaid to be *probus teſtis*, but he is *improbus*. Now this is that I can prove.

Mr. Juſt. *Pemberton.* Nay, you muſt ſhew it by a Record.

L. C. J. You cannot have ſo little Underſtanding; you that have been, and were to be, ſo great a Man among them; had been Provincial, and was to have been ſomewhat elſe. I have told you already, that to prove him to be a Man that hath no Faith in him, he muſt be Convicted. You muſt have Indicted him, and convicted him, of the Thing wherein he did commit Perjury, and then he had been prepared to juſtify himſelf. But ſhall you come now, and at this your Trial, and prove what he ſaid at *Staley*'s Trial, and *Coleman*'s Trial, and *Ireland*'s Trial? And muſt We examine what

Matters have receiv'd a Verdict and a Judgment There? For, conſider what will be the Conſequence of it; if it ſhould be falſe, you there Arraign a Verdict. You ſhould have convicted him of the Falſhood firſt.

Whitebread. I deſire the Jury to take notice, that he does not ſtick to the Teſtimony that he gave then, for if he does, it was falſe.

L. C. J. They muſt not take notice of any thing that was done at a former Trial, unleſs it be ſpoken of now.

L. C. J. North. Do not call any Witneſſes to prove what he ſaid then, but to diſprove what he hath ſaid now.

L. C. J. 'Tis a pretty hard matter to make a Prieſt underſtand one, for what I ſee. If the Witneſs ſhall not gain Credit with the Jury, that he came over with Sir *Thomas Preſton*, Sir *John Warner*; if they are ſatisfied by thoſe many Witneſſes, Ten or Twelve, at leaſt, that it is falſe, they ought not to believe him; but as to that Teſtimony, they ought to believe your Witneſſes; but he is not preſently guilty of Perjury: For if they ſhould not give Credit to Mr. *Oates*, you muſt indict him, and another Jury muſt paſs upon him, before he is convicted: For it is one Thing to be Forſworn and Perjured, and another Thing to be proved ſo; and he is not proved to be ſo, but by a Record for that Purpoſe.

Harcourt. If ſo be our Witneſſes can't be look'd upon as good Witneſſes, then there can be no Commerce abroad in any other Country.

L. C. J. They are, no doubt, good Witneſſes, till they be proved otherwiſe; and they are left to the Jury to believe as they think fit.

Harcourt. Now here are divers Things that are brought againſt my ſelf, by Mr. *Bedlow*, Mr. *Prance*, Mr. *Oates*, and Mr. *Dugdale*; if the Witneſſes that I bring, becauſe they are *Roman* Catholicks, are not good Witneſſes, then I am in a hard Caſe.

L. C. J. North. Look then, you miſtake the Thing; thoſe that are not Witneſſes, we don't hear at all; but our hearing them at all, proves that we look upon them as good Witneſſes. But when a Man is a Witneſs, he is either of more Credit, or of leſs Credit, according to the Circumſtances; and 'tis a proper Queſtion to ask them, whether they are *Roman* Catholicks? But they are Witneſſes, without all Queſtion.

Harcourt. I ſay, my Lord, theſe Perſons are known to be every one of them very bad and flagitious Perſons, and that every one of them have undertaken this Courſe, meerly to get a Livelihood: They are Men of deſperate Fortunes, they get a Living by ſwearing faſt, they find that the beſt Trade.

L. C. J. North. If you have any other Witneſſes, we will hear them: If you have no other Witneſſes, then we muſt hear what the King's Council reply, and then it will be your Turn to ſay what you can in your Defence.

Gavan. I have Witneſſes here: It is not indeed a poſitive Evidence, but a negative Evidence; and I have a Brother and a Siſter in Town, and upon my Salvation I never came to Town, but I came to their Houſe.

L. C. J. That will ſignify nothing. Mr. *Harcourt*, have you any more Witneſſes? If you have them, pray call them.

Harcourt. 'Tis in vain to call them, if they be not to be believed, becauſe they are *Roman* Catholicks.

Sir *Cr. Levins.* 'Tis a Miſtake, we do not refuſe any Witneſſes, becauſe they are *Roman* Catholicks.

L. C. J. No, we have not refuſed any one Point yet.

L. C. J. *North.* If you have any more, pray call them, and don't ſpend the Time.

L. C. J. Call a Prieſt or two, if you will, we will hear them.

Harcourt. Mr. *Oates* did accuſe me of paying fourſcore Pounds at my Chamber, and he did ſay afterwards it was at *Wild-houſe*. I have Perſons to juſtify what was done at my own Chamber; and he ſays Mr. *Ireland* was by, now here are Witneſſes to prove, that Mr. *Ireland* was in *Staffordſhire* all the Month of *Auguſt*, therefore he could not be preſent.

L. C. J. Does he ſay any ſuch Thing now?

Mr. Juſt. *Pemberton.* That was urged before; pray do not inſiſt upon that, it hath receiv'd a Trial.

L. C. J. I'll tell you what he ſays, and I'll ask him the Queſtion: Dr. *Oates*, it is ſuppoſed by your Teſtimony, that Mr. *Ireland* and Mr. *Harcourt* were together, when this fourſcore Pounds was paid, for the Villains that went to *Windſor* to murder the King?

Dr. *Oates.* I never ſaid ſuch a Word.

Harcourt. Here it is in the Trial.

L. C. J. I ſtand not by the printed Trial, it is no Record in Law. In ſhort, Were Mr. *Ireland* and Mr. *Harcourt* together at that Time?

Dr. *Oates.* No, they were not.

Gavan. He did then ſay, that he did receive of Mr. *Ireland*, the 2d of *September*, 20*s.* that he borrowed of him; now the 2d of *September* he was at *Boſcobel*.

Dr. *Oates.* My Lord, I was not poſitive as to the Day; but as near as I remember, (thoſe were the Words I ſaid) it was the 2d of *September*; but whether it was the 1ſt, 2d, 7th, 8th or 9th, I would not be poſitive in it.

Then the Priſoners called Pendrel *and his Wife, and* Gifford *and his Wife; and* Gifford *ſtood up.*

Gifford. My Lord, I was here the laſt Seſſions, where I did teſtify the ſeeing of Mr. *Ireland* in *Staffordſhire*, on the 24th of *Auguſt*, *Bartholomew*-day, and the next Day after; at which Time Mr. *Oates* ſaid that he ſaw him here in Town. But Mr. *Oates* could not be particular in every Thing; but at laſt he came to a Circumſtance, and averred, that the 1ſt or 2d of *September*, he did receive 20*s.* of Mr. *Ireland*, in *Harcourt*'s Chamber; he ſaid it was about the Faſt-day.

Dr. *Oates.* That was as near as I remembred.

Gifford. Here is in Court at leaſt ſix People that know it; I ſaw him ſeveral other of thoſe Days there; but theſe ſix People converſed with him every Day.

Mr. Juſt. *Pemberton.* How do you know all that?

L. C. J. *North.* Come, come, you muſt not ſpeak, as to what he ſaid in *Ireland*'s Trial.

L. C. J. What time was it that Mr. *Harcourt* and Mr. *Ireland* conferred together about this ſame Buneſs?

Dr. *Oates.* My Lord, I do not charge *Ireland*, but I charge *Harcourt* with being at *Wild-houſe*, and that there *Coleman* met him, and that there was the greateſt part of the Money, which was carried back to *Harcourt*'s Chamber, and given to the Perſon that was to carry it down to *Windſor*; but Mr. *Coleman*

Coleman was gone away before, and had left a Guinea behind him, which was given to the Meſſenger for Expedition.

L. C. J. I am miſtaken, if you have not teſtified that *Ireland* was in Town in *Auguſt* and *September* with *Harcourt*.

Dr. *Oates*. *Ireland* took his Leave of *London* betwixt the 8th and the 12th of *Auguſt*, as to go to St. *Omers*.

L. C. J. Here is the Matter, they muſt have Right, tho' there be never ſo much Time loſt, and Patience ſpent. Say they, We muſt prove and contradict Men by ſuch Matters as we can; People may ſwear downright Things, and 'tis impoſſible to contradict them; but we will call Witneſſes to prove thoſe Particulars that can be proved: Say where Mr. *Ireland* was in *Auguſt*?

Dr. *Oates*. He took his Leave of us in Town in *Auguſt*, and that was between the 8th and 12th, at *Harcourt*'s Chamber.

L. C. J. What do you infer from *Ireland*'s being there then?

Dr. *Oates*. I'll tell you what I deſign in it: Your Lordſhip may perceive that I did methodize my Evidence according to the Time; for I ſaid, this was our Buſineſs in *April*, this in *July*, and now we come to the Buſineſs of *Auguſt*, ſaid I, we took our Leaves of Mr. *Ireland* between the 8th and 12th. I ſaid, in *July* Mr. *Fenwick* was out of Town, but then, if your Lordſhip remembers, I ſaid, he was in Town, and took his Leave of Mr. *Ireland*, betwen the 8th and the 12th of *Auguſt*.

L. C. J. Was Mr. *Ireland* in *Fenwick*'s Company at that time in *Auguſt*?

Dr. *Oates*. Yes, my Lord, he was, when he took his Leave.

L. C. J. Did they talk then of this Buſineſs?

Dr. *Oates*. They took their Leaves of one another, but as to what particular Things of the Plot they ſpoke about, I don't remember.

L. C. J. Look you now, mind what he ſays, *Ireland* and *Fenwick* were together in *Auguſt*, between the 8th and the 12th; but being asked, Whether they were met on purpoſe to talk of the Plot? He ſays, he does not remember the Particulars.

Here the Lady Southcott, *her Son, and her Daughter, were call'd.*

L. C. J. Did you ſay, that *Fenwick*, there at the Bar, had Converſe with *Ireland* in *Auguſt*, for the carrying on of the Plot?

Dr. *Oates*. Yes, my Lord.

L. C. J. My Rule is this, in doubtful Caſes, when Men are upon their Lives, I had rather hear what is impertinent, than not let them make a full Defence.

L. C. J. *North*. I had rather hear Things at a Venture, than forbid Things at a Venture.

Lady Southcott *ſtood up.*

L. C. J. How long were you in Mr. *Ireland*'s Company?

Lady *Southcott*. From the 5th of *Auguſt* to the 16th.

L. C. J. What every Day?

Lady *Southcott*. Yes, every Day.

Dr. *Oates*. My Lord, here is *Sarah Pain*, who before hath teſtified what ſhe hath known in this Matter. If your Lordſhip pleaſe, I deſire ſhe may be call'd, in readineſs to ſpeak to it.

L. C. J. Are you ſure it was the 5th?

Lady *Southcott*. Yes, as ſure as I can be of any Thing.

Mr. Recorder. Dr. *Oates*, you had beſt keep your Evidence entire till the laſt.

Then Sir John Southcott *was called, and appeared.*

L. C. J. Did you know Mr. *Ireland*?

Sir *John Southcott*. Yes, I did know him by Face.

L. C. J. Where did you ſee him?

Sir *John Southcott*. I ſaw him, the 5th of *Auguſt*, at St. *Albans*.

L. C. J. And did he travel along with you?

Sir *John Southcott*. Yes, he did travel along with us the 6th, 7th, 8th and 9th.

L. C. J. How many Days did he travel along with you?

Sir *John Southcott*. He travell'd along with us four Days together, I am ſure.

L. C. J. What from the 5th to the 9th?

Sir *John Southcott*. Yes, Sir.

L. C. J. Is this all that you can ſay?

Sir *John Southcott*. Yes, my Lord.

L. C. J. But we would know where he was afterwards, did you ſee him after the 9th?

Sir *John Southcott*. My Lord, I ſaw him at St. *Albans*, and we went from thence to *Northampton*, and from thence to *Coventry*, and from thence to my Lord *Aſton*'s, that is four Days; and I ſaw him *Thurſday*, I ſaw him *Friday*, *Saturday*, and *Monday* following. *Tueſday* I had occaſion to go further into the Country, and he went along with us; ſo I ſaw him *Tueſday*, *Wedneſday*, *Thurſday* and *Friday* afterwards.

L. C. J. Why then you ſaw him at leaſt twelve Days?

Sir *John Southcott*. Yes.

L. C. J. Have you any more?

Then Mr. Edward Southcott *ſtood up.*

L. C. J. Were you here when *Ireland* was Tried?

Sir *John Southtott*. No.

L. C. J. Did you ſee Mr. *Ireland* in *Auguſt* laſt?

Mr. *Southcott*. The 3d of *Auguſt* he came down to my Lord *Aſton*'s at *Stanmore*, they ſaid ſo; but I cannot ſwear he came that Night, but I ſaw him very early the next Morning; the 5th we went to St. *Albans*, and we kept on till we came to *Tixall*; and I was in his Company from the 4th to the 16th.

L. C. J. Why, you hear what he ſays, He was in Company with him every Day from the 4th to the 16th.

Gavan. Call Mrs. *Harewell*, and her Daughter, Mrs. *Gifford*, and Mrs. *Pendrel*.

Then Mrs. Harewell *ſtood up.*

L. C. J. Did you ſee Mr. *Ireland* in *Auguſt* laſt?

Harewell. I ſaw *Ireland* in *Auguſt* laſt, the 17th Day: He came then to my Houſe at *Wolverhampton*, and there he continued every Day, and lay in my Houſe every Night, till the 26th Day.

Then young Mrs. Harewell *ſtood up.*

Harewell. Mr. *Ireland* came to our Houſe in *Staffordſhire* the 17th of *Auguſt*, and ſtay'd there till the 26th; I ſaw him every Day, unleſs it was *Friday*, the Day before *Bartholomew*-Day, when he went to *Litchfield* and returned again.

Gavan. My Lord, there is a Priſoner now in *Newgate* that can teſtifie the ſame.

L. C. J. North. Would you ask your Fellow if you be a Thief? he is in for the ſame Offence.

Gavan.

Gavan. My Lord I desire to know, if a Man be not convicted of the same Offence, whether he be not a good Witness?

L. C. J. North. If he stand charged of the same Plot, his Evidence is of little weight.

Then Elizabeth Keiling *stood up.*

L. C. J. Did you see Mr. *Ireland* in *August*?

Keiling. Yes, my Lord, I did.

L. C. J. Where did you see him?

Keiling. I saw him at *Wolverhampton*, there he was from *Saturday* the 17th, to *Monday*, and then I went to see my Mother, and came back again on *Thursday*, and found him there, and there he was till the 26th.

Gavan. Call Mr. *Pendrell* and his Wife.

Then Pendrell *stood up.*

L. C. J. When did you see Mr. *Ireland*?

Pendrell. I saw him the second and third of *September.*

L. C. J. Where did you see him?

Pendrell. At *Boscobel.*

L. C. J. And what, did you see him in *August*?

Pendrell. No, my Lord.

L. C. J. How do you know you saw him then?

Pendrell. My Wife being paid for his Diet, set down the Day.

L. C. J. What, he came to sojourn with you, did he?

Pendrell. They were with me for their Meals, and so my Wife set it down,

L. C. J. Why, do you set down the Day of the Month when any one comes to you?

Pendrell. Yes, my Lord, when we are paid for their Diet, we do.

L. C. J. What, do you keep a publick House?

Pendrell. I keep the Royal Oak.

L. C. J. Methinks you should have a great deal of Company if you Live there; and 'tis hard you should charge your self to remember a particular Person you did not know before.

Pendrell. My Lord, he told me his Name was *Ireland*, and several others did so too.

L. C. J. You had as good have let such trivial Evidences as this alone. But go on.

Then Mrs. Pendrell *stood up.*

L. C. J. Do you know Mr. *Ireland*?

Mrs. *Pendrell.* I did know by Report it was he.

L. C. J. Where did you see him in *August* or *September*?

Mrs. *Pendrell.* At *Boscobel*, my Lord.

L. C. J. Did you ever see him before that time?

Mrs. *Pendrell.* No, my Lord.

L. C. J. Do you know it was the same Man that suffered?

Mrs. *Pendrell.* I will take my Oath of it.

L. C. J. How! when you never saw him before that time?

Mrs. *Pendrell.* I was in Town when he died.

Then stood up Mrs. Gifford.

L. C. J. When did you see Mr. *Ireland*?

Gifford. My Lord, Mr. *Ireland* came to *Wolverhampton* the 17th of *August*, and he stayed there till the 26th it was of a *Monday*, I remember it by several Circumstances.

L. C. J. Did you know Mr. *Ireland*?

Gifford. I never saw him before.

L. C. J. Do you know it was the same that died?

Gifford. My Lord, here was my Brother in Town, who saw him executed, and he did assure me he was the same: And I saw him again the second of *September*, and the seventh of *September* again, and the tenth and eleventh: My Lord he was the same Man, I believe, because my Brother told me so.

Mr. *Gifford.* I saw him in the Country, and I saw him executed.

Then another Mrs. Gifford *stood up,*

Mrs. *Gifford.* I saw him at *Pancras* Fair in *Staffordshire.*

L. C. J. Was it the same Man that was Executed?

Mrs. *Gifford.* My Lord, I cannot say that, I did not see him suffer; but my Sister and I were at the Window, and she shew'd him to me, and said that was Mr. *Ireland*, and told me how long he had been in *England.*

L. C. J. How do you know that was the Man that was Executed? did you see him tried here?

Mrs. *Gifford.* Yes, my Lord, I did.

L. C. J. And that was the same Man.

Mrs. *Gifford.* Yes it was, my Lord.

L. C. J. When was it your Sister shew'd you him?

Mrs. *Gifford.* I saw him upon the seventh of *September.*

Then stood up one Mr. Bedle.

L. C. J. When did you see Mr. *Ireland*?

Bedle. I saw him at a Place called *Millage* in *Staffordshire* the second of *September.*

L. C. J. Are you a *Roman* Catholick?

Bedle. If I must make a confession of my Faith, I will. But I saw him there, and they said it was Mr. *Ireland* the Jesuit.

L. C. J. Had you no Acquaintance with him before?

Bedle. No.

L. C. J. How do you know it is the same Man that suffered?

Bedle. I do not know that, but I suppose it was the same.

Turner. I am accused for being at *Tixall* at a Consult in *September*, I desire to know who saw me there, for I have not been there these Four Years.

L. C. J. Mr. *Dugdale* saw you there.

Turner. What Witnesses besides?

L. C. J. None but he for that.

Mr. *Recorder.* Hath Mr. *Fenwick* any more Witnesses to call?

Fenwick. My Lord, I have not any.

Then was Captain Hill *called.*

Fenwick. My Lord, he can prove something against Mr. *Bedlow*: He says, he lived in good repute; but the Captain will tell you, he was in the *Marshalsea*, and lived a poor mean Life, and all the time fed upon the Basket.

L. C. J. North. He was guilty of the same Treasons that you are guilty of, there is his fault.

L. C. J. No doubt he was a Naughty Man, he was with you in this Plot.

Fenwick. I can prove by Sir *James Butler's* Clerk that he cheated a Cutler of a Silver hilted Sword.

Then Sir James Butler's *Clerk was called, but he having more than one; and the Person meant, not being there, there could nothing be examined about that.*

L. C. J. North.

L. C. J. North. He hath had the King's Pardon for all that.

Fenwick. He was forced to run the Country for a many Cheats, and was forced to borrow 4 or 5 s. to redeem his Boots. My Lord, does his Pardon make him a good Witneſs? Then we will prove ſomething ſince his Pardon.

L. C. J. No doubt he was bad enough while he was with you.

Whitebread. My Lord, I think I have a plain Demonſtration againſt Mr. *Bedlow* ſince his Pardon; he did at my laſt Trial ſay, that he had nothing to ſay againſt me, and now he comes and gives freſh Evidece againſt me.

L. C. J. *North.* That is an Objection that will not take away his Evidence, but only goes to the leſſening of the credit of it. He ſays he was in Treaty with Mr. *Reading* about you, and the Lords in the *Tower*; and to beget a Confidence in him that the Lords in the *Tower* ſhould receive favour from him, and come off by his means, he was to be eaſie to you too, which made him leſſen his Evidence at that time. This is that he ſays, the weight of it muſt be left to the Jury. And he ſaid at that time he had more to ſay at Time and Place convenient.

Whitebread. There is no ſuch thing in the Trial. He hath alledged great Matters againſt me, therefore it is Evident he did falſifie his Oath; for if he were to ſwear the truth, the whole truth, and nothing but the truth, and he did not ſay the whole truth, he is perjured; if he did, he can ſay nothing againſt me now.

L. C. J. *North.* Mr. *Whitebread*, you have your Objection, and it muſt be obſerved to the Jury. Your repeating of things ſignifie nothing.

Then Captain Hill *ſtood up.*

Fenwick. Pray Sir, what do you know of Mr. *Bedlow?*

Mr. Juſt. *Pemberton.* But don't ask any thing before the Pardon.

Capt. *Hill.* I knew him in the *Marſhalſea.*

Fenwick. In what condition was he there, Sir?

Capt. *Hill.* He was a poor Man, as I be, and lived upon the Basket.

Harcourt. How long ago is it ſince you knew him there?

Capt. *Hill.* In *May* was Twelve-Month.

L. C. J. That was long before his Pardon. But he might be an honeſt Man for all that, tho' he were as poor as you. Are you an honeſt Man?

Capt. *Hill.* Yes, I think ſo.

L. C. J. And ſo might he be. Well, have you any more?

Priſoners. No.

Sir *Cr. Levins.* Gentlemen of the Jury, you have heard the Priſoners, and they have had a great deal of time to make their Defence; but the greateſt part of their Defence hath been to invalidate the Teſtimony of Mr. *Oates*; and what is the Evidence they have brought againſt him? they tell you firſt, That he did not come over in that Company that he ſays he came over with. And whereas he hath ſworn he was here the 24*th* of *April*, they have taken a great deal of Pains by fifteen or ſixteen Witneſſes to prove that he was all the time at St. *Omers*; and that Sir *John Warner*, and Sir *Thomas Preſton*, whom he tells you came over in Company with him, never ſtir'd from the Places of their Reſidence, that is *Liege* and *Watton*, all that time: But this, Gentlemen, you muſt obſerve, that if Mr. *Oates* were out of the Caſe, all theſe Perſons except Mr. *Turner* are proved guilty of the Treaſon they are charged with; and yet I ſhall ſet up his Teſtimony, and make him clear, notwithſtanding whatſoever hath been alledged againſt him. Gentlemen, to take them in order, Mr. *Whitebread* hath Mr. *Dugdale*, Mr. *Bedlow*, and Mr. *Prance*, to prove him Guilty, let what will come of Mr. *Oates*, all of them ſpeak to him.

L. C. J. Prance, do you ſpeak any thing againſt Mr. *Whitebread?*

Mr. *Prance.* No.

Mr. *Recorder.* It was *Fenwick* and *Harcourt.*

Sir *Cr. Levins.* But there is *Bedlow* and *Dugdale* againſt Mr. *Whitebread*, and therefore, Gentlemen, there are two have ſworn againſt him, beſides *Oates*; and there is two againſt Mr. *Fenwick* at leaſt; nay, there are three, for beſides *Oates* there is *Bedlow* and *Prance*; as to Mr. *Harcourt*, there is *Bedlow*, *Dugdale*, and *Prance*, beſides Mr. *Oates*; as to Mr. *Gavan*, there is *Oates* and *Dugdale*; indeed there is none but *Oates* and *Dugdale* againſt *Turner*; ſo that as to the three firſt however there are two Witneſſes beſides Mr. *Oates*, that is, againſt Mr. *Whitebread*, Mr. *Fenwick*, and Mr. *Harcourt*. Now as for Mr. *Oates*'s Teſtimony, and what they have to ſay to him; in the firſt Place, they have brought a young Gentleman, Mr. *Hilſley*, and he ſays he did not come over with him, and there 'tis one againſt one, but Dr. *Oates* hath ſworn it, and hath given you ſuch convincing Circumſtances how he loſt his Money, *&c.* ſo that I leave it to you which of the two is in the Right, and ought to be believed. But then, my Lord, as to the reſt of the Witneſſes, here are a great many brought over to prove that Mr. *Oates* was all the while at St. *Omers*; but I ſhall bring you a conſiderable number of Witneſſes to prove that Dr. *Oates* was then in *London*, and that all theſe Perſons are miſtaken. They do all pitch upon the firſt of *May*, to fix it upon a time wherein he ſays he was here in Town: But Gentlemen, I hope you did obſerve, that as to other Things and Time that were not ſo neceſſary as to this Matter, there they were pleaſed to miſtake, and to differ one from another, to contradict one another; for ſome of them ſaid he went away and left St. *Omers* the 10*th* Day of *June*, others the 23*d*, others, which was the ſame *Flemiſh* Gardiner, that he ſtaid till *July*. Truly half that variance in the time which is neceſſary would ſerve our Turn, we are but for eight Days time, that is, he was not above eight or ten Days here, truly theſe Gentlemen will be ſure to ſpeak punctually to all thoſe eight Days that hurt the Priſoners, but they will vary thirty Days at another time that hurts them not. Why may they not be miſtaken as well with that portion of Time, as they were in the other wherein they ſo much differed one from another?

But I ſhall give you moſt infallible proof by and by, that Mr. *Oates* was in *England* at that time that he ſaid he was in *England*. My Lord, as to that of Sir *John Warner*, truly we have ſent for a Witneſs, but we did not know of the Objection before; they have now brought you the Gardiner, and he did ſay poſitively at firſt that Sir *John Warner* was there all that while, but being asked again how he knew it, he ſaid it was the talk of the Country, and ſo ſome of the Witneſſes did ſpeak to Sir *Tho. Preſton*. But then I did deſire to know of theſe Witneſſes, whether theſe Perſons were never abſent from theſe Places or not, they told

told me they were abſent for ſome time in the Vacancy.

Gavan. That was in *Auguſt.*

Sir *Cr. Levins.* You are very good at expounding I know, but what thoſe Vacancies were I am not certain; but being apt to miſtake a little, they might miſtake the Time too, and they might extend their Journey beyond their Vacancy. Mr. *Gavan* he hath made a mighty Defence I muſt confeſs, endeavouring to prove that he was out of Town all *June* and *July*, and in *April* and *May* before, and truly he hath brought ſome Witneſſes that have ſpoken very far for him as to thoſe Months, but I will deſire you to obſerve, as I know you did, that the three laſt Witneſſes that knew him very well did affirm poſitively that he was there the laſt Week in *July*, but being asked to the Week before that, and the Week before that, they could not be poſitive. And, under favour, by that Evidence you will believe rather that he was not there, for if ſo be they could ſo poſitively Remember for the laſt Week, why ſhould they not be as poſitive for the two Weeks before? why theſe two Weeks were enough to ſerve our Turn, for it was towards the latter end of *July* that which Mr. *Oates* hath ſworn upon Mr. *Gavan*, that he was in Town, and talked of the ſame Matters which he had written the Letter about. And therefore it is much to be preſumed, that becauſe the Witneſſes will take upon them as to the laſt Week, they are ſure he was at *Wolverhampton*, but as to the two other Weeks they could not be ſure, that they ſpeak with ſome Conſcience, and therefore it may be true that he was here. And the Woman ſaid ſhe could not ſay but poſſibly he might make ſuch a Journey and ſhe never the wiſer. So that under favour, Gentlemen, all that which Mr. *Gavan* hath ſo induſtriouſly endeavoured to lay upon Mr. *Oates*, does ſhrink into a very ſlender Evidence, and that it might well be he was at *London* at the Time that *Oates* ſays, the three laſt Witneſſes ſpeaking poſitively only to the laſt Week in *July*.

Then truly, my Lord, they are fixed upon another great Matter to blemiſh Mr. *Oates* as to Mr. *Ireland*, a Perſon that is dead and out of the way. Mr. *Ireland* hath been hanged upon that Evidence, ſo far it was believed, but now after all this, will theſe Gentlemen come to queſtion the Evidence that was given againſt Mr. *Ireland*. They have likewiſe, my Lord, brought my Lady *Southcott*, and ſome other Perſons, who give you an Evidence concerning Mr. *Ireland*, that he ſhould not be here at this Time; but, Gentlemen, under favour, Mr. *Oates* hath ſworn before, and he hath now ſworn it again, that Mr. *Ireland* was at that Time in *London*, and, Gentlemen, I will confirm him in that by another Witneſs that did did ſee him here in Town at that Time. And when you have two Witneſſes for the King upon their Oaths come and teſtifie it, I hope you will believe them, rather than other Perſons that teſtifie only by hearſay. It was the Matter then in Iſſue, and had ſaved his Life if it had been true, but tho' it be now ſettled, and none could think it would be again ſtarted, they would make that an Objection, but by chance we have a Witneſs ſtill to give you ſatisfaction, that Mr. *Ireland* was in *London* at that Time that Mr. *Oates* did ſwear him to be. We will begin with that Witneſs about *Ireland*. And then we will call our Witneſſes to prove that Mr. *Oates* was in *England*, and did come over when he ſaid he did. Call *Sarah Paine*. Who was ſworn.

Sir *Cr. Levins.* What time did you ſee Mr. *Ireland* in *London*? did you ſee him in *Auguſt* laſt?

S. Paine. I ſaw him about ſeven or eight Days before I came to my Lord Chamberlain, and that was about a Week before the King went to *Windſor*.

L.C. J. Where did you ſee him?

S. Paine. At his own Door in *Ruſſel-Street*.

L. C. J. Did you ſpeak to him?

S. Paine. No, I knew him very well, and ſaw him as I came by.

Sir *Cr. Levins.* Had not you carried many Letters to him?

S. Paine. Yes, ſeveral Letters.

Sir *Cr. Levins.* But where did you live before?

S. Paine. I lived at Mr. *Grove*'s.

Sir *Cr. Levins.* Did not Mr. *Ireland* uſe to come there too?

S. Paine. Yes, he did often.

L. C. J. Was any one talking with *Ireland* then?

S. Paine. No.

Sir *Cr. Levins.* How long did you look upon him? Did you ſee him go in? did you ſee his Face or his Back?

S. Paine. I ſaw his Face, and made him a Curteſie.

L. C. J. This ſhe ſaid to *Ireland*'s Face.

Mr. Juſt. *Dolben.* Your Evidence is that Mr. *Ireland* went out of Town the 5th of *Auguſt*, and ſhe ſays ſhe ſaw him about that time, which muſt be the 12th or 14th of *Auguſt*.

Gavan. How does ſhe prove it? ſhe does not ſay ſhe ſpoke with him.

Mr. Juſt. *Dolben.* She ſwears it.

Sir *Cr. Levins.* Now we muſt prove what time the King went to *Windſor*.

L. C. J. Sir *Tho. Doleman*, what time in *Auguſt* did the King go to *Windſor* laſt Summer?

Sir *Tho. Doleman.* I believe (I cannot charge my memory ſo well) it was the 13th, it was about the 12th or 13th.

L. C. J. Was my Lord Chamberlain there then?

S. Paine. My Lord Chamberlain went after the King.

L. C. J. And when do you ſay you ſaw *Ireland*?

S. Paine. I ſaw him ſeven or eight Days before I went to my Lord Chamberlain's, which was before my Lord went to *Windſor*, and that was a Week after the King went thither.

Sir *Cr. Levins.* Now I'll tell you what ſhe ſays; ſhe ſays ſhe ſaw *Ireland* a Week before ſhe went to my Lord Chamberlain's, and ſhe ſaw him go into *Grove*'s Houſe, where he did uſually go for Letters; ſhe ſays ſhe ſaw his Face, and made him a Curteſie; and that this was a Week before ſhe went to my Lord Chamberlain's, and that was a Week after the King went to *Windſor*. Now the time that Mr. *Oates* pitches upon is between the eighth and the twelfth of *Auguſt*, which by computation is the time ſhe ſpeaks of.

Gavan. And our Witneſſes go from the third of *Auguſt* to the fourteenth of *September*.

Sir *Cr. Levins.* Call Sir *Richard Barker*, *William Walker*, *Sarah Ives*, &c.

William Walker *was firſt Sworn, and bid to ſtand up.*

Sir *Cr. Levins.* Pray, Sir, do you know that Mr. *Oates* was in *England* the beginning of laſt Summer? Pray tell your whole knowledge.

Mr. *Walker.* Yes my Lord, I will. I have known Mr. *Titus Oates* theſe ſeven Years, and had not ſeen him above five Years; but about two Years ago I did meet him in *Newgate-market*, and then again in the

the latter end of the Month of *March* 1678, or the beginning of *April*, I did ſee Mr. *Oates* in a diſguiſe in a gray Searge Coat, and I think a gray Hat, but I did not underſtand it, nor did I know him to be the Man; and I was very much troubled that I could not recollect my ſelf who he was, and I went to Bed, and could not recollect who he was; but before I roſe in the Morning I did draw him within the Scheme of my knowledge, that it was *Titus Oates*, and to confirm my Judgment in that, I did go to a Gentlewoman, whoſe name I did not know, but I went thither becauſe it was the ſame place that I had ſeen him at a Year before, to enquire what became of Mr. *Oates*, and how he did: And when I came to her (in the Morning early, it was the next Day after I had ſeen him in Diſguiſe) I enquired of the Gentlewoman how Mr. *Oates* did, and ſhe clapped her Hand upon her Counter, being a Tradeſwoman, O, ſaid ſhe, *he is an undone Man! Why ſo?* ſaid I. Said ſhe, *He is turned to the Church of* Rome, *and he abſconds and hides himſelf, I know not where he is. Then, in plain Terms,* ſaid I, *I ſaw him later than you, for I ſaw him Yeſterday, between Nine and Ten of the Clock, it was at the upper-end of St.* Martin's-*Lane, near* Leiceſter-Houſe.

Sir *Cr. Levins.* What time was this?

Mr *Walker.* This was in *April* or *March* laſt was a Twelve-month.

L. C. J. Did you never ſee him more than then?

Mr. *Walker.* No, I knew his Face ſo well, as I looked back upon him, and he looked back upon me, but it was with ſome kind of Terrour, and he did ſeem to abſcond and hide himſelf.

L. C. J. When was this?

Mr. *Walker.* It was ſometime from the latter end of *March* to the middle of *April.*

L. C. J. Why did you skip the beginning of *April?*

Mr. *Walker.* I am not able to remember exactly the Time; for why, I did never think to be called as a Witneſs about it.

L. C. J. Did you ſpeak to him?

Mr. *Walker.* No, my Lord, I did not.

L. C. J. How long before had you ſpoke to him?

Mr. *Walker.* A Year before, but in his Canonical Habit, and not before of five Years.

L. C. J. North. You will not ſure catch him upon a Day.

L. C. J. But I'll tell you what it does, it contradicts all that your Boys, all your Witneſſes ſay: Tho' it does not go home exactly to the 24th of *April*, yet, if it be true, and we have no Reaſon to believe it otherwiſe, it diſproves all their Evidence; for they charge him to have been at St. *Omers* all *March*, *April*, and *May*.

Sir *Cr. Levins.* Swear *Sarah Ives.* Which was done.

Dr. *Oates.* My Lord, we bring *Sarah Ives* to prove that this ſame Gentleman went to her to enquire of her about me.

L. C. J. Pray Mrs. what did that Miniſter ſay to you, and when, concerning Mr. *Oates?*

Mrs. *Ives.* Mr. *Walker* came to my Shop, and asked me when I ſaw Mr. *Oates*; ſaid I, *I have not ſeen him ſince he went beyond Sea, Then,* ſaid he, *I have ſeen him later than you, for I was going to* Leiceſter Fields, *and at the end of St.* Martins-lane *I ſaw him in a Diſguiſe, and he looked wiſhly back upon me, and I upon him, and,* ſaid he, *I am certain it was the Man.*

L. C. J. What time was this?

Mrs. *Ives.* It was *April* was a Twelve-month.

L. C. J. What time in *April* do you think?

Mrs. *Ives.* I cannot ſay the Day.

L. C. J. But what time of the Month was it?

Mrs. *Ives.* I don't juſtly know, I think it was the middle of *April*, or thereabouts.

L. C. J. Call another Witneſs.

Sir *Cr. Levins.* Call Mrs. *Mayo.* Who was ſworn.

Sir *Cr. Levins.* Well, what ſay you, when did you ſee Dr. *Oates* in *England?*

Mayo. I never ſaw his Face till a Week before *Whitſontide*, or a little after; there was a Young Man, a Servant of Sir *Richard Barker's*, that knew him a long time before; he came to me and ſaid, *Yonder is* Mr. Oates *hath changed his Coat from a black to a white*; *what is he!* ſaid I, *he was a Miniſter, but he is either turned Quaker or Catholick*; *but,* ſaid I, *he is not turned Quaker, for he wears a Perriwig,* and he fell a laughing and jeering at him; ſaid I, *Why do you deride this Gentleman, when he is a friend of Sir* Richard Barker's.

L. C. J. Where was Mr. *Oates* then?

Mayo. He was in the Court-yard, and I was in the Kitchen.

L. C. J. When was this?

Mayo. The Week before *Whitſontide.*

L. C. J. In what Month?

Mayo. It was in *May.*

L. C. J. Did you know him before then?

Mayo. No, I did not, but I had heard much of him in the Family.

L. C. J. How ſoon did you ſee him again after that?

Mayo. About a Week after he came and brought another with him, and walked into the Garden, and ſeemed to be diſcontented that they did not ſhew ſuch a Countenance to him as they uſed to do in the Houſe, for the Gentlewomen had heard he was turned *Jeſuit*, and therefore were very ſhye; that is, Sir *Richard's* Kinſwomen, my Lady's Siſters Daughters.

L. C. J. Do you know Dr. *Oates* now?

Mayo. Very well, Sir. Afterwards he came again and walked into the Garden, and the Young Man I ſpoke of before, that is now dead, came again and took notice of him, of the ſtrange Garb he was in; he was in a Room that looked into the Garden, I ſaw him walking there, and ſaid he, *Yonder is* Oates *again, and hath brought another with him*; he looked out of the Window, and ſaid he, *Prithee look here, does not he look like a* Jeſuit? and he that was with him looked back, and if it had not been for that, and the Young Man's Importunity, I had never taken notice of Mr. *Oates.* After, when I heard he was come over and gave in his Teſtimony about the Plot, I would needs go ſee him; but he ſpoke very ſlightingly to me, and ſeemed to be offended with the Family becauſe they did ſcorn him. Said I, *They had no reaſon to countenance you, becauſe we all underſtood you were turned* Catholick. *They did,* ſaid he, *look very ſhye upon me. Why,* ſaid I, *you muſt not be offended, for you know all the Family are no Friends to* Jeſuits, *and I hope never will be ſo*; *but I hope,* Mr. Oates, *you will not forget eaten Bread, becauſe he uſed to be made very much of at Sir* Richard Barker's.

Sir *Cr. Levins.* Is that the Man that you ſaw there?

Mayo. This is the Man, if you will put me to my Oath again I will ſwear it.

Sir *Cr. Levins.* When was this?

Mayo. It was the Week before *Whitſontide*, it was in *May*, for *Whitſontide* fell in *May.*

Sir *Cr. Levins.* Then call *Philip Page.* *Who was ſworn.*

Sir *Cr. Levins.* Do you know Dr. *Oates*?

Page. Yes, Sir.

Sir *Cr. Levins.* How long have you known him?

Page. I have known him four or five Years.

L. C. J. Pray did you ſee him in the Year 1678, laſt Year?

Page. Yes, I did.

L. C. J. At what Time?

Page. About the beginning of *May.*

L. C. J. Where?

Page. At Sir *Richard Barker*'s.

L. C. J. Were you acquainted with him before?

Page. I had ſpoke with him before.

L. C. J. How do you know it was he? did you ſpeak with him then?

Page. Yes, I did.

L. C. J. What Habit was he in?

Page. He had a light-coloured Campaign Coat. I ask'd him, where he had been ſo long a Time, that we had not ſeen him, but he turned away from me, and gave me no Account, but, after he had been in the Houſe, made back again, and away he went, after he enquired for Sir *Richard.*

L. C. J. How do you know it was in *May*? why might it not be in *April*?

Page. It was in the beginning of *May*, to the beſt of my Knowledge.

L. C. J. By what material Circumſtances do you remember it was in the beginning of *May*? Is there any thing that puts it into your Mind more particularly?

Page. My Maſter had a Patient at that Time, that was ſick of a Fever.

L. C. J. Where? at Sir *Richard Barker*'s Houſe?

Page. At *Iſlington* it was.

Jury. We deſire to know what the Patient's Name was, for ſome of us know *Iſlington* very well.

Page. I have forgot the Name.

Sir *Rich. Barker.* It was *Aldram Milver*'s Daughter.

L. C. J. It was about that Time in *May* that you ſaw him?

Page. I did upon my Oath, and I ſpoke with him, and took much Notice of him, he had an old black Hat on that flapp'd, and a pair of *Spaniſh*-Leather Shoes.

Sir *Cr. Levins.* Call Sir *Richard Barker.* *Who was ſworn.*

L. C. J. Do you know Dr. *Oates*?

Sir *Richard Barker.* Yes, my Lord, I have known his Father and him ever ſince he hath been a Child; I ſaw him the laſt Summer.

L. C. J. About what time?

Sir *Rich. Barker.* At that Time that they have given in Evidence, I have only this to ſay, I was abroad, as my Buſineſs leads me often abroad into the Country, but they told me, Mr. *Oates* came to my Houſe in a Diſguiſe, and that they believed he was turned either Quaker or Papiſt.

L. C. J. When was this?

Sir *Richard Barker.* It was, my Lord, to the beſt of my Remembrance, after *Whitſontide* that they told me, but they told me a Story of him, how that he was in two ſeveral Diſguiſes, the one was a ſhort Hair, and then they thought he was turned Quaker, another Time he had a long Perriwig, and then they thought he was turned Papiſt; and the firſt that told me, was this Fellow here, that is a Coachman of mine, who was mending ſomething of his Coach. It happened, my Lord, upon the viſiting of a Gentleman, that I was very ill, in which Time Mr. *Oates* was gone, and afterwards, when I was recovered again, he came to my Houſe, to enquire concerning Dr. *Tongue.*

L. C. J. When did you ſee him firſt?

Sir *Richard Barker.* It was, my Lord to the beſt of my Remembrance, the latter end of *June*, or beginning of *July*, upon my Recovery.

L. C. J. By the Oath that you have taken, I would ask you one Queſtion, Did not you ſee him till *June*?

Sir *Richard Barker.* No, my Lord; but my Servants told me, they had ſeen him in *May*, before *Whitſontide.*

L. C. J. Did you ſee him in *June*?

Sir *Richard Barker.* To the beſt of my Remembrance, 'twas in *June.*

Then one Butler *was ſworn.*

L. C. J. Come, do you know Dr. *Oates*?

Butler. Yes, very well.

L. C. J. How long have you known him?

Butler. I have known him theſe three Years, before he went beyond Sea.

L. C. J. Come, you are upon your Oath, when did you ſee Dr. *Oates*, and where, the beginning of laſt Summer?

Butler. I ſaw him the beginning of laſt *May*, at my Maſter's Houſe in *Barbican.*

L. C. J. Upon what Occaſion? what are you?

Butler. I am Sir *Richard Barker*'s Coachman. And I was making clean my Coach in the Gatehouſe, and in comes Dr. *Oates*, in *May* laſt was a Twelvemonth, the beginning of *May*; with his Hair cut off, cloſe cropt to his Ears, in Gray Cloaths, a Gray Coat like a Shepherd's Coat, a *Yorkſhire*-Gray, he asked me, whether Dr. *Tongue* was within? I told him, No: Nevertheleſs he went into the Houſe, and immediately came out again, and ſeemed to be very much diſcontented, but ſaid nothing at all to me, but paſſed by me, and went away.

L. C. J. And did you know him at that Time he ſpoke to you firſt?

Butler. Yes, my Lord, becauſe I knew him three Years before.

L. C. J. Could you have then call'd him by his Name?

Butler. Yes, my Lord, I could.

L. C. J. You ſay he came to inquire for Dr. *Tongue*, and was diſcontented that he could not ſee him?

Butler. He ſaid nothing to me when he came out, but paſs'd away as one that was troubled.

L. C. J. Did you ſee him afterwards?

Butler. Six Weeks after I ſaw him; and then he had a long black Coat and a Perriwig on.

L. C. J. But are you ſure it was the ſame Man?

Butler. I am, upon my Oath.

Mr. Juſt. *Dolben.* Did you tell your Maſter of his being there the firſt time?

Butler. I did tell Sir *Richard Barker* of him, as ſoon as I ſaw him.

L. C. J. Sir *Richard*, how ſoon did he tell you *Oates* was firſt there?

Sir *Richard Barker.* It was ſoon after, my Lord.

L. C. J. Was it in *May* that he told you he had ſeen him?

Sir *Richard Barker.* He told me as ſoon as ever I came home, in *May*, as I remember.

L. C. J.

L. C. J. Did he tell you, Mr. *Oates* was there by Name?

Sir *Richard Barker.* Yes, my Lord, he did: And when he told me what Habit he was in, I wondred at it.

Dr. *Oates.* There are ſeveral, my Lord, that did ſee me at that Time; but they are gone into the Country, and I cannot have them now ready: If you pleaſe now to call Mr. *Smith*, the Schoolmaſter of *Iſlington*. *Who was ſworn.*

Sir *Cr. Levins.* Do you know Dr. *Oates*?

Mr. *Smith.* Yes, very well.

Sir *Cr. Levins.* Pray, Sir, how long have you known him?

Mr. *Smith.* He was my Scholar at *Merchant-Taylors*-School, where I was Uſher.

Sir *Cr. Levins.* When did you ſee him, the beginning of laſt Summer?

Mr. *Smith.* I ſaw him in the beginning of laſt *May*, that is, 1678.

L. C. J. Where did you ſee him?

Mr. *Smith.* He dined with me, at my Houſe in *Iſlington*.

Mr. Juſt. *Dolben.* What, the Boys at St. *Omers* now are gone!

L. C. J. Recollect your ſelf well: By the Oath you have taken, did Dr. *Oates*, in *May* was Twelvemonth, dine with you?

Mr. *Smith.* Yes, my Lord, he did; and it was the firſt *Monday* in *May*, as I remember.

Mr. Juſt. *Dolben.* And this you ſwear, directly and poſitively?

Mr. *Smith.* Yes, my Lord, I do.

L. C. J. How long did he ſtay there?

Mr. *Smith.* He ſtaid three or four Hours after: And, may it pleaſe you, my Lord, he was in a Summer-ſuit, and a coloured Ribbon, a green Knot upon his Shoulder.

L. C. J. What did you diſcourſe about?

Mr. *Smith.* About his being in *Spain*, and *Flanders*, and his Travels.

L. C. J. Had you a long Diſcourſe with him?

Mr. *Smith.* Yes, I had.

L. C. J. Had you nothing about the Times?

Mr. *Smith.* No, my Lord, not a Word.

L. C. J. Did you underſtand he had been turned *Roman* Catholick?

Mr. *Smith.* I did know it.

Jury. My Lord, did Mr. *Smith* ſee him any other Time after that?

Mr. *Smith.* No, my Lord, not in two Months, to my Remembrance, about the middle of *Auguſt*.

Sir *Cr. Levins.* Call one *Clay*. *Who was ſworn.*

L. C. J. Do you know Dr. *Oates*?

Mr. *Clay.* Yes, my Lord, I do.

L. C. J. How long have you known him?

Mr. *Clay.* Ever ſince *April* laſt was Twelvemonth.

L. C. J. Was that the firſt Time of your Acquaintance with him?

Mr. *Clay.* Yes, at Mr. *Charles Howard*'s.

L. C. J. Where were you there with him?

Mr. *Clay.* He lived in one Corner of old *Arundel*-Houſe.

L. C. J. How came you acquainted with him?

Mr. *Clay.* Truly I met him accidentallay, at Mr. *Howard*'s Houſe.

L. C. J. How came you to come there?

Mr. *Clay.* I was there to viſit Mr. *Howard*, as a Friend.

L. C. J. Were you acquainted with him?

Mr. *Clay.* Yes, I was with Mr. *Howard*, and there I ſaw Dr. *Oates*.

L. C. J. When did you ſee him the ſecond Time?

Mr. *Clay.* The ſecond Time I think I ſaw him there too.

L. C. J. When was that?

Mr. *Clay.* That was in *May*.

L. C. J. North. How long was that after?

Mr. *Clay.* I think the other was in *April*.

L. C. J. And did you ſee him in *May*?

Mr. *Clay.* I ſaw him in *May* too.

L. C. J. What Time of the Month was it?

Mr. *Clay.* I cannot exactly ſpeak to that, but it was in that Month as I remember, I am morally certain of it.

L. C. J. And when did you ſee him after *May*?

Mr. *Clay.* I can't tell whether I ſaw him after *May* or not.

L. C. J. Is that the ſame Man that you ſaw at Mr. *Howard*'s, either in *April* or *May*?

Mr. *Clay.* Yes, my Lord, it is the ſame Man.

Sir *Cr. Levins.* Then we have done with our Evidence.

L. C. J. Come, Gentlemen, now what can you ſay to this? They have given you now their full Charge.

Dr. *Oates.* My Lord, I have one Thing more, I deſire your Lordſhip to take Notice, this Gentleman, Mr. *Clay*, is a Prieſt in Orders, as they ſay.

L. C. J. I will not ask him that Queſtion, but, Mr. *Clay*, are you a Papiſt?

Mr. *Clay.* Yes, my Lord, I am ſo.

L. C. J. *North.* Come, what ſay you now, Mr. *Whitebread*, to this?

Whitebread. I have this to ſay; firſt, That at my laſt Trial, when I preſs'd him to declare who had ſeen him, when he ſaid he was here in Town, he could name no Body, not one. I know afterwards he was examined at the Committee, and then he could name no Body neither. He ſaid he was there privately at Mr. *Grove*'s, and we can prove, that he never did lie there in his Life. And then he ſaid abſolutely, he had not ſeen much Company, he ſtay'd but ſix Days. Now this good Dr. that does ſay he ſaw him here in the latter end of *March*, or the middle of *April*, whereas he himſelf ſays he came over with *Hilſley*, the 24th of *April*.

L. C. J. He was Landed here the 17th of *April*, and the Witneſſes ſay, it was the latter end of *April*, or beginning of *May*.

Whitebread. Mr. *Oates* expreſly ſaid, he ſtaid here but ſix Days, when he came over to the Conſult.

L. C. J. Why, does not all this ſtand together?

Whitebread. No, my Lord, how could this ſtand together? his coming over the 17th, and his being here a great part in *May*, whereas he ſays he was but ſix Days?

L. C. J. Perchance Dr. *Oates* may be preciſe enough, but look you here, theſe Witneſſes do not ſo exactly to a Day or two, or three, or four, or five, but to the latter end of *April*: Now, why might they not ſee him the latter end of *April*, and the beginning of *May*, and yet ſtand very well with Mr. *Oates*'s Teſtimony, who ſays he was Landed here about the 17th of *April*, and ſtaid here about ſix or ſeven Days? How nice would you have them be in that Caſe? which, becauſe they are honeſt, they will not be.

L. C. J. *North.* You make your Defences to depend upon an Uncertainty of Time, which no mortal Man can ever remember; beſides, pray ob-

ſerve this, That Mr. *Oates* ſtands a good Witneſs, till you impeach him by a Fry out of your own Schools, and they go to the whole Months of *June*, and *April*, and *May*, now theſe all ſpeak in Contradiction to them, and ſo Mr. *Oates* is ſtill ſet an upright and good Witneſs.

Whitebread. They ſay they did ſee him there every Day, or every other Day.

L. C. J. But ſure I can as well tell, who ſee him but once in ſuch a Month, and dined with him then, as any that ſaw him never ſo often; but here are five Witneſſes upon you in this Point.

Whitebread. The one was told by his Man, the other by his Boy.

L. C. J. The Coachman, and the Boy, and the Maid, and Mr. *Smith* did ſee him.

Mr. Juſt. *Pemberton.* The Divine did ſee him, and went and told the Woman that he had ſeen him, pray remember that.

L. C. J. *North.* Now the Evidence is concluded, ſay what you will for your ſelves; and then we will obſerve what you object, upon our Direction to the Jury, according to our Conſciences.

Gavan. My Lord, then I ſay this for my ſelf, We commit our ſelves to God Almighty. We muſt compare the Number, tho' ours were not ſworn, yet there were ſixteen of them, Boys, Young-men, that converſed with him every Day, and theſe Witneſſes ſpeak but of one or two particular Days: One ſays he dined with him, and another ſaw him in a Diſguiſe; but, my Lord, in theſe very Witneſſes there is an apparent Contradiction, becauſe out of his own Mouth (*ex ore tuo te judico*) they are contradicted. He ſays he came over upon *Sunday*, with *Hilſley*, which was the 20th of *April*, as I think, and ſtaid here only a matter of ſix Days. One of the Witneſſes ſays he ſaw him the firſt *Monday* in *May*. What ſignifie the Witneſſes, tho' upon Oath, that ſay they ſaw him in *May*? How can he come over the 20th of *April*, and ſtay but ſix Days, and be ſeen here in *May*? Before theſe can be reconciled, one of them muſt be falſe; and then, my Lord, beſides that which I firſt ſaid, there is the Number of Witneſſes, they are nothing in Compariſon with the Number of ours. And then, my Lord, Secondly, If we ſhould grant, that a leſſer Number ſhould ſerve the Turn, becauſe they are ſworn for the King, becauſe they ſwear for the Safety of the King, (whom God preſerve, whatſoever becomes of me,) and the other ſpeak not upon their Oaths, yet, my Lord, this does not deſtroy nor touch at all that Evidence that is brought againſt him, about the Rector of *Liege*, Sir *John Warner*, and Sir *Tho. Preſton*. And tho' it be granted, that all the others that ſpoke about Mr. *Oates* being at St. *Omers* be miſtaken, and muſt not be believed, yet we have him ſtill, by thoſe ſix others, who have proved that he hath ſworn falſe; and I hope we ſhall have fair play in the Law, to make the beſt Defence we can for our Lives; and I humbly conceive, no Body muſt be convicted of High Treaſon by the Law, but upon the Evidence of two ſufficient Witneſſes. Now I leave it to the Conſcience and Honour of the Court, whether he ſhall be believed, and counted a ſufficient Witneſs, when there are ſo many that have proved him falſe in that one Point? And then, beſides all this, my Lord, we have here ſixteen, at leaſt, *Staffordſhire* Witneſſes, who give you an Account of Mr. *Ireland*'s being out of *London*, from the 3d of *Auguſt* till the 14th of *September*; ſo that in theſe two Things he hath been contradicted without any Anſwer, for he ſays, the 12th of *Auguſt* he was with him, when they ſay he was in *Staffordſhire*.

L. C. J. You have forgot the Maid that ſaw him in *London*, the 12th or 13th.

Gavan. No, my Lord, I have not. And this is it I anſwer to it, She is a Witneſs that only ſays, ſhe juſt ſaw him, but did not ſpeak to him.

L. C. J. She made a Courteſie to him.

Gavan. We are talking now of ſeeing *Ireland* in *Auguſt*, and we prove by Sir *John Southcott*, and all his Family, who ſay they began their Journey with him the 5th of *Auguſt*, and ſtay'd with him till the 19th, after the particular Day that ſhe ſpeaks of, you find ſeven or eight of them ſwear that they ſaw him all the Time. And therefore I would fain know, whether poor Mens Lives ſhall be caſt away upon ſuch Evidence as this? And then, my Lord, for the other Thing, I hope I have made a very good Plea for my ſelf concerning the Matter of *July*, my Witneſſes could be poſitive as to the laſt Week, but for the other Weeks, tho' they could not be poſitive, they rather believed I was there, than not: But when it is urged, Why might not they give as good a Teſtimony for the former Weeks as for that? To this I anſwer fully, that there is a great and predominant Reaſon why they ſhould have a particular Reaſon to ſwear, why I ſhould be there the laſt Week, rather than the other Weeks, becauſe I was then ſhut up in the Spiritual Exerciſe, and they had a particular Reaſon to take notice of that. Then, my Lord, I hope you will be pleaſed to mind this, by which I have made my Plea good, that is, my Lord, that Mr. *Oates*'s Teſtimony againſt me is this, Mr. *Aſhby* came to Town about the middle of *July*, and that he ſtaid there about a Fortnight, and that in the Time of that Fortnight I came to Town, and ſaid I would go ſee Father *Aſhby*, and had that Diſcourſe he ſpeaks of; and ſo much for that. And then, my Lord, I beſeech you ſtill to bear it in your Mind, that I have been proved not to be in Town at the Time of the great Conſult about the Plot; and indeed I was not capable of it, for I was not then Profeſſed, and there could none be of that Congregation about the Plot, but thoſe that were Profeſſed. I could not be there in the Congregation, by reaſon of my Age, Mr. *Harcourt* here, and the reſt, if you will ask them, will tell you it, they were there, but, upon the Word of a dying Man, I was not there.

L. C. J. 'Tis not poſitively ſaid by Mr. *Oates* that you were.

Gavan. But then, my Lord, he ſays, my Name was to it, which he ſaw in *July*, now I prove, that I was in *Staffordſhire*, the laſt Week of *July*, and ſeeing I have Witneſſes to prove, that I was there till the 14th, and the laſt Week, and it was after the 14th that he ſaw me, I hope my Plea is good. Then, my Lord, I ground my Plea upon this, I have ſtudied Philoſophy, and other Things, but I never ſtudied the Law, and ſo am very ignorant of it; but this is my Caſe, I am accuſed by one Witneſs, concerning one Fact, and by another, concerning another; the one committed here at *London*, the other in *Staffordſhire*; I deſire, therefore, to know, whether the Witneſs that ſwears the Thing done in *Staffordſhire*, in another County, being joined to the other Witneſs, that ſwears what was done in *London*, can be eſteemed two Witneſſes, according to the Law, to convict me of Treaſon?

L. C. J. North. Yes, I'll tell you, if it were a Matter of Doubt, it might be found ſpecially, and

and be argued, but it is a Matter that hath been already reſolved in the Caſe of Sir *Henry Vane* at the *King's-Beneh*-Bar, who was Indicted for levying of War againſt the King, and there one Witneſs proved the levying of War in one County, and the other proved the levying of War in another County, and ſo, tho' they were but ſingle Witneſſes of ſingle Facts, yet being both came up to the Indictment, they were adjudged ſufficient to maintain it. So it is in your Caſe, here is one Witneſs for the proving your hand to the Paper, which was for the Murder of the King, and their is another Witneſs of your Diſcourſe to the ſame purpoſe, the Fact is your joining and conſpiring to deſtroy the King, and to levy War againſt him, and both theſe are proved to the full of the Indictment by theſe Witneſſes; and tho' they are to ſeveral particular Facts, yet they are all Overt Acts of the ſame Treaſon.

Gavan. My Lord, I have a contrary Opinion to that in Serjeant *Rolls*.

L. C. J. North. But this is a known Caſe, and the Law is ſettled therein.

L. C. J. I'll tell you what you miſtake in what you ſay, for there are two Witneſſes, *Oates* and *Dugdale*, who ſwear to the ſame Fact, which is killing the King, altering the Government, and bringing in Popery: *Oates* ſays he ſaw your Hand to the Conſult, for the Murder of the King, for the raiſing the Army, and for the introducing of Popery, which is a neceſſary conſequence of change of Government; *Dugdale* ſays he was with you in the Parlour of my Lord *Aſton's*, where the Diſcourſe was between him and you, and others, about killing the King, and altering Religion. Are not theſe two Witneſſes to one and the ſame Treaſon?

Gavan. No, my Lord, I conceive not.

L. C. J. If I conſult a way to kill the King here, and then I go into the Country, and there I conſult of it with another Perſon, are not theſe two Witneſſes to the ſame Treaſon, ſure they are?

Gavan. Then my Lord, my ſecond Plea is this, If there be two Witneſſes, you will grant me this Ground, that no Man muſt be convicted but upon the Evidence of two Legal and Credible Witneſſes, and upon clear Evidence, as the Statute ſince His Majeſties happy Reſtauration does declare. Now two things are required certainly to make a credible Witneſs, and a clear Evidence; as the Witneſs muſt be credible, ſo it is as agreeable to reaſon that the Evidence muſt be plain and clear, yea as clear as the Light of the Sun at Midday. Now therefore if I prove, that neither the Witneſs is credible, ſuch as the Law requires, nor the Evidence clear, ſuch as the Law looks upon as ſuch, then I ought not to be convicted by this Witneſs upon this Evidence.

L. C. J. The Jury are Judges of that, and therefore there I leave it.

L. C. J. North. You argue mighty ſubtilly, but I'll give you this Anſwer, there muſt be two lawful Witneſſes, that is the Law; a Man cannot be impeached of Treaſon but by two lawful Witneſſes; now if they be not convicted of Perjury, and their Teſtimony be not taken away, but they may be heard in a Court of Juſtice, they are lawful Witneſſes; now for the being credible Witneſſes, that is a matter that is left to the Jury, but we muſt receive them as lawful Witneſſes till they be convict of a Crime that takes away their Teſtimony.

Gavan. Therefore becauſe they are left to the Jury, I am ſatisfied, and I turn my ſelf to you Gentlemen. You are to ſit upon my Life and my Death, as for my own part I can truly profeſs I am as innocent as the Child unborn, and this Gentleman Mr. *Whitebread* knows I was not capable of being at the Conſult, being not of Age. Now I muſt leave my ſelf to the Jury, and will leave it to their judgments whether theſe two Witneſſes can be eſteemed credible Witneſſes; for to make credible Witneſſes there is required honeſty of Life, and truth in their Teſtimony, for no Man can be a good Witneſs that is not an honeſt Man, nor that hath carried himſelf ſo that he is not to be believed. As to the honeſty of Mr. *Oates* his Life, you have heard that he was diſguſted by the Jeſuits, eſteemed not a Perſon of that diligence or fidelity to be intruſted by them; he was turned out of St. *Omers*.

L. C. J. Does that prove any Diſhoneſty in Mr. *Oates*?

Gavan. No, but I ſpeak to his Credibility.

L. C. J. Speak plain, how does it impeach Mr. *Oates* his Evidence, that the Jeſuits did not like him.

Gavan. It might be a ground of Hatred and Malice in him againſt them, and then Gentlemen, I deſire you to conſider that other thing, That we have proved him to ſpeak falſe in his Teſtimony about Sir *John Warner* and Sir *Thomas Preſton*; and all the buſineſs of the 12th of *Auguſt*, concerning Mr. *Ireland's* being here the 12th of *Auguſt*, who, by ſixteen Witneſſes, is proved to have been all the while in *Staffordſhire*: And tho' he was not convicted of Perjury before, which might have eaſily been done, as I have ſhewn to the whole World now, I appeal to the Honour and Conſcience of the Jury, whether all theſe Proofs ought not to make this Witneſs to be deem'd an incredible Witneſs. And pray, Gentlemen, hear me this, and carry this away with you, as to the buſineſs of *Ireland*, between the 8th and 12th of *Auguſt*, how many do ſwear that he was in *Staffordſhire*, I deſire you but to compare that one Woman that only ſaw him, and made a Courteſie to him, as ſhe ſays, with thoſe ſixteen Witneſſes that converſed with him daily. Then as for the ſecond Teſtimony of the St. *Omers* Witneſſes, which you ſee is thwarted by ſome that do ſwear in the King's Name to the contrary. Still I deſire you to compare Number with Number, the others, tho' they do not ſwear, are ready to ſwear, and there are only three or four againſt ſixteen of them, and there is an evident Contradiction in what they ſay, and that proved out of his own Mouth; for he ſays he came over the 20th of *April* with Mr. *Hilſley*, and ſtay'd only ſix Days; they ſay he was here in *May*, and I deſire theſe may be compared: for how could it be that he ſhould be here in *May*, if he ſtay'd but ſix Days. And then to make your Verdict, and take their Credit away, I would deſire you to conſider thoſe Witneſſes that I have brought for my ſelf, not being here, but in *Wolverhampton*; for being in *Staffordſhire* as long as till the laſt Week of *July*, it muſt fall within the time of his Teſtimony. I have brought Witneſſes to prove upon Oath, that from the 22d upward, they ſaw me in *Wolverhampton*, and they do remember the particular inſtance, that I was then at my Spiritual Exerciſe: And this is that I have to ſay as to Mr. *Oates*. As for Mr. *Dugdale*, I would deſire you to reflect upon the whole Story of his coming to diſcover this Plot, and his being an Informer about it: The truth is, I confeſs I have known him

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five or six Years, whilst he lived at my Lord *Aston*'s, and I have divers times discoursed with him there in Mr. *Ewers*'s Chamber; but, as I hope to be saved, never any thing of Treason in all my Life. Now, 'tis well known, and there are those that can testifie it, that in truth *Dugdale* run away from my Lord *Aston*'s after he had lost 300 *l.* of my Lord's Money.

L. C. J. If you can say any thing against Mr. *Dugdale* by Witnesses that you can prove it, then you say well; but if you will tell a Story out of one Lord's Mouth, and another Lord's Mouth, that is never to be endured; you shall never take away a Man's Testimony by hear-say, you must prove it.

Gavan. 'Tis well known, if I prove *Dugdale* no credible Witness I play my own Game. You know I have been a Prisoner twenty Weeks, and could not seek out Witnesses, I asked it as soon as I knew of my Trial, but it was denied me to send for Witness to prove that *Dugdale* was in Goal for Debt. If I had the Recorder's Warrant, or the Authority of this Bench I could send for them.

L. C. J. You must not fall upon Persons without Evidence, if you have Witnesses to prove any thing, whom the Jury will believe, call them.

Gavan. I do assure your Lordship, as I hope to see the Face of God, I am innocent of what is charged upon me. And God bless the King and this Honourable Court.

L. C. J. Tho' you do an hundred times bless the King and Court and all, you must prove things if you will be believed. What say you, Mr. *Whitebread*?

Whitebread. My Lord, I have but one thing to say, and 'tis but a word: Your Lordship was pleased to make an Observation, and a good one it was, a Letter which Mr. *Dugdale* says was written by me to Mr. *Ewers*, which he says he intercepted; he was, in the mean time, a trusty Correspondent for his Friend. In that Letter he swears, there was expresly contain'd positive words of entertaining Persons to kill the King, that only such as were hardy, desperate and stout; but as your Lordship well observed, that it was an improbable thing that a Man who had his Wits about him should write such plain Expressions about such a Matter; and upon that improbability I leave it to the Jury.

Mr. Justice *Pemberton*. Have you any thing to say, Mr. *Fenwick*?

Fenwick. I desire, my Lord, your Lordship and the Jury, to consider and observe the nature both of our Witnesses, and of them that are brought against us. The one speak for the whole Time, that they saw him every Day, or every other Day; they daily conversed with him, and eat and drank with him in the same House; the others, they say only, they saw him one particular Day, another, another; and one of them says he saw him but in a Disguise. Now, my Lord, whether it be likely that so many innocent Children, brought up in a good virtuous Life, should come here to forswear themselves, to contradict People that we know not what they are; and then, besides, we know that these People are of a poor, mean, beggarly Condition, that intend to mend that Condition by such a pretence of Discovery, and hope thereby to advance themselves. It is probable such People might be drawn in. Then also we shall prove, that Sir *John Warner* did not come over with him, nor Mr. *Williams*, nor Sir *Thomas Preston*: Then all his Witness, as to them is false, and he does not say he went back with these People; and this for the Witnesses. Now suppose the Witnesses were all equal, what does he prove against us Three? Or what Reason doth he give of his Evidence. He says he saw such and such Letters from Mr. *Whitebread*. Now is it possible that a Man that had no Credit at all with us, that we should be such Fools to trust him with such Letters as those, then your Lordships must hang us twice, once for Fools, and then for Knaves. Or is it possible that we should be such egregious Fools that we should trust a Man that was never esteemed of, was expell'd the College. And for all his talk of Commissions and Letters, there is not one of those found, let him shew any one Commission, any Money paid, or any Order brought him, or any Arms that were found; there are three Quarters of a Year now passed since the first discovery; certainly all this time could produce something: Thousands of Letters have been taken from us, some of those Letters would have discovered this thing: certainly therefore we have better Evidence than he hath, supposing them to be equal as to credibility in their Original. Is it credible we should be so great Rogues to contrive the King's Death? tho' he speaks of the Writing being carried from Chamber to Chamber concerning this Matter, he can never produce one Paper, signed by any one Man's Hand, nor can he produce any thing to attest his Testimony. I leave this to your Lordship's Judgment, whether this Evidence be good, there is nothing appears in so much Time, of any Effect that is produced: Where were the Armies? Where were the Moneys paid? Where the Commissions? Is it possible such a thing should be, and no sign of it for a whole Year almost? there is no Reason brought, amongst them all, but Saying and Swearing, and that I will stand by.

Whitebread. I thank God I don't look like a fighting Man, nor I never did; but who can think that I should be so mad, when I had committed such a secret to him, to beat him, as he says. 'Tis strange that such a Plot should be discovered wherein so many Persons of Quality, Honour and Reputation are said to be concerned, and yet no foot-steps of it appear; and none of them, as my Lord *Arundel*, my Lord *Bellasis*, should never divulge such a Plot; I would feign know whether such a thing be probable, but I commend my self to God Almighty, and the Jury.

Harcourt. My Lord, I have only this to say, I have lived to this Age, which is 70 Years, and I never knew any Man that could say I was accused of the thing in the World, for which I should be brought before any Magistrate; and 'tis strange that after so many Years I should come to be Arraigned and Condemned for a Crime of the highest Nature, and there's no reason brought against me, nor any of the rest, for the Proof of what is alledged, nor do they who are the Witnesses against us deserve at all any Credit: They only affirm such and such things without any Reason, to perswade you to believe them, and 'tis easie to say, and so 'tis to swear it. So that all I have to say is this, since a Negative cannot be proved, I hope Innocency will find some that shall defend it. I leave my self to the Bench, for the Law is the Defence of Innocency. If they did bring any Evidence besides that, which is down right positive swearing, without any Reason or concurrent Reason to confirm it, it were something.

Fenwick.

Fenwick. And beſides all this, to think how theſe Men have Lived before time is worth reflection and conſidering. As for *Bedlow*, he hath been a very ill Man, the World knows it.

L. C. J. Have you proved it? Can you ſhew any Record of it?

Mr. Juſt. *Pemberton. Turner*, Have you any thing to ſay? You have had your time.

Fenwick. You will find that *Nemo repente fit neguiſſimus*, No Man arrives at the higheſt Degrees of Impiety at firſt: Men grow extreamly wicked by Degrees. But let us ſee if they can blame our Lives, or any thing that we have done at any time before; we prove, and all the World knows what they have been, and how ſcandalouſly they have Lived.

Gavan. Our Witneſſes are to be regarded for their number and for their innocency, eſpecially ſince they give no Reaſon nor convincing Arguments for what they do affirm.

L. C. J. We would hear you, and we have heard you very long, but it muſt not be permitted you to go over the ſame things again and again.

L. C. Baron. Hath *Turner* any thing to ſay?

Turner. All that I have to ſay, my Lord, is this, to ask whether it be reaſonable that *Bedlow* and *Oates* ſhould be looked upon as good Witneſſes, that theſe Perſons who have been ſuch ſcandalous People ſhould be admitted to an Oath, who are debarred from the Sacrament; for according to the Church of *England*, no Man that is publickly ſcandalous can be admitted to the Sacrament.

L. C. J. But you prove nothing.

Turner. I can prove it firſt by Evidence of one *Haſtins.*

L. C. J. Call him. *But he appeared not.*

The Lord Chief Juſtice's Directions to the Jury, againſt Whitebread, &c.

L. C. J. Gentlemen of the *Jury!* Here hath been a very long Evidence, and a very confuſed one; and you cannot expect, that it ſhould be wholly Repeated to you: For it is almoſt impoſſible, for any one to remember it; neither would I if I could, becauſe a great deal of it is impertinent, and vainly to be Repeated: And beſides, Many Things have been ſaid over, and over again, to no purpoſe. But I will obſerve to you, as well as I can, what Teſtimonies there are againſt each particular Man of them; and that I do look upon, to be very Material. And I leave it to you, to judge and conſider, how far the Evidence is Credible, and how far it is Subſtantial.

Againſt Mr. *Whitebread*, you have the Teſtimony of three, *Oates*, *Dugdale*, and *Bedlow*: Againſt Mr. *Fenwick*, you have the Teſtimony of *Oates*, *Bedlow* and *Prance*: Againſt *Harcourt*, you have *Oates*, *Dugdale*, *Bedlow*. and *Prance*. You have againſt *Gavan*, *Dugdale*, and *Oates*; and againſt *Turner*, *Dugdale* and *Oates*: So that, to the two laſt, you have two, three to the two firſt, and four to *Harcourt*.

Now, the Matter that they have have ſworn, hath been all tending to one thing; the Murder of the *King*, the Advancing of *Popery*, and Suppreſſion of the *Proteſtant Religion*: That is the Thing, that all the Evidence does drive at.

For *Dugdale*, for ought we can perceive, he hath been upon the matter a Stranger to *Oates* and *Bedlow*; and I do not find, that he had any Correſpondence with, or Knowledge of them, at the time he charges Mr. *Harcourt*, and Mr. *Gavan*. And he charges them with the very ſelf ſame Things, *viz.* the Conſulting the Death of the *King*, and Advancement of *Popery*. And they have ſeveral Inſtances of the Facts, as their ſeveral Conſultations; How they met together, and where, or at what Place. And *Dugdale* tells you of a Letter, that he found; wherein *Whitebread* gave Charge, for the Entertainment of good ſtout Fellows; No matter for Gentlemen, ſo they were Reſolute. And ſo they have ſeveral *Mediums* to prove one and the ſame Thing.

Mr. *Fenwick* ſays to all this, Here is nothing againſt us, but talking and ſwearing: But for that, he hath been told, (if it were poſſible for him to Learn) that all Teſtimony is but talking and ſwearing: For all Things, all Mens Lives and Fortunes, are determined by an Oath; and an Oath is by talking, by kiſſing the Book, and calling *God* to Witneſs to the Truth of what is ſaid. That is the Eſſence of an Oath, and thoſe are the Ceremonies: The Kiſſing the Book, and Speaking, is the accidental Form; the Subſtance, is calling *God* to Witneſs. Therefore, What a vain Thing is i in Mr. *Fenwick*, to ſeem to Triumph, by ſaying, There is nothing againſt us, but talking and ſwearing. There is nothing againſt them, but Evidence and Proof of Men upon Oath: And *their* Reaſons, the Truth is, are very Trifles. They def nd their Lives as they do their Religion, with weak Arguments, and fallacious Reaſons.

For that long Buſineſs, that Mr. *Gavan* hath undertaken to ſay againſt Mr. *Oates*, and what they all inſiſt upon, *viz.* the Number of their Witneſſes, which were Sixteen, amounts to this, to diſprove Mr. *Oates* that it could not be true what he ſays, That he ſhould be preſent here at a Conſult, the Twenty-Fourth of *April*, becauſe they have brought Sixteen from St. *Omers* to prove, That he was there all *April* and *May*.

'Tis very true now, if that be ſo, it is impoſſible, *Oates* can ſwear any Truth: But whether that is to be believ'd or no, is the Queſtion? Methinks, they did not do well for themſelves, when they bid you remember the *Nature* of the Evidence. They did well enough, to bid you remember the Number: For the Number is more than what *Oates* is back'd with on t'other ſide; but the Nature is of much leſs weight: Not only becauſe they are not upon their Oaths, for by Law they may not be upon their Oaths; (and that muſt not be Charged on them as a Defect, ſeeing they would Swear, I doubt not, if they might) but becauſe their Teſtimony is really to be believed much alike without an Oath, as with one; becauſe they are of a Religion that can diſpenſe with Oaths, tho' falſe, for the ſake of a good Cauſe.

But, ſeeing they deſire the *Nature* of the Men may be conſidered, you are to obſerve, that they are Proſelytes, and Young Striplings of their Church; which does indeed, in one Reſpect or other, abuſe all Her Diſciples, and keeps them in a blind Obedience, to purſue and effect all Her Commands.

If the Doctrines of that Church were better; If ſuch which are allowed by their Chief Authors, were but leſs bloody and inhumane; If they had ever put thoſe that are ſo, into an *Index Expurgatorius*, that they might have been publickly diſowned and declared as the particular Opinions of ſome ill Men, which they did diſavow; theſe Men might

might have been then more worthy to be regarded. But when none of their Popes have done this (who muſt have very ſtrange Fore-heads, if they ſay they have) and ſuch Doctrines are ſtill owned: There is much indeed to be obſerved from the *Nature* of the Evidence, the *Nature* of the Men, and their Profeſſion.

I muſt confeſs, I believe that they would deny their Principles to be bloody, or to be defended and allowed by any of their beſt Authors, if at this Time, the Fear of apparent Falſhood did not deter them: But if to Murder KINGS, or to Depoſe them, and Abſolve their Subjects from their Allegiance, for the Advancement of Religion, be a Thing moſt Impious, and void of Religion, and makes Religion worſe than none; which Doctrine yet they have owned, and their Counci's have owned, and we have proved it upon them, and out of them: I cannot tell what to ſay to theſe Men, or their Teſtimony; the *Nature* of whom they deſire to be conſidered.

But they were Young Boys, ſent for hither on purpoſe to give this Teſtimony; and it was not, indeed, a Fault in the Priſoners at the Bar, to ſend for what Evidence they could, for themſelves: But it is very doubtful and ſuſpicious, to have ſuch green, and flexible Minds thus imploy'd, and I muſt leave it to you, to conſider how far theſe Young Men, train'd in ſuch Principles, may be prevail'd on to ſpeak what is not True.

And now, if the King's Evidence, after this, ſtood alone, it were yet ſomething: But when you have Mr. *Oates*'s Teſtimony, as to this great Matter of his appearing in *April*, confirmed by Seven or Eight Witneſſes, that ſpeak ſo expreſly to it, how will they anſwer it! Do they make Sir *Richard Barker*, a Perſon of no Value? Do they ſo little eſteem the Miniſter, that ſays, I knew him tho' he was in Diſguiſe; and went and ſaid it preſently to a Woman, that he knew was acquainted with *Oates*. And asking her, when ſhe ſaw Mr. *Oates*? And ſhe ſaying, Not a great while: He ſaid, I ſaw him later than you; and ſays, he did know him: And this is confirm'd ſtill by Sir *Richard Barker*, who tells you, That his Men told him, that he had been there. What ſhould make them to acquaint their Maſter ſo, if it were not ſo? Or do you think it is a Thing maliciouſly prepared or invented, to take away the Lives of theſe Men, that his Men ſhould tell him a Story ſo long ago? If it be not true, to what Purpoſe ſhould they tell him ſo? and if it be true, it confirms the Matter ſworn againſt them.

There is he that was his Companion, the Schoolmaſter, that ſays, in the beginning of *May* was Twelvemonth, Mr. *Oates* dined with him at his Houſe, ſate with him Four Hours, diſcourſed of his Travels into *Spain* and St. *Omers:* And there is the Man that is a *Papiſt*, if not a *Prieſt*, that ſwears he ſaw him Twice, about the middle of *April*, at Mr. *Charles Howard*'s Lodgings in *Arundel* Houſe; ſo that here are ſeven Witneſſes, direct or circumſtantial, to prove Mr. *Oates* to have been in *London*, in *April* and *May*, 1678.

But ſay they, This is but *Talking* and *Swearing*. Very fine! and the St. *Omers* Youths is *Talking*, but not *Swearing*. Ay! but then their *Numbers* are not ſo many. That, Gentlemen, I leave to you, for both cannot be true. The Teſtimony of Mr. *Oates*, and the Witneſſes that he had to back himſelf withal, and to prove himſelf to be here, is inconſiſtent with what the young Men ſay, that he was at St. *Omers*.

Now, if you obſerve, all theſe Mens Defence is in the Circumſtantial part of the Evidence, in watching and catching at what Day, what Hour, and what Month? how Mr. *Oates* reckoned falſe, ſo and ſo: If he came here about the 20th of *April*, how could they ſee him the 1ſt of *May*? and they think then, they have got ſuch a mighty Victory, but it is not ſo weighty an Argument which *Proteſtants* after all their Conceit, that it is unanſwerable; for here is the Point, The Matter of Time is a Thing that no Man can ſo preciſely charge his Memory with, as that it ſhould be too ſtrictly the Meaſure of your Judgments about Truth or Falſhood, by the Miſtake of ſeven or eight Days. Examine your ſelves, how often every Day you do miſtake Things that have been tranſacted half a Year ago, and err in Point of Time, taking one Week for another, and one Month for another; and tho' I muſt ſay, it is conſiderable, yet too great Weight is not to be laid upon that.

As for that they inſiſt upon ſo much, the coming over of Sir *Thomas Preſton*, and Sir *John Warner*, with Mr. *Oates*; it is true, three or four Witneſſes ſpeak, as to Sir *John Warner*, and ſome to Sir *Thomas Preſton*; and they ſay, they were both beyond Sea when Mr. *Oates* came over; but if the Sixteen be not to be believed in the firſt Matter, and if Mr. *Oates* does ſay true, notwithſtanding all their Evidence, that he was here ſuch a Time in *April* and *May*, then I'll tell you what Inference may naturally be; to wit, That they can't want a Witneſs to prove what they pleaſe: For I believe there is none of them all will make any Bones of it.

I ſay, Gentlemen, if you are ſatisfied in your Conſciences, that the Evidence on Mr. *Oates* his Part, to that Point, (that is to ſay, ſeven Witneſſes) ought to prevail with you, to believe he was here in thoſe Months, (notwithſtanding the ſixteen Witneſſes, who ſay they ſaw him every Day beyond Sea, in *April* and *May*,) their *other* Evidence about his coming over with *Preſton* and *Warner*, will have no great Weight; becauſe the other is the *Great* Matter, by which they make the *Subſtance* of their Defence.

I am glad indeed to ſee a Gentleman here, whoſe Face I never ſaw before, and that is Mr. *Dugdale*. Upon my Word, he hath eſcaped well, for I find little ſaid againſt him, very little, either as to the Matter or the Manner of his Evidence. They would have made Reflection on him for his Poverty, but I hope that they, whoſe Religion is to vow Poverty, will never inſiſt on that for any great Objection againſt any.

L. C. J. North. Your Lordſhip hath forgot that he ſaid he gave away Three or Four Hundred Pounds to them.

L. C. J. But I will Challenge all the *Papiſts* in *England*, to ſatisfy any Man that hears me this Day, of one piece of Evidence, which will turn every Proteſtant's Heart againſt the Papiſts. If ſo be they Murdered Sir *Edmund-bury Godfrey*, the Plot even by that, is in a great Meaſure proved upon them, by that baſe Murder. And what can be a plainer Proof of it, than the Evidence of this Day, which Mr. *Dugdale* produces? We had Notice, ſaith he, on *Monday* Night, that on the *Saturday* before it, Sir *Edmund-bury Godfrey* was kill'd; (which falls out to be that very *Saturday* he was firſt miſſing;) which Notice was given in a Letter writ by *Harcourt* to *Ewers*, another Prieſt, that ſame *Saturday* Night, wherein were theſe Words, *This Night Sir* Edmund-bury Godfrey *is diſpatch'd*; and

I am

I am ſure, if this be true, then no Man can ſay, but *They* murdered him.

Whitebread. It is not alledged againſt any of us.

L. C. J. It is an Evidence of the Plot in general, and to *Harcourt* in particular.

Harcourt. He never ſhews the Letter that he ſays I writ.

L. C. J. He ſays that he uſed to peruſe the Letters, and that *Ewers* had this again, after he had peruſed it; he ſays alſo, he has received, at Times, a hundred Letters from you, and this among the reſt. Now the Queſtion is, Whether it be true, or no? To make it out, he produces Mr. *Chetwynd*, whom I hope you will not deny to be a Gentleman of one of the beſt Family of his Country, and of honeſt Reputation; who ſays, That on the *Tueſday* following that *Saturday* Sir *Edmund-bury Godfrey* was miſs'd, he and another were talking together in *Staffordſhire*, and that the other Perſon asked him, if he knew of the Death of any Juſtice of the Peace at *Weſtminſter*, and when he told him, he had heard of no ſuch Thing; No! ſaid he, that is ſtrange, you living ſometimes about *Weſtminſter*; for ſaid he, The Wench at the Alehouſe ſays, That this Morning Mr. *Dugdale* ſaid to two other Gentlemen, There was a Juſtice of Peace of *Weſtminſter*, kill'd; and Mr. *Dugdale* ſwears, That was Sir *Edmund-bury Godfrey*. Now, if *Dugdale* be fit to be believed, that he ſaw ſuch a Letter, as he muſt be, if he be not a very great Prophet, to be able to foretel this: Or if the Maid that ſaid this, did not invent it (a Thing then impoſſible to be done): Or Mr. *Chetwynd* feigned, that he heard the Man make his Report from the Maid; this Thing could not come to paſs, but by theſe Men. Nay, if Mr. *Dugdale* could not do as great a Miracle as any are in the *Popiſh Legends*, how could he tell, that it was done on the ſame Night when it was done at *London*? Or ſpeak of it, on the *Monday* Night after, when it was not known in *London* till the *Thurſday* following? This will ſtick, I aſſure you, Sirs, upon all your Party.

For my own part, this Evidence of Mr. *Dugdale*'s gives me the greateſt Satisfaction of any thing in the World in this Matter; and whilſt we reſt ſatisfied in the Murder of that Man, and are morally certain you muſt do it, knowing of what Principles you are, you cannot blame us, if, upon ſuch manifeſt Reaſons, we lay it upon you.

And this is Occaſional Evidence, which I, for my part, never heard before this Day; nor can I ever be more, or better ſatisfied, than I am upon this Point, *viz.* The Teſtimony that I have received this Afternoon, concerning the Murder of Sir *Edmund-bury Godfrey*. As to the Defences they have made, they are Exceptions in Point of Time, but do not affect Mr. *Dugdale*; for they have hardly the Confidence to deny the Things he ſays, to be true againſt them.

They fall foul, indeed, upon Mr. *Oates*: He appears to have been their Agent; and whilſt ſo, bad enough: But if he had not had a mind to have become a good Man, he would not likely have done us that Good that he hath done, in diſcovering the Deſign you had engaged him in. Let any Man judge, by your Principles and Practices, what you will not do, for the promoting of the ſame.

For while this Gentleman's Blood lies upon you (and ſome have been Executed for it,) it muſt be yet farther told you, that in what you *Did* do, you have given us a *Specimen* of what you *Would* do. We have a Teſtimony, that for promoting your Cauſe, you would not ſtick at the Proteſtants Blood. You *Began* with Sir *Edmund bury Godfrey*, but who knows where you would have made an *End!* It was this One Man you Kill'd in his *Perſon*, but in *Effigy* the Whole Nation. It was in one Man's Blood your Hands are *Embrewed*; but your Souls were *Dipt* in the Blood of us all. This was a Handſel only of what was to follow; and ſo long as we are convinced you Kill'd him, we cannot but believe, you would alſo kill the *King*. We cannot but believe, you would make All of Us away, that ſtand in the Way of your Religion: A Religion, which, according to what it is, you would bring in upon us; by a *Converſion* of us with *Blood*; and by a *Baptiſm* with *Fire*. God keep our *Land* from the one, and our *City* from the other!

To return: The Letter that is found in *Harcourt*'s Papers, does further confirm Mr. *Oates* in all the great and conſiderable Matters that he ſays; That there was a *Plot*; That that *Plot* was called by the Name of a DESIGN, which was to be kept Cloſe and Secret: And this is an Evidence that cannot lye. For that Letter will never be got off, no more than the other Letter, that Mr. *Dugdale* ſpeaks of about Sir *Edmund-bury Godfrey*.

And thus I leave it to you, Gentlemen: You have heard how many Witneſſes they have had for them, about Twenty four or Twenty five, of one ſort or another. You have heard what they apply their Teſtimony unto, to convict Mr. *Oates* of Falſhood in Matter of Time; which was their principal Defence: That he was not here in *April* and *May*, and that he came not over with Sir *Thomas Preſton*, and Sir *John Warner*, and that *Ireland* was not here all *Auguſt*. You have heard what Witneſſes *Oates* is back'd withal, as to the Time of his being here: And the Maid ſays, ſhe ſaw *Ireland* here in *Auguſt*.

However, tho' their Defence depends but upon a Point of Time, I muſt tell you, it ought to be well conſidered, for 'tis indeed very conſiderable towards their Defence; and God forbid but we ſhould be equal to all Men.

And ſo I have remembred, as well as I can, in this long and perplexed Evidence, that which ſeems to me moſt material, as to their Charge or Diſcharge; and that which they have made their greateſt Defence by the Youths from St. *Omers*, to diſprove Mr. *Oates* his being here, and Mr. *Ireland*'s not being in *London* in *Auguſt*, which in Truth is not the proper Buſineſs of this Day; but hath received a former Verdict before; for if ſo be the Jury before had not been ſatisfied of the Truth of that, they could never have found *Ireland* Guilty. So I leave it to you, upon the whole Matter. I can remember nothing beſides. Go together, and conſider of your Verdict, according to your Evidence.

L. C. J. North. Gentlemen, my Lord hath repeated it ſo fully to you, that I ſhall not need to add any thing to it.

Then an Officer was ſworn to keep the Jury, who withdrew; and the Judges alſo went off from the Bench, leaving Mr. Recorder, and a competent Number of Commiſſioners there, to take the Verdict; and about the ſpace of a quarter of an Hour, the Jury returned, and anſwered to their Names, and gave in their Verdict thus.

Cl. of the Cr. Gentlemen, Are you all agreed of your Verdict?

Omnes. Yes.

Cl. of the Cr. Who ſhall ſay for you?

Omnes. Foreman.

Cl. of the Cr. Thomas White, alias, *Whitebread*, hold up thy Hand. You of the Jury, look upon the Prisoner: How say you? Is he Guilty of the High-Treason whereof he stands Indicted, or not Guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels?

Foreman. None, to our Knowledge. *And so severally of the rest.*

Which Verdict being Recorded, in usual Form, Mr. Recorder spoke to the Jury thus:

Gentlemen, you of the Jury, There hath been a long Evidence given against the Prisoners at the Bar: They were all Indicted, Arraigned, fairly Tried, and fully Heard, for High-Treason, depending upon several Circumstances. They can none of them pretend to say, (and I take the Liberty to take notice of it, for the Satisfaction of them, and all that are here present, and all the World,) That not a Person among the Prisoners at the Bar, were either wanting to themselves to Offer, or the Court to them, to Hear any Thing that they could say for themselves. But, upon a long Evidence, a full discussing the Objections made against it, and a patient Hearing of the Defence they made, they are found Guilty: And I do think, that every honest Man will say, That they are unexceptionably found so; and that 'tis a just Verdict you have given.

And then the Prisoners were carried back to Newgate, *and the Court Adjourned till Eight next Morning. And then Mr.* Langhorn *was Tried, and found Guilty: After which, they were all Six brought to the Bar together, and received Judgment to be Drawn, Hanged, and Quartered: Which accordingly was done upon the Five Jesuits and Priests, on* Friday *the Twentieth of* June, *at the Usual Place of Execution.*

The Tryal of Richard Langhorn, *Esq*;

Published by Authority.

UPON *Saturday* the 14th of *June*, 1679, at the Sessions-House in the *Old-Baily*, *London*, the Court (according to their Adjournment the preceding Day) met, and proceeded to the Trial of *Richard Langhorn*, Esq; in this manner:

Clerk of the Crown. Set *Richard Langhorn* to the Bar. *Richard Langhorn*, hold up thy Hand. *Which he did.*

Thou standest Indicted in *London*, by the Name of *Richard Langhorn*, late of *London*, Esq;

For that you Rich. Langhorn *the elder, as a false Traitor of the most Illustrious Serene and Excellent Prince* Charles *the Second by the Grace of God, King of* England, Scotland, France *and* Ireland, *Defender of the Faith, Your Supream and Natural Lord, not having the fear of God in your heart, nor weighing the duty of your Allegiance, but being moved and seduced by the instigation of the Devil, the Cordial Love and true, due and natural Obedience, which true and faithful Subjects of our said Sovereign Lord the King, towards him do and ought to bear, altogether withdrawing, and devising, and with all your Strength intending the Peace and common Tranquility of this Kingdom to disturb, and the true Worship of God within this Kingdom used, and by Law Established, to overthrow, and Sedition and Rebellion within this Kingdom to stir up and procure, and the true Love, Duty and Obedience, which true and faithful Subjects of our said Lord the King, towards him do and of right ought to bear, to withdraw, relinquish and extinguish, on the* 30th *Day of* September, *in the* 30th *Year of His Majesty's Reign at* London, *in the Parish of* St. Dunstan's *in the* West, *in the Ward of* Farringdon *without* London, *aforesaid, Falsly, Maliciously, Subtilly, and Traiterously, with many other false Traitors of our Sovereign Lord the King unknown, did Purpose, Compass, Imagine, Intend, Consult and Agree, to stir up Sedition and Rebellion within this Kingdom of* England, *against our said Sovereign Lord the King, and a miserable slaughter amongst the Subjects of our said Lord the King, of his Kingdoms of* England, *to procure and cause, and our said Sovereign Lord the King from his Kingly State, Title, Power, and Government of his Kingdom of* England, *totally to deprive, depose, and disinherit, and our said Sovereign Lord the King to Death and final Destruction to bring and put, and the Government of this Kingdom to subvert and change, and the true Worship of God in this Kingdom by Law established and used, to alter, and the State of this Kingdom in all the Parts thereof well instituted, totally to subvert and destroy, and War within this Kingdom of* England *to procure and levy, and the same most Wicked Treasons, Traiterous Imaginations, Purposes, Compassings, and Agreements aforesaid, and to perfect and fulfil: You the said* Richard Langhorn *afterwards, to wit, the* 30th *Day of* September, *in the* 30th *Year aforesaid, and diverse other times before at* London, &c. *Falsly, Advisedly, Maliciously, Subtilly, and Traiterously, did Compass, Contrive, and Write two Letters, to be sent to certain Persons unknown at* Rome, *and at* St Omers, *in Parts beyond the Seas, to procure the Adherance, Aid and Assistance of the Pope, and of the* French *King, and others, to you the said* Richard Langhorn, *and other false Traitors unknown, the true Worship of God within this Kingdom of* England, *by Law*

Law Established and used, to the Superstition of the Church of Rome *to alter, and the Government of this Kingdom of* England *to subvert, and our said Sovereign Lord the King to Death and final Destruction to bring and put, and that you the said* Richard Langhorn, *in further Prosecution of the said Treason, Traiterous Imaginations, Intentions, and Agreements aforesaid, on the Day and Year aforesaid, and the said other Days and Times before at* London, &c. *did Compass, Contrive, and Write two other Letters to be sent to* Rome, *in Parts beyond the Seas, to one* Christopher Anderton, *then Rector of the* English *Colledge at* Rome *aforesaid, and two other Letters to be sent to* St. Omers, *in Parts beyond the Seas, to diverse Persons unknown there residing, and by the said respective Letters Traiterously you did advise the said Pope, and* Christopher Anderton, *and other Persons unknown residing beyond the Seas, of the ways and manner to be taken for accomplishing the said most wicked Treasons, for altering the true Worship of God in this Kingdom Established and used, to the Superstition of the Church of* Rome, *and for subverting the Government of this Kingdom, and for the Death and Destruction of our said Lord the King, and to the Intent that the said* Christopher Anderton, *and others unknown, should give their Aid, Assistance, and Adherance, and should procure other Aid, Assistance and Adherance, to you the said* Richard Langhorn, *and other false Traitors unknown, to alter the true Worship of God aforesaid, to the Superstition of the Church of* Rome, *and to subvert the Government of this Kingdom of* England, *and to put our said Sovereign Lord the King to Death, and that you the said* Richard Langhorn *afterwards, to wit the Day and Year aforesaid at* London, &c. *Traiterously did deliver the Letters aforesaid, to be sent to the said* Christopher Anderton, *and others, Persons beyond the Seas, to perfect the Traiterous Purposes aforesaid, and that you the said* Richard Langhorn, *further to fulfil and accomplish the same most wicked Treasons, traiterous Imaginations, Purposes, and Compassings aforesaid, afterwards the said* 30th *Day of* September, *in the Thirtieth Year aforesaid at* London, *&c. five Commissions in Writing, made by Authority derived from the See of* Rome, *for constituting Military Officers, for leading the Forces to be levied in this Kingdom against our said Sovereign Lord the King, for the altering the Protestant Reformed Religion, to the use and Superstition of the Church of* Rome, *and for Subverting the Government of this Kingdom of* England, *Traiterously you did receive, and five other Commissions in writing, made by Authority derived from the See of* Rome, *for constituting Civil Officers for Governing this Kingdom after the most wicked Treasons and traiterous Imaginations, Purposes and Compassing aforesaid were fulfilled and accomplished, then and there Traiterously you did receive. And that you the said* Richard Langhorn, *afterwards, to wit, the Day and Year aforesaid, at* London, *&c. The said several Commissions so received, to divers false Traitors of our Sovereign Lord the King unknown, falsly, knowingly, and traiterously did distribute, give and dispose for constituting Officers, as well Military as Civil, to the Traiterous Purposes aforesaid. And that you the said* Richard Langhorn, *afterwards on the Day and Year aforesaid, at* London, *&c. a Commission to constitute and authorise you to be Advocate-General of the Army, to be levied in this Kingdom, to war against our said Sovereign Lord the King, falsly, traiterously, and against the Duty of your Allegiance, from a certain Person unknown, did receive and had; and the same Commission then and there falsly, advisedly, and Traiterously, did inspect and read, and in your custody keep; and to the same Commission Traiterously did give your consent, to the Intent that you the said* Richard Langhorn, *should have and Execute the Place and Office of Advocate General of the Army aforesaid, after the Army aforesaid should be rais'd against our said Sovereign Lord the King, by you the said* Richard Langhorn, *and other false Traitors unknown, in Execution of the said Traiterous Compassings, Imaginations, and Agreements aforesaid. And that whereas* William Ireland, John Grove, *and* Thomas Pickering, *and other false Traitors of our Sovereign Lord the King, unknown, on the* 24th *Day of* April *in the* 30th *Year aforesaid, in the County of* Middlesex, *did consult to bring and put our said Sovereign Lord the King to Death, and final Destruction, and to change and alter Religion in this Kingdom of* England, *Rightly and by Law Established, to the Superstition of the Church of* Rome, *at* London, *&c. had Notice of that Consultation; and the same Consultation for the Destruction of the King, and for the Alteration of Religion in this Kingdom, rightly Established, to the Superstition of the Church of* Rome, *and the Treasonable Agreements had in that Consultation, on the said* 30th *Day of* September, *in the* 30th *Year aforesaid, from our said Sovereign Lord the King, Advisedly, and Traiterously did conceal, and to that Consultation Traiterously you did consent. And the said* William Ireland, John Grove, *and* Thomas Pickering, *on the Day and Year last aforesaid, at* London, *the Treasons aforesaid to perpetrate and perfect, Maliciously, Subtilly, and Traiterously, you did Abet, Counsel, Maintain and Comfort; and that you the said* Richard Langhorn, *afterwards* (to wit) *the said* 30th *Day of* September, *in the* 30th *Year aforesaid, at* London, *&c falsly, subtilly, and Traiterously, you did move and solicit the* Benedictine *Monks, (unknown) to expend and pay the Sum of Six Thousand Pounds, to procure a Person Traiterously to Kill and Murder our said Sovereign Lord the King. And whereas* Edward Coleman, *and other false Traitors of our said Sovereign Lord the King, unknown, on the* 29th *of* September, *in the* 30th *Year aforesaid, in the County of* Middlesex, *Traiterously had conspired and consulted to procure Rebellion and Sedition, within this Kingdom of* England, *against our said Sovereign Lord the King, and him from his Kingly State and Government of this his Kingdom of* England, *to deprive and disinherit, and to bring and put him to final Death and Destruction, and the Government of this Kingdom of* England *to alter, and the true Religion in this Kingdom of* England *by Law Established, to alter and change. And whereas he the said* Edward Coleman *had traiterously written four Letters to Monsieur* Le Cheese, *then Counsellor of the* French *King's, to procure the aid, assistance, and adherence of the* French *King, to perfect and accomplish the Traiterous Imaginations aforesaid, you the said* Richard Langhorn *afterwards, to wit, the said Thritieth Day of* September, *in the Thirtieth Year aforesaid at* London, *&c. well knowing the Treasonable Matters in the same Letters contained, to the same Letters did consent, and then and there falsly, subtilly, advisedly, maliciously, and traiterously did abet, counsel, maintain, and comfort the said* Edward Coleman, *to perpetrate and accomplish the Treason aforesaid, against the Duty of your Allegiance, against the Peace of our Sovereign Lord the King, his Crown and Dignity, and against the Form of the Statute in this Case made and provided.*

Clerk of the Cr. How say'st thou *Richard Langhorn*, art thou guilty of this High-Treason whereof thou standest Indicted, or not guilty?

Langhorn. Not Guilty.

Cl. of the Cr. Culprit, how wilt thou be tried?

Langhorn. By God and my Country.

Cl. of the Cr. God send thee a good deliverance.

Then the Petty Jury impannelled for this Trial, was called, the Prisoner put to his Challenges, but challenging none, the Twelve sworn were these.

Arthur Yong.	*Thomas Barnes.*
Edward Beeker.	*Francis Neeve.*
Robert Twyford.	*John Hall.*
William Topp.	*George Sitwell.*
John Kirkham.	*James Wood*, and
Peter Pickering.	*Richard Cawthorne.*

After which, Proclamation for Information was made in the usual manner.

Clerk of the Cr. Richard Langhorn, hold up thy Hand. *(Which he did.)* You of the Jury, look upon the Prisoner, and hearken to his Cause: He stands Indicted in *London* by the Name of *Richard Langhorn*, late of *London*, Esq; for that as a false Traitor, *&c.* (put in the Indictment *Mutatis Mutandis)* and against the Form of the Statute in that Case made and provided. Upon this Indictment he hath been Arraigned, and thereunto hath pleaded *Not guilty*; your Charge is to enquire whether he be guilty of the High-Treason whereof he stands Indicted, or not guilty; if you find him guilty, then you are to enquire what Goods or Chattels, Lands or Tenements he had at the time of the High-Treason committed, or at any time since; if you find him not guilty, you shall enquire whether he fled for it, if you find that he fled for it, you are to enquire of his Goods and Chattels, as if you had found him guilty: If you find him not guilty, nor that he did fly for it, say no more, and hear your Evidence.

Then Roger Belwood, Esq; *of Council for the King in this Cause, open'd the Indictment thus:*

May it please your Lordship, and you Gentlemen of the Jury;

The Prisoner at the Bar, Mr. *Langhorn*, stands Indicted of High Treason, and it is for Conspiring the Murder of the King, and Endeavouring an Alteration in the Government in Church and State. And the Indictment sets forth, that the 30th of *August*, in the 30th Year of the King, he and other false Traitors did agree to stir up Sedition and Rebellion in the Kingdom, and to cause a great slaughter of his Majesty's Subjects; To introduce the Superstition of the Church of *Rome*, and Depose and Murder the King, and to alter the Government in Church and State. And 'tis there said, that to accomplish these Evil Designs, he writ two Letters to be sent to *Rome*, and St. *Omers*, the Effect of which Letters was to procure the Assistance of the *Pope*, and the *French* King, to alter the Religion Established by Law in this Kingdom, to *Romish* Superstition, to Subvert the Government, and to put the King to Death, and that in further prosecution of these Traiterous Designs, he writ two other Letters to be sent to *Rome* to one *Christopher Anderton*, Rector of the *English* College, and a *Jesuit*, and Two others to be sent to St. *Omers*; and in these Letters he took upon him to advise the way and means by which these Treasons might be effected, and that these several Letters were sent and delivered by him, and received. The Indictment further sets forth that in further prosecution of these Traiterous Imaginations of his, he did receive five several Commissions in Writing, by Authority derived from the *See* of *Rome*; and those were for the making of Military Officers, to Execute these Treasons by force of Arms, and that he did likewise receive five other Commissions for constituting Civil Officers in this Realm, after the Treason was committed. And that amongst the rest he did receive for himself one Commission to be Advocate General of the Army that was to be rais'd. And the Indictment further Charges upon the Prisoner, that to accomplish these Treasons, whereas *Ireland*, *Pickering*, and *Grove*, and other false Traitors, had consulted these Treasons, which I before mentioned, Mr. *Langhorn* had Notice of the Treasons, and did Consent to them and Abet them, and that he did solicit the *Benedictine* Monks to advance 6000 *l.* for the Murder of the King, for the Alteration of Religion, and for the Subversion of the Government in Church and State. And further, whereas Mr. *Coleman*, (who was Executed for Treason) had (with others) conspired the Death of the King, and the introducing of Popery, and has writ a Letter to the *French* Confessor *Le Cheese*, for Aid and Assistance, that the Prisoner at the Bar had Notice of this, and that he did consent to it, and did Abet it. This, Gentlemen, is Charged to be Traiterously, and Devilishly done against the Prisoners Allegiance, and the form of the Statute. To this he hath pleaded not Guilty, but if we prove these Treasons, or any of them, you are to find him Guilty.

Then Sir Creswel Levins, *one of His Majesty's Learned Council in the Law, opened the Charge thus:* Prout——

May it please your Lordship, and you Gentlemen of the Jury;

Mr. *Langhorn* is Indicted for Treason, for having a part in that general Treason that you have heard several times before of and some Persons there were Indicted, Tried, and Convicted Yesterday, for that Treason that Mr. *Langhorn* had an Hand in: for the Indictment does set forth, that there were Letters written by him to *Rome* to the same Purpose, of which, Gentlemen, you have heard so often, and will hear again.

This Treason was no less than to Murder the King, to alter the Religion, to overturn the Law, to raise an Army, by force to effect all this, and in short to do all the Mischief that Men (if it be lawful to call such Creatures Men) could do. That there was in order to this, Consultations held the 24th of *April* among the Jesuits; and there it was resolved that the King should be killed, there were Persons appointed to do it, that was *Pickering*, and *Grove*, but they failed therein, and they prosecuted it at *Windsor*, but happening to fail there also, they followed him to *Newmarket*, and ordered that it should be done there: And when all this failed, they took another Course, His Majesty was to be Poisoned, and as I said before, to make all this good, an Army was to be raised of 50000 Men in *England*, to perfect this Work; but if that would not do, they were to have Forces from beyond Sea to joyn with them: And Mr. *Langhorn* he writ Letters to procure these Forces, and he not only did so, but he found the effect of his Letters, and received Commissions from beyond Sea, whereof one was for himself, to be Advocate General of the Army. All these things are laid to Mr. *Langhorn*'s Charge.

But I'll begin first, and shew you before I come to the particular Evidence against Mr. *Langhorn*, some Evidence of the general Design, and therefore

fore we will call ſome Witneſſes to do that in the firſt Place, and then bring it down to Mr. *Langhorn* himſelf.

Call Mr. *Dugdale*, and Mr. *Prance*, (who were both ſworn, and Mr. *Dugdale* firſt ſtood up.)

Sir *Cr. Levins.* Come Sir, what do you know of any Deſign to Murder the King? ſpeak what you know concerning the Plot and Conſpiracy.

Mr. *Dugdale.* I was in ſeveral Conſultations for Alteration of this preſent Government, and for the introducing of Popery, and for the Murder of the King. I was a Perſon in moſt of the Conſultations to the ſame purpoſe, and heard the very Words uſed, and was hired to be inſtrumental in it, and was to have a Sum of Money to be one of them that ſhould do it. I was to be an Actor in it, and was to have a Place appointed to do it.

Mr. Juſt. *Atkins.* What were you hired to do?

Mr. *Dugdale.* I was to kill the King.

Sir *Cr. Levins.* And who were the Perſons that put you upon it?

Mr. *Dugdale.* There was Mr. *Ewers*, Mr. *Gavan*, Mr. *Luſon*, and Mr. *Vavaſor.*

Sir *Cr. Levins.* What were theſe Men?

Mr. *Dugdale.* They are all Jeſuits.

Sir *Cr. Levins.* Do you know any thing of an Army that was to be raiſed to effect it?

Mr. *Dugdale.* They always did ſpeak of an Army that was to be raiſed, but it was not actually to be done, till the King was killed; that was the laſt Concluſion: It was indeed at firſt concluded on to raiſe an Army, but the laſt Conſultation was, that there ſhould no Arms appear, till the King was killed.

Sir *Cr. Levins.* You do not know any thing of Mr. *Langhorn* in particular, do you?

Mr. *Dugdale.* No, I do not know any thing in particular of him, I have heard of him.

L. C. J. *North.* Why, you brought him only to prove the general Deſign.

Mr. *Dugdale.* There was a Maſſacre to be, and then there ſhould be an Army, a pretty good conſiderable Army, there was no certain Number that I could hear of; but thoſe that did eſcape the Maſſacre, ſhould be cut off by the Army.

L. C. J. *North.* Where were theſe Conſultations?

Mr. *Dugdale.* One was at *Tixal*, another was at *Boſcobel*, at my Lord *Aſton*'s, and Mr. *Gerrard*'s.

Lord Chief Juſtice. North. Where were theſe Places?

Mr. *Dugdale.* In *Staffordſhire.*

Mr. Juſt. *Atkins.* Pray, who were to be maſſacred, in the firſt place?

Mr. *Dugdale.* All Proteſtants, and thoſe we could not be ſure of to be Papiſts.

Mr. *Belwood.* Pray, Sir, what do you know of any Letter to be writ to Mr. *Ewers*, concerning Sir *Edmund-bury Godfrey*'s Death?

Mr. *Dugdale.* I do remember a Letter that came to Mr. *Ewers*, from Mr. *Harcourt*, which did expreſs, and begin thus, *This very Night Sir* Edmundbury Godfrey *is diſpatched*; with ſome other Words of like Import; and then I ſent to Mr. *Ewers* about it: And do you think this will carry on the Deſign? I will be hang'd if it don't ſpoil it: No, ſaid he, he was a Perſon that uſed to be very ſevere againſt debauch'd lewd Perſons, and ſo it will be laid, as if they had done it out of Revenge.

L. C. J. North. What Day of the Week was that Letter dated?

Mr. *Dugdale.* It was, as I can very well make it out, on *Saturday.*

L. C. J. North. And when was it received?

Mr. *Dugdale.* It was received on *Monday* Night.

L. C. J. North. What were the Contents of it, do you ſay?

Mr. *Dugdale.* It began thus, *This very Night, Sir* Edmund Godfrey *is diſpatched.*

L. C. J. North. Who did it come from?

Mr. *Dugdale.* It came from Mr. *Harcourt.*

Sir *Cr. Levins.* They themſelves know that he was not found here in *London*, till *Thurſday.*

Mr. *Dugdale.* I could not hold, it run ſo much in my Mind, but the next Morning, going to an Alehouſe hard by, I there ſpoke of it, and immediately it was carried to Mr. *Chetwin*, and he was here Yeſterday to make it out, that I ſo did.

L. C. J. North. But why did they kill him? was it expreſſed why?

Mr. *Dugdale.* I had ſeveral Times heard, he was too much privy to their Conſultations.

L. C. J. North. That is, you mean, he had too much diſcovered to him.

Mr. *Dugdale.* And ſo they were afraid of Mr. *Coleman* too, that he carried Things too high; and he was out of their Favour for two Years.

Sir *Cr. Levins.* Then call Mr. *Prance.* Pray, Sir, what can you ſay?

Mr. *Prance.* There was one Mr. *Meſſenger*, a Gentleman of the Horſe to my Lord *Arundel* of *Wardour*, who was employed by my Lord *Arundel* of *Wardour*, and my Lord *Powis*, and he was to kill the King, and to have a very good Reward for the doing of it; and I was told ſo by my Lord *Butler:* I afterwards met with the *Meſſenger*, and asked him, what his Reaſon was that he would kill the King. He told me, he was off of it now.

Sir *Cr. Levins.* But what was to be done after they ſhould kill the King?

Mr. *Prance.* Preſently there ſhould be an Army of 50000 Men raiſed, to be governed by my Lord *Arundel*, and my Lord *Powis*, and them: I have heard Mr. *Fenwick*, and Mr. *Ireland*, and *Grove*, to ſpeak of this at the ſame Time together.

Sir *Cr. Levins.* What was that Army to be raiſed for?

Mr. *Prance.* To ſettle the Catholick Religion.

L. C. J. What was to become of other Perſons?

Mr. *Prance.* They were to be killed and ruined all: So *Fenwick* told me.

L. C. J. North. Look you, Mr. *Langhorn*, theſe Witneſſes ſpeak nothing to you in particular, but only that there was a Conſpiracy in general, to kill the King, and introduce Popery: If you will ask them any Queſtion, you may.

Langhorn. No, my Lord, they not accuſing me, I have nothing to ſay to them.

Mr. *Prance.* I heard one Mr. *Harcourt* ſay, that the King was to be killed by ſeveral, before one Mr. *Thompſon*, twice in his own Chamber in *Duke-Street.* And I heard *Fenwick* ſay, that Mr. *Langhorn* was to have a great Hand in it.

Langhorn. Is that all you have to ſay, as to me?

Mr. *Praunce.* It is all that I know of.

Then the Lord Chief Juſtice Scroggs *came in.*

Sir *Cr. Levins.* Now, my Lord, we will call the Evidence, that ſhall prove the particular Matters of the Indictment, as of writing the Letters beyond Sea, of his receiving Commiſſions, of his diſtributing them here to the ſeveral Perſons to whom they were directed; of his ſoliciting for the Money, the 6000 *l.* to be raiſed by the *Benedictine* Monks, which was either for a particular Purpoſe to poiſon the King, or to carry on the Deſign in general.

general. And first we call Dr. *Oates*. *Who was sworn; and stood up.*

Sir *Cr. Levins*. Sir, you hear what the Matter is, as to Mr. *Langhorn*, be pleased to tell the Court, whether you knew he writ any Letters, and received any Commissions; speak your whole Knowledge.

Dr. *Oates*. I hope your Lordship will be pleased to give me Leave to use my own Method?

L. C. J. Ay, ay, take your own Way, Mr. *Oates*.

Dr. *Oates*. Then I begin thus. In the Month of *April*, 1677, I went into the Kingdom of *Spain*: In the Month of *September* following, the Sons of Mr. *Langhorn* came into the Kingdom of *Spain*; it was *September*, or sooner, but I will not be positive as to the Time of their coming; the one was a Scholar of the *English* College at *Madrid*, the other was a Scholar of the *English* College at *Valledolid*. They came there to study Philosophy, in Order to their receiving of the Priesthood. My Lord, my Occasions called me into *England*, in the Month of *November*, following; and coming into *England*, Mr. *Langhorn*'s Sons did give me some Letters, to Mr. *Langhorn* their Father; and as soon as I had rested my self for a Day or two, after my Journey, I came to Mr. *Langhorn*'s House in *Sheer-lane*. Now, Mr. *Langhorn*'s Wife being a zealous Protestant, I did whisper his Foot-Boy, or his Servant-Boy, in the Ear, that he should go and whisper his Master, Mr. *Langhorn*, and tell him, There was one would speak with him, from his Sons. Mr. *Langhorn*, by his Son, did desire me to meet him at his Chamber in the *Temple*, (in the *Inner-Temple-lane*, it was, I think) I know the Chamber, however, and accordingly, I did meet Mr. *Langhorn* that Night, by the means of his Half Brother, who is Brother, I think, by the Mother, and not by the Father, his Name is *Smithson*; and when I came into Mr. *Langhorn*'s Chamber, their Chambers being directly opposite one to another, I was treated by Mr. *Langhorn* with a great deal of Civility, and I delivered Mr. *Langhorn* the Letters from his Sons, and I told him, that I thought his Sons would enter into the Society: Mr. *Langhorn* was mightily pleased with the News, being himself a great Votary for the Society, that his Sons would enter into it. Now, may it please your Lordship, Mr. *Langhorn* did say, He thought if they did continue in the World, that is secular Priests, they would suddenly have very great Promotion in *England*; for he said, Things would not last long in this Posture; that is, at that Time he then spoke; I speak the Words now, that he said then. And now, my Lord, I was with Mr. *Langhorn* another Time, while I was in *England*, but in the latter end of *November* Old Stile, in the beginning of *December*, New Stile, I went to St. *Omers*, and there were Letters that He delivered me, (*looking upon the Prisoner*,) a Pacquet to carry to St. *Omers*. And when the Pacquet was opened, there was a Letter, Signed, *Richard Langhorn*, in which he gave the Fathers at St. *Omers* great Thanks, for the great Care had of, and Kindness they shew'd to, his Sons, and that what they had been out of Pocket for their *Viaticum*, in order to their Journey into *Spain*, which was 20 *l.* he promised them they should be repaid it; and in this Letter he did expresly say, that he had written to Father *Le Cheese* in Order to our Concerns; those were his Words. Now, my Lord, the Letter that he writ to Father *Le Cheese* I saw not, but only this Letter I saw, which gave an Account of that Letter he had writ to Father *Le Cheese*; and he said, Mr. *Coleman* had been very large with him, and therefore it would not be necessary for him to trouble his Reverence with any large Epistles at that Time. My Lord, there was another Letter, and I think that was in the Month of *March*, or *April*, I cannot be positive, as to the particular Time, but it was upon this remarkable Circumstance: Mr. *Langhorn* had a Son, that had been in Rebellion, and had turned Soldier, or some such Thing, in *France*, and this Young Gentleman came to St. *Omers*, being the Place where he had been Educated; and Mr. *Langhorn*, by the Intercession of the Fathers there, did order him Five Pounds, to bring him over into *England*, upon Promise of his Son's Submission, who had been very Extravagant in several Respects. In this Letter, my Lord, Mr. *Langhorn* did express his great Care for the carrying on of the Design of the Catholicks, and several other Expressions there were in it bad enough, which I cannot now call to Mind, but they were to this Effect; The Parliament began to flag in promoting the Protestant Religion, and now they had a fair Opportunity to begin and give the Blow; what that Blow was, I leave to the Court and to the Jury to expound.

L. C. J. But was that an Expression in the Letter?

Dr. *Oates*. It was, my Lord: But it was a very large Letter, I can't give a particular Account of every Thing in it. My Lord, in the Month of *April*, or the beginning of *May*, your Lordship remembers there was a Consult that hath been sworn here in this Court, to which Consult——

L. C. J. Pray speak it out.

Dr. *Oates*. There were several of us came over from St. *Omers*, and from other Parts beyond the Seas, to this Consult, at which Consult Mr. *Langhorn* was not present; but I had Orders from the Provincial, to give Mr. *Langhorn* an Account of what Resolutions, and Passages, and Minutes pass'd at this Consult; and this I did as well as I could, and when I did so, Mr. *Langhorn* lift up his Hands and his Eyes, and pray'd to God to give it good Success. My Lord, while I was at Mr. *Langhorn*'s Chamber, giving this Account, I saw several Parchments lying upon the Table in his Study.

L. C. J. You had best tell the Effect of the Account you gave Mr. *Langhorn* in his Chamber, that you speak of.

Dr. *Oates*. My Lord, I told him who went Procurator to *Rome*, that was one Father *Cary*, I told him what was the Resolve of the Consult concerning the Death of the King.

L. C. J. Did you so?

Dr. *Oates*. Yes, my Lord, I did: I told Mr. *Langhorn* that several of the Fathers were to be admonished for their irregular Living, as they termed it: And to this Mr. *Langhorn* did reply, as near as I can remember, that he found some of them did not live up to the Rules of the Society.

L. C. J. Pray tell us more particularly, what you told him. And tell us as near as you can, as you told it him then, the Business of the Plot upon the King.

Dr. *Oates*. I told him the Resolve of the Society, and of that Consult, and what was that which was resolved, that *Pickering* and *Grove* should go on to attempt to assassinate the King's Person, and what was to be their Reward, the one was to have, that is *Grove*, 1500 *l.* and the other, that is, *Pickering*, was to have 30000 Masses: He lift up his Hands and Eyes when I told him this (and I told him more particularly than I can now remember) and he

he lift up his Hands and Eyes, and prayed God that it might have good Succeſs.

L. C. J. Did you tell him they had Signed to this Agreement?

Dr. *Oates.* Yes, my Lord, I told him, that they had all Signed it.

Langhorn. When was this?

Dr. *Oates.* It was the latter end of *April*, or beginning of *May*.

Langhorn. How long after they had Signed the Conſult?

Dr. *Oates.* A Day or two after.

Langhorn. Dr. *Oates*, Do you know the Day of the Month? you have aſſerted the Day of the Month formerly, pray do it now.

Mr. Juſt. *Pemberton.* Let him go on; you ſhall ask him what Queſtions you will, by and by.

Dr. *Oates.* My Lord, I ſaw there a Commiſſion for my Lord *Arundel* of *Wardour*, and another to my Lord *Powis*; the one was to be Lord High Chancellor, and the other to be Lord High Treaſurer; there was a Commiſſion for my Lord *Bellaſis*, to be General, another for my Lord *Petre*, to be Lieutenant-General, and there were other Commiſſions, of which I cannot remember the particular Names, but there was a Commiſſion for *Coleman* to be Secretary of State, and there was a Commiſſion for the Priſoner at the Bar to be Advocate of the Army.

L. C. J. By what Authority were thoſe Commiſſions?

Dr. *Oates.* They were by Authority derived from the See of *Rome*, by Vertue of a Breve from the Pope, directed to the General of the Society, and they were Signed IHΣ, and with the Mark of the Croſs thro' the IHS, and they were Signed *Johannes Paulus de Oliva.*

L. C. J. *North.* That is the Jeſuits Mark?

Dr. *Oates.* Yes, my Lord.

L. C. J. *North.* Where did you ſee thoſe Commiſſions?

Dr. *Oates.* In Mr. *Langhorn*'s Study of his Chamber, in the *Temple*.

L. C. J. Where? Did they lie open, that any one might ſee them?

Dr. *Oates.* They lay upon a Corner of his Desk, folded up.

L. C. J. How came you to ſee them?

Dr. *Oates.* My Lord, if your Lordſhip pleaſe, I will tell your Lordſhip how I came to ſee them. We had Notice they were come, by a Letter from one Father *Anderton*, and he called theſe Commiſſions Patents, and, if it pleaſe your Lordſhip, I did ask Mr. *Langhorn*, whether he had received them? He told me, Yes: Then I asked him, whether he would do me the Favour to let me ſee them? and, becauſe I had been privy to the Conſults, and came to wait upon him by Order of the Provincial, he did let me ſee them.

L. C. J. And you ſaw them in his Study, upon his Desk?

Dr. *Oates.* Yes, my Lord, I did. And particularly one more I can tell of, which his Son was to deliver to a Son of my Lord *Arundel* of *Wardour*.

L. C. J. How many Commiſſions were there?

Dr. *Oates.* I cannot ſay, about Seven or Eight, I think, I did ſee, and looked over.

Mr. Juſt. *Atkins.* And you knew what they were?

Dr. *Oates.* Yes, for thoſe that I ſaw, that I can remember.

L. C. J. What was my Lord *Powis* to be?

Dr. *Oates.* Lord High-Treaſurer.

L. C. J. And what my Lord *Arundel*?

Dr. *Oates.* Lord High-Chancellor of *England.*

L. C. J. And what my Lord *Stafford*?

Dr. *Oates.* As to my Lord *Stafford*, I cannot give ſo good an Account; but as I remember, he was to be a Pay-maſter in the Army, or ſome ſuch Office relating to the Army.

L. C. J. *North.* What was the Priſoner at the Bar to be?

Dr. *Oates.* A Judge in the Army, or an Advocate-General, ſo they called him.

L. C. J. You ſaw moſt of theſe?

Dr. *Oates.* I ſaw ſeveral of them, moſt of them in his Cuſtody, I cannot ſay all: There was more than for theſe Lords, for other inferior Officers.

L. C. J. How many might there be of them, as near as you can gueſs?

Dr. *Oates.* I think he told me they were about Fifty.

L. C. J. What Number did you ſee?

Dr. *Oates.* I ſaw about Half a dozen or Eight.

L. C. J. Well, Sir, go on.

Dr. *Oates.* My Lord, I am now to ſpeak to your Lordſhip concerning ſome Letters that he wrote to *Rome*, and there was ——

L. C. J. Had you any Diſcourſe with him concerning the Matters of any of the Commiſſions of my Lord *Bellaſis* and my Lord *Powis*?

Dr. *Oates.* No, my Lord; I had but little Skill in Military Affairs, and therefore I ſaid but little, and I cannot give you an Account, Word for Word, what the Diſcourſe was, for it was out of my Way. My Lord, there were ſeveral Letters which Mr. *Langhorn* writ to Father *Le Cheeſe*, the Anſwers to which I ſaw in *April* and *May*; whereupon the Fathers did deſire they might have the Originals of thoſe Copies: He gave me the Originals to carry to the Fathers, I think it was that very Day I had been with him in the Afternoon; for I was with him in the Morning; the Fathers did read the Letters.

L. C. J. From whom came they?

Dr. *Oates.* From Father *Le Cheeſe*, and from Father *Anderton.* And *Le Cheeſe*, in his Letter, did aſſure him of his Stedfaſtneſs and Conſtancy, to aſſiſt the Society for the carrying on the Cauſe: And that they ſhould not need doubt, but the *French* King would ſtand by them, or to that Purpoſe. I cannot remember exactly the Words, but it was to that Effect.

L. C. J. But they were directed to Mr. *Langhorn*?

Dr. *Oates.* I cannot ſwear that directly, but he gave them me.

L. C. J. Who were *Le Cheeſe* and *Anderton*?

Dr. *Oates.* The one was Confeſſor to the *French* King, and the other Rector of the College at *Rome*.

Mr. Juſt. *Atkins.* But you ſaw thoſe in the Priſoner's Cuſtody, you ſay?

Dr. *Oates.* Yes, my Lord, I did.

L. C. J. He gave them you to deliver to the Fathers, to *Whitebread* and the reſt of them?

Dr. *Oates.* Yes, my Lord, but I cannot ſay who they were directed to.

L. C. J. But pray repeat what was the Subſtance of that Letter.

Dr. *Oates.* My Lord, as to the Words of them, I dare not charge my Memory, but it was to this Purpoſe, That *Le Cheeſe* would ſtand by the *Engliſh* Society, and aſſiſt them, and that they ſhould not need to doubt the *French* King, or to that Effect.

Mr. *Belwood.*

Mr. *Belwood.* Do you remember any Letters that were writ by Mr. *Coleman* to *Le Cheese?*

Dr. *Oates.* Yes, my Lord, I remember several Letters that *Coleman* writ, but Mr. *Langhorn* was not affected in them.

Mr. *Belwood.* Did he know of them?

Dr. *Oates.* He gave an Account, in his Letter to the Society, That *Coleman* had writ Letters to *Le Cheese*, and was very large, and therefore he should not trouble his Reverence with any long Epistles.

Sir *Cr. Levins.* What do you know of any Money that was to be raised by the *Benedictine* Monks?

Dr. *Oates.* I had forgot that.

L. C. J. You say, that he said, they should not need to doubt the *French*, but he would stand by them with Men and Money; For what Purpose, pray?

Dr. *Oates.* I'll tell you for what Purpose it was, the Words of the Letter did alledge it to be for carrying on of the Cause.

Mr. Just. *Pemberton.* You mean the Catholick Cause?

Dr. *Oates.* So it was generally understood.

L. C. J. But for the other Money, what say you?

Dr. *Oates.* Mr. *Langhorn* was employed as Solicitor for the Jesuits, and did accompany some of the Society, Father *Harcourt*, Father *Fenwick*, Father *Kaines*, and Father *Langworth*, and they went and did communicate the Secret to the *Benedictine* Monks, desiring them to stand by them with a Summ of Money for the carrying on the Design: Now, upon Mr. *Langhorn*'s soliciting them, and appearing for them, as I have heard, 6000 *l.* was promised and paid.

L. C. J. By whom promised and paid?

Dr. *Oates.* By the *Benedictine* Monks.

L. C. J. To whom?

Dr. *Oates.* To the Society.

L. C. J. To what Person?

Dr. *Oates.* That I cannot say; but it was said, Mr. *Langhorn* was to receive it.

L. C. J. Did you see the Money paid?

Dr. *Oates.* No, I did not.

L. C. J. Did you hear Mr. *Langhorn* confess it was paid?

Dr. *Oates.* Mr. *Langhorn* did say in the Month of *July* or *August*, I cannot be positive which, but thereabouts, when he was spoke to about it, that he would stir in it, and do to the utmost of his Power for the procuring of it. And another Thing, I am sure Mr. *Langhorn* was very much disgusted, that Sir *George Wakeman* was not contented with the 10000 *l.*

Sir *Cr. Levins.* What was the 6000 *l.* for?

Dr. *Oates.* It was for the general Cause.

Sir *Cr. Levins.* For the Murder of the King?

Dr. *Oates.* Yes, and for the Alteration of Religion.

L. C. J. *North.* How did it appear that Mr. *Langhorn* was disgusted, that Sir *George Wakeman* would not take the 10000 *l?* And, What was it for?

Dr. *Oates.* It was to poison the King. And he said, He was a covetous Man; that was in a publick Concern; and that, being it was to carry on the Cause, it was no matter if he did it for nothing: But he said he was a Narrow-Spirited, and a Narrow-Soul'd Physician.

L. C. J. When was it that he said he would stir for the Money?

Dr. *Oates.* It was in *July*, or in *August*.

Langhorn. My Lord, may I ask him any Questions?

Mr. Just. *Pemberton.* Yes, yes, Mr. *Langhorn*, you may.

L. C. J. *North.* Pray, Mr. *Oates*, you saw such and such Commissions from the Superior of the Jesuits, that were Signed *Johannes Paulus de Oliva*, pray will you look upon this, and see whether you know it? (*And a Writing under the Jesuits Seal was shew'd him.*)

Dr. *Oates.* This is the Hand, the very Hand, that was to the others, and they had put such a Seal; and that is for Mr. *Stapleton*, to be Rector of St. *Omers.*

Sir *Cr. Levins.* Now, my Lord, if you please, this was not one of those Commissions that Mr. *Langhorn* did distribute to the Persons that were to have them, no, he would let us have none of those, but it is a Commission of another Nature, 'tis neither for an Office Civil nor Military, but Ecclesiastical, yet it is under the same Hand and Seal.

Langhorn. You say, you came to me, the first Time, in *November*; and you went to St. *Omers*, when, Sir?

Dr. *Oates.* The latter end of *November.*

Langhorn. When arrived you at St. *Omers?*

Dr. *Oates.* I think it was the 10th of *December*, New Stile, I will not be positive.

L. C. J. All their Defence lies in Catches upon a Point of Time, in which no Man living is able to be positive.

Dr. *Oates.* My Lord, if the 26th of *November* fell upon a *Monday*, then it was on the 26th Day that I set out for *Dover* in the Coach, as near as I can remember, and I got to St. *Omers* a *Friday* Morning following.

Langhorn. A *Friday* after, you say, you got to St. *Omers?*

Dr. *Oates.* About that Time.

Langhorn. How long did you stay there?

Dr. *Oates.* Till *April* following, I stay'd.

Langhorn. Without any moving from thence?

Dr. *Oates.* Only went to *Paris*, and after that, a Night or two at *Watton*, and then came away in *April.* My Lord, I desire, if your Lordship please, that Mr. *Langhorn* may ask the Court, and the Court ask me; for I know the Court will be so kind, as to ask me such Questions as are reasonable, and proper for me to answer.

Mr. Just. *Atkins.* That indeed is the regular Way, for Prisoners should not ask the Question, but the Court.

Langhorn. Very well, I shall observe the Method, if your Lordship please. I desire to know, what Time in *April* he came back for *England.*

Dr. *Oates.* I came about the middle of *April*, or latter end, I will not be so positive in that, and I was in *England* under twenty Days.

Langhorn. Can you tell what Day you came into *England?*

Dr. *Oates.* No, I cannot exactly, but I came in *April*, the middle or the latter End.

Langhorn. I desire to know, who came with him?

Dr. *Oates.* My Lord, there came a matter of Nine or Ten of us in all.

L. C. J. Name them.

Dr. *Oates.* There was Father *Williams*, and Father *March*, the Rector of *Liege*, and Sir *John Warner.*

Langhorn. What is the Rector of *Liege*'s Name?

Dr. *Oates.* *Warren*, I think, I cannot tell Names so exactly.

Langhorn. Go on, Sir, pray.

Dr. *Oates.* I cannot name any more.

Langhorn.

Langhorn. You have named them all in the Records of the Lords Houſe.

Dr. *Oates.* 'Tis like I have, I refer you to that.

Langhorn. Did Sir *Thomas Preſton* come over with you?

Dr. *Oates.* Yes, he did.

Langhorn. Did *Poole* come over with you?

Dr. *Oates.* Yes.

L. C. J. Look you Mr. *Langhorn*, we had all this Matter ſpoken of Yeſterday, and there were Witneſſes that prove that Sir *Jeremy Warner*, and Sir *Thomas Preſton*, were there.

Langhorn. I humbly conceive, that was upon an Iſſue tried in another County, by another Jury, and therefore I hope I do not amiſs in urging what I can ſay for my ſelf to this Jury.

L. C. J. You are not debarred, I only told you of it. Was Sir *Robert Brett* there?

Dr. *Oates.* Yes, I think he was, I am not confident of that. My Lord, I own what Mr. *Langhorn* can bring to the Court upon Record.

Langhorn. I only ask it, becauſe he ſays ſo in the Houſe of Lords.

Dr. *Oates.* If you can ſhew the Record of what I ſaid there, do

Langhorn. I do not deſire him to name them now, but to know whether he does now affirm the truth of what he Swore in the Houſe of Lords?

L. C. J. If you can produce, as you may, if you have been diligent, a Copy of the Record in the Houſe of Lords, and have it Sworn to be a true Copy of the Records, it will be Evidence for you, and ſhall be read; but to put him to remember a Record without Book, muſt not be, it would be hard for him to undertake that.

Langhorn. I deſire to know how he came from *Dover*; whether in a Coach, or on Horſeback, to *London*?

Dr. *Oates.* Indeed the Queſtion is ſo ſudden, that I cannot be poſitive, but as near as I remember, I came by Coach.

Langhorn. I will give my reaſon why I ask this; becauſe he hath formerly upon a Trial in the *King's-Bench*, affirmed he came by Coach, in the company of Mr. *Hilſley*.

Dr. *Oates.* No, I did never ſay ſo; but I came over in the Pacquet Boat, in the company of Mr. *Hilſley*, but when we were come over, Mr. *Hilſley* went out of the way from us.

Langhorn. I deſire to know where he Lodged, when he came to Town?

L. C. J. Where did you Lodge the firſt Night?

Dr. *Oates.* I did lie at Mr. *Groves*'s Houſe, when I came to *London* in *April*.

L. C. J. But the firſt Night when you came from *Dover*, when you came into *London* in *April*?

Dr. *Oates.* My Lord, I cannot ſay, I lay there the firſt Night; but my Lodging was provided for me there.

L. C. J. You are to Anſwer as well as you can, if you cannot remember it, ſay ſo. Do you ſay the firſt abſolutely, or not?

Dr. *Oates.* My Lord, I cannot remember the firſt Night, but I lay ſeveral Nights at Mr. *Grove*'s.

Langhorn. Then I ask, whether he did generally lie there, during his ſtay?

Dr. *Oates.* I did lie there ſome Nights.

L. C. J. How many times did you lie there?

Dr. *Oates.* I believe three or four Nights, I won't be poſitive as to the Number.

Langhorn. What Day was the Conſult?

Dr. *Oates.* It was the 24th of *April*.

Langhorn. What Day did you acquaint me with it?

Dr. *Oates.* A Day or two after.

Langhorn. When did he return back to St. *Omers*?

L. C. J. When did you go back? about what time?

Dr. *Oates.* My Lord, I think it was a Week in *May*, I cannot be poſitive, but I think that was the outſide.

L. C. J. They ſaid, Yeſterday you affirmed you ſtay'd but Six Days.

Dr. *Oates.* I do not ſay ſo, but I ſay under 20.

Mr. Juſt. *Dolben.* Come, have you any thing elſe to ask him?

Langhorn. Thoſe Letters that he ſpeaks of, I deſire to know whether he ſaw me write them?

L. C. J. Thoſe Letters you ſpeak of, did you ſee him write them?

Dr. *Oates.* I did not ſee him write them, but I am ſure they were his Letters, becauſe I know his Hand.

L. C. J. How did you come to know his Hand, ſince you did not ſee him write them?

Dr. *Oates.* I ſaw the Letter whereby he ordered Money to be paid, 5*l.* to his Son. And I ſaw the Money paid to his Son, by that Order.

Langhorn. Do you know that *le Cheeſe*, and *Anderton*, writ to me?

Dr. *Oates.* I do not ſay that they writ to him, but he had Letters Subſcribed by their Names, and they were ſaid by him to come from them, and they were to be communicated to the Prieſts and Jeſuits; and he delivered them to me to that end.

Langhorn. When you returned to St. *Omers*, how long did you ſtay there?

Dr. *Oates.* Till 23d *June*, New Stile, which is the 13th Old Stile.

Langhorn. I remember he profeſſed himſelf a Roman Catholick, I ſee he is a Miniſter: I deſire to know of him when he left the Proteſtant Religion, and became a Convert, as he call'ed himſelf; call it what you will, when he left being a Proteſtant, and became a Papiſt, that is it I mean?

Dr. *Oates.* He does it for nothing but to quarrel.

L. C. J. When did you leave the Church of *England*?

Dr. *Oates.* My Lord, if it be the pleaſure of the Bench to ask me that Queſtion ——

L. C. J. You ought to anſwer it, tho' it be nothing to the purpoſe.

Dr. *Oates.* Then I anſwer, it was either in *February* or *March* 167$\frac{6}{7}$.

Langhorn. My Lord, I deſire to know whether he had any Benefice?

Dr. *Oates.* Yes, I was ſometime Vicar of *Bobbing* —— in *Kent*: But I ſuppoſe this is to make me accuſe my ſelf of ſomething, whereby I might forfeit my Living: for, my Lord, I have a Right in a Point of Equity ſtill to that Living, but only for going beyond Sea without leave of my Ordinary, I am not now Vicar of ——

Langhorn. When did you come to your Vicaridge?

Dr. *Oates.* In 1672.

Langhorn. You became a Papiſt in 1677. I ask this Queſtion, whether he did leave his Living before he turned Papiſt?

Dr. *Oates.* My Lord, I am not willing to anſwer that Queſtion.

L. C. J. When did you leave your Living? Did you leave it before you went away?

Dr. *Oatēs.* It was not very long before, but the reaſon why I am not willing to tell, is, When I left the Pariſh, I left it in the Charge of Mr. *Thomas Turner*, Vicar of *Milton*, and I did go near about *Chicheſter*, and ſerved a Sequeſtration there. The Air was not a good Air in that part of *Kent*, and I had not my Health; and that was one Reaſon, and for other Reaſons beſt known to my ſelf.

Langhorn. After he became a Papiſt, I deſire to know, whether he became a Jeſuit? Were you in any Order there?

L. C. J. Mr. *Langhorn*, it is not a proper Queſtion, we ought not to ask it him: You are a Man of the Law, and therefore you know it is not fair to ask any Perſon a Queſtion about a criminal Matter that may bring himſelf in danger.

Langhorn. I take him to be out of danger, he hath his Pardon.

L. C. J. I don't know what his Pardon is, nor how far it reaches, nor whether this be contained in it; but if Mr. *Oates* pleaſes to anſwer that Queſtion he may.

Mr. Juſt. *Dolben.* Tho' he hath his Pardon he may be in danger of Eccleſiaſtical Cenſure.

L. C. J. He ſays he will not.

Langhorn. I'll give you another Reaſon why I ask it, becauſe in one of his Narratives he ſeems to call himſelf ſo; he ſays, *There came over Nine of us, all Jeſuits*, I ſuppoſe him to be one of that Order; this I took to be a ground, why I might properly call him ſo.

L. C. J. Narratives are no Evidence at all.

Langhorn. But that gave me an occaſion to ask the Queſtion.

Dr. *Oates.* I cannot anſwer it becauſe it tends rather to raiſe a Debate in the Court, than conduces to the Queſtion, to acquit or condemn the Priſoner.

Mr. Juſt. *Pemberton.* You are not bound to anſwer it.

L. C. J. He tells you, he is not bound by Law to anſwer, and he refuſes to anſwer.

Langhorn. I deſire to know, whether he ever ſaw me, or converſed with me, from the time he acquainted me with the Conſult, and ſaw the Commiſſions in my Chamber?

L. C. J. How often did you converſe with Mr. *Langhorn*?

Dr. *Oates.* After I returned again in *July* and *Auguſt*, once or twice.

L. C. J. How often in *April* and *May*?

Dr. *Oates.* Twice, I think, about the time of the Conſult.

L. C. J. And when you came over again, how often?

Dr. *Oates.* Twice more I think, twice or thrice.

L. C. J. So, then he hath been four or five times in your Company.

Dr. *Oates.* He would not let me come to his Houſe, for he uſed to ſay, his Wife was but *Aumsace* turned from a Devil; and therefore he would not have me come thither.

Langhorn. I hope he will not go out of the Court?

L. C. J. No, he will ſtay here, but you have done with him at preſent, have you not?

Langhorn. Yes, my Lord, I have.

Sir. *Cr. Levins.* Swear Mr. *Bedlow.* Which was done.

L. C. J. Mr. *Bedlow*, I ask you but one ſhort Queſtion, becauſe I would not interrupt you afterwards, That Paper that you ſaw Signed by the Superior of the Jeſuits, where had you it?

Mr. *Bedlow.* I had it at Mr. *Daniel Arthur's.*

Langhorn. What is that?

L. C. J. It is an Inſtrument Signed and Sealed, juſt as the things were, which Mr. *Oates* ſays, he ſaw in your Chamber.

L. C. J. North. And beſides you muſt take notice, that this was found a long time after Mr. *Oates* had given his Teſtimony publickly, for his Cloſet was not ſearched till a great while after.

L. C. J. It is to ſhew you what Seals they uſed to have to their Commiſſions. Mr. *Oates* deſcribes ſeveral Commiſſions that he ſaw in your Study, ſo Sealed and Subſcribed, and after the ſearching Mr. *Arthur's* Study, being a Papiſt, that Commiſſion is found there. Now tho' it be a thing of a private Concern, a Church matter, not relating to the Matters in Queſtion, yet this very Commiſſion is ſo ſubſcribed, and ſo ſigned and ſealed, as Mr. *Oates* had deſcribed thoſe to be before in your Chamber.

Mr. *Bedlow.* Becauſe it was exactly the Hand and Seal that I ſaw to the Commiſſions in *Paris*, I did take particular notice of the Paper, and brought it to the Council.

L. C. J. Well Sir, now go on with your Evidence.

Mr. *Bedlow.* Firſt, my Lord, I'll only ask this Queſtion of the Court, whether a known *Roman Catholick* may take Notes of the Evidence in ſuch a Cauſe?

L. C. J. Truly no, I think not.

Mr. *Bedlow.* There is an Honourable Lady in that Gallery, the Lady *Marchioneſs* of *Wincheſter*, that hath took Notes all this Trial.

L. C. J. She will do her ſelf, nor no body elſe any great hurt, by what ſhe writes.

Mr. *Bedlow.* I only ſpeak it for the Information of the Court.

L. C. J. A Woman's Notes will not Signifie much truly, no more than her Tongue.

Mr. *Bedlow.* My Lord, about three years ſince, I was ſent by Mr. *Harcourt*, and Mr. *Coleman*, to *Le Cheeſe*, with ſome Letters for the carrying on of this Deſign. With theſe Letters, Mr. *Coleman* asked me, if I could go with him as far as the *Temple*. I have no particular Acquainrance with Mr. *Langhorn*, I was but twice at his Chamber, once with Mr. *Harcourt*, and once with Mr. *Coleman*. I waited upon Mr. *Coleman* to Mr. *Langhorn's* Chamber in the *Temple*: There did he Regiſter ſuch Letters as Mr. *Coleman* brought to him, and afterwards Mr. *Coleman* ſealed them up, and gave them me to carry to *Le Cheeſe*.

L. C. J. How do you ſay? when you went with Mr. *Coleman* to Mr. *Langhorn's* Chamber, were the Letters there?

Mr. *Bedlow.* The Letters were writ firſt at *Coleman's* Houſe, and brought open by *Coleman* to Mr. *Langhorn*, and he read them and Regiſtred them, and then *Coleman* ſealed them up, and gave them me to carry away.

Langhorn. What Letters were theſe?

L. C. J. Do you know what the Effect of thoſe Letters were?

Mr. *Bedlow.* The Letters were read ſome of them at the *King's-Bench*-Bar, at *Coleman's* Trial: There was one of them writ by Mr. *Harcourt*, another by Mr. *Colemam*, to *Le Cheeſe*.

Mr. Juſt. *Pemberton.* What was the Effect of them?

Mr. *Bedlow.* Only to let *Le Cheeſe* know, that they waited only now for his Anſwer, how far he had proceeded with the *French* King, for the ſending

ſending of Money; for they only wanted Money, all other things were in readineſs. That the Catholicks of *England* were in ſafety, had made all Places, and all Offices, to be diſpoſed of to Catholicks, or ſuch as they thought would be ſo; that all Gariſons were either in their own Hands, or ready to be put into them; that they had ſo fair an Opportunity, (as I remember that was one of the Expreſſions in the Letter to Father *Stapleton*) that they had ſo fair an Opportunity, having a King ſo eaſy to believe what is dictated to him by our Party, that if we ſlip this Opportunity, we muſt deſpair of ever introducing Popery into *England*; for having a King of *England* ſo eaſy, and the *French* King ſo powerful, they muſt not miſs ſuch an Opportunity.

L. C. J. For what?

Mr. *Bedlow.* To ſend over Money for the carrying on of the Cauſe, for they only wanted that, all elſe was in readineſs: And the other Letters were to the ſame Effect, tho' in other Words. That Letter was in *Engliſh*, but the Letters to *Le Cheeſe*, and the Nuncio, were both in *French*.

L. C. J. But you underſtand *French*, don't you?

Mr. *Bedlow.* Yes, my Lord I do.

L. C. J. Did he Copy them out, while you were there by?

Mr. *Bedlow.* He Regiſtred them before me.

L. C. J. Did he write them into a Book? and were you there all that time?

Mr. *Bedlow.* Yes, my Lord, I and *Coleman* walked in the Chamber, whilſt he went in and writ, as he did other things; for he Regiſtred all their Accompts: There was not a peny of Money either received or laid out, nor any thing done almoſt in relation to this Concern, but he did keep a Regiſter of it: I cannot ſay, that ever he did talk any thing before me of the King's Death particularly, but talked of the whole Deſign. About a Year and a half ſince, Mr. *Harcourt* ſent another Pacquet of Letters by me to Mr. *Langhorn* to be Regiſtred; he looked ſtrangely upon me, and received the Letter, and ſent an Anſwer to Mr. *Harcourt*, that Mr. *Williams* (for I went then under the Name of Captain *Williams*) had delivered him ſuch Letters, and that he ſhould have them again to Morrow, after he had Copied them, and Regiſtred them. Mr. *Harcourt* read the Letter of Anſwer to me, and in the Letter it was Mr. *Williams*. Said I to Mr. *Harcourt*, I thought I might have been Regiſtred by my right Name, becauſe when any thing ſhould take effect and occaſion ſerve, I reſolved to bear my own Name. Alas, ſays he, this does not ſignifie any thing at all, for as for this Regiſter, it is not ſo conſiderable: there ſhall be a New Regiſter made, of things of weight and moment, this is only a blind Regiſter amongſt our ſelves. The two Letters that I brought from *Harcourt*, there was one of them from Sir *William Godolphin*, that I had brought before from *Spain*.

L. C. J. Who was that directed to?

Mr. *Bedlow.* To my Lord *Bellaſis*; and about three Weeks after it was that I was ſent to Mr. *Langhorn* to have it Regiſtred; the other was from the *Iriſh* College of Jeſuits in *Salamanca*. The Letter from the Rector did ſpecify, that they would have my Lord *Bellaſis*, and the reſt of the Lords that were concerned, and the reſt of the Party in *England*, to be in readineſs, and to have this communicated with all expedition; for now they had provided in *Spain*, under the Notion of Pilgrims for St. *Jago*, ſome *Iriſh* Caſhier'd Soldiers, that had left their Country, ſome for Religion, and ſome for their Crimes, and a great many Lay-Brothers, whom they procured and gathered together under the Notion of Pilgrims, to be ready to take Shipping at the *Groine*, to land at *Milford-Haven*, there to meet my Lord *Powis*, and an Army that he was to raiſe in *Wales* to further this Deſign. And theſe Letters ſaid they had almoſt brought it to a Period, that they did only expect a Return from *England*, to ſhew in what readineſs they were here, that accordingly they might proceed.

L. C. J. Did Mr. *Langhorn* ſee theſe Letters?

Mr. *Bedlow.* He took theſe Letters from me, and told me Mr. *Harcourt* ſhould have them again, when he had tranſcribed them; and writ a Letter to Mr. *Harcourt*, that Mr. *Williams* had brought him ſuch Letters.

L. C. J. And he did tranſcribe them?

Mr. *Bedlow.* I ſuppoſe ſo, for he afterwards ſent them back to Mr. *Harcourt*.

Mr. Juſt. *Atkins.* Was it a good large Book that he regiſtred them in?

Mr. *Bedlow.* I know not what Book he regiſtred them in, not thoſe Letters.

Langh. It is a proper Queſtion, becauſe he ſaid I regiſtred theſe Letters before him.

Mr. *Bedlow.* I ſay, I ſaw him in his Study tranſcribe *Coleman*'s Letter, whilſt *Coleman* and I walked in his Chamber.

L. C. J. Into what kind of Book did he Regiſter that? Had he more Books than one, pray?

Mr. *Bedlow.* My Lord, I cannot tell that, I judge it might be the ſame Book. I ſaw the Book then, it was a large Parchment Book; but I did not ſee it when *Harcourt*'s Letters were Regiſtred. When *Coleman* and I came thither, he went into his Study, and left us in the Chamber, I ſaw him tranſcribing the Papers that lay before him: but when I brought thoſe Letters from Mr. *Harcourt*, I only delivered them ſealed up, and his Anſwer to Father *Harcourt* was, that Mr. *Williams* had brought him ſo many Letters, and he ſhould have them again as ſoon as he had tranſcribed them.

L. C. J. Mr. *Langhorn*, you would do well to ſhew us the Book, and that would make the matter plain.

L. C. J. *North.* Could you ſee how far he had gone in the Book, and what Room there was left to write other Letters.

Mr. *Bedlow.* It was a Book at leaſt three Inches thick, and as near as I could gueſs, he had gotten through two thirds of the Book.

L. C. J. But you ſhould ſhew us your Book, Mr. *Langhorn*.

Langhorn. I ſay my Lord, if I had ſuch a Book it muſt needs be found in my Study; if I had it, it muſt be there, for I never removed it.

L. C. J. That was not a Book fit to be left there.

Mr. *Bedlow.* My Lord, *Pritchard* did tell me, that the Commiſſions were come, and that Mr. *Langhorn* had them, and things, ſays he are now in a readineſs. Then ſaid I, When ſhall I have my Commiſſion? Said he, thoſe that Mr. *Langhorn* hath are only for the General Officers; you muſt have yours, ſaid he, from my Lord *Bellaſis*.

Sir *Cr. Levins.* Do you know any thing of any Money that was to be raiſed by the Benedictine Monks; 6000 *l.* or what other ſum?

Mr. *Bedlow.* My Lord, in *May* 1676. Among the Letters I carried to *Le Cheeſe*, one of them

Was directed to *Stapleton* a Benedictine Monk, to raise the Money for *England*.

L. C. J. The Money, what Money?

Mr. *Bedlow*. The Money they had promised to remit into *England*.

L. C. J. But did they name no sum?

Mr. *Bedlow*. No, my Lord, for they had no particular promise, but only that they did make it their business to raise what they could.

L. C. J. And what was it? Do you know of any sum of Money that was raised, and by whom?

Mr. *Bedlow*. *Le Cheese* told me himself, that they had no Reason to suspect him or his Interest with the *French* King, for he had laid that sure enough. And that when he found a fit Opportunity, the Money was ready to be remitted into *England*, and that he had remitted some of it already to Mr. *Coleman* and *Ireland*.

L. C. J. You know not but by what *Le Cheese* td you?

Mr. Bedlow. No.

L. C. J. He speaks what *Le Cheese* told him, that he would raise Money, and that he had sent some to Mr. *Coleman* and *Ireland*.

Mr. *Bedlow*. Yes, and that the rest should follow when he found there was absolute occasion; but he would not part with his Money till they had Assurance of their being in readiness here, and likely to further and carry on the Design.

Mr. Just. *Atkins*. *Mr. Bedlow*, had you any Discourse with the Prisoner about any Commissions?

Mr. *Bedlow*. No, my Lord, 'tis at least a Year and a half since I saw him.

L. C. J. Did he ever own any Commissions he had?

Mr. *Bedlow*. No, *Pritchard* told me he had some.

L. C. J. You have seen the Commissions, have you not?

Mr. *Bedlow*. No, I never saw any in Mr. *Langhorn's* Hand.

L. C. J. Where did you see them then?

Mr. *Bedlow*. Sir *Henry Tichbourn* did shew me three Commissions in *Paris*, Signed by the General of the Order, and Sealed with the Jesuits Seal, which made me take up this Paper, which hath been shewn, tho' it were a thing indifferent, yet because it was written with the same Hand, and Sealed with the same Seal that the Commissions were that I saw at *Paris*.

Mr. *Belwood*. Did Mr. *Langhorn* know any thing of the Treason to Murder the King, by *Pickering* and *Grove*.

Mr. *Bedlow*. That I do know only by report; but when *Grove*, *Pickering* and *Conyers* were going to *New-Market*, I was at *Harcourt's* Chamber, and I had a Design to go to *Windsor*, to observe what they did; and I did ask Father *Harcourt* to give me leave to go see a Friend of mine take shipping at *Plymouth*, to send some Commendations by him to my Friends in *Italy*; then says Father *Harcourt* you cannot be spared, you must not go now, for we don't know what return these Gentlemen will make of their Journey, and what occasion there may be for you, if there should be any good effect of it: *Then*, said I, *I will go and write, and send it by a Friend down to be sent into* Italy: *But*, said he, *you must stay a while till I come back again*; *I am going to Mr.* Langhorn's *Chamber in the* Temple, *to take the Minutes of what they have done this Morning*. That was the Contrivance of sending down those People to *New-Market* to assassinate the King.

Mr. Just. *Atkins*. That is no Evidence against the Prisoner, because it is by Hear-say.

L. C. J. It is right, and the Jury ought to take notice, That what another man said is no Evidence against the Prisoner, for nothing will be Evidence against him, but what is of his own Knowledge. But I desire, Mr. *Bedlow*, as well as you can, you would repeat the effect of one of the most material Letters Mr. *Langhorn* did transcribe.

Mr. Bedlow. Tho' I was not so exact a *Frenchman*, in the nicety of the Tongue, yet I understood enough to learn the sence of those Letters. The *English* Letter from *Stapleton*, which he transcribed, was to this effect; That *Coleman* and *Harcourt*, naming themselves We, (that is, We and the Jesuits, and it was to the Rector of the *English* Monks in particular, but I missed of the Rector, and Mr. *Stapleton* receiv'd it;) I say, the effect of that Letter was, they would have a certain Answer from them ——

Langhorn. When was it?

Mr. *Bedlow*. It was in 76.

L. C. J. What was the effect, say you?

Mr. *Bedlow*. The effect was, that they would have a final Answer from those Religious at *Doway* and *Paris*, to know how far they had proceeded with the *English* Religious, and all their Friends beyond Sea, in making Collections, and remitting of Money, for there was only Money wanting; for the Arms of the Catholicks were all ready, and they had all a good mind to the Business, their Arms and Hearts were ready, and the easiness of the King of *England*, and the strength of the Power of *France*, made it an opportunity not to be neglected: That the Garisons were ready to be put into such Hands as they could trust.

L. C. J. Was there such an Expression in the Letter, upon your Oath, that they had such Arms, and that the Garisons were ready to be put into their Hands, and whose Hands they were ready to be put into?

Mr. *Bedlow*. Yes, my Lord, there were such Expressions, and they would have the Garisons only in such Hands as they could trust.

L. C. J. And did he transcribe those Letters?

Mr. *Bedlow*. He did transcribe those three while we were in his Chamber.

Mr. Just. *Pemberton*. Was there any mention of exciting the *French* King, by Power, to Invade this Kingdom?

Mr. *Bedlow*. There was in the *French* Letter to Monsieur *Le Cheese*, which he transcribed too.

Langhorn. That was in *French*, he says.

L. C. J. I suppose you understand *French* too, or else you could not do what you did.

Langhorn. I understand Law *French*.

L. C. J. Mr. *Bedlow*, Did you never hear him discourse in *French*?

Mr. *Bedlow*. No, my Lord.

Dr. *Oates*. I cannot write nor read *French*, but I can translate it.

Mr. *Recorder*. If you have any Questions to ask him, you may ask him.

Langhorn. How many were the Letters that then I transcribed?

Mr. *Bedlow*. There were three, my Lord; one was to the *English* Monks at *Paris*, another was to Monsieur *Le Chese*, another to the Pope's Nuncio?

Langhorn. Were they long or short ones? I ask for this reason, because I observe that in the Narrative, *Coleman's* Letters are very long; of what length might they be?

Mr. *Bedlow*. They were the best part of half a

Sheet

Sheet of Paper, for Mr. *Coleman* writ a curious fine ſmall Hand, and would put a great deal of Buſineſs into a little Paper; the Popes Nuncio's Letter was very ſhort.

L. C. J. Did he tranſcribe them all before you went away?

Mr. *Bedlow.* Whilſt we walked in his Chamber, he Regiſtred them: We took a great many Turns about in the Chamber, and I ſaw the Papers before him, and his Book.

Langhorn. Did thoſe Letters expreſs what the Money was to be raiſed for, or did they leave it to be underſtood? My Meaning, my Lord, of my Queſtion, is this, whether Mr. *Coleman* writ to him to haſten the Money, and ſaid it was for ſuch a particular Uſe, or only in general.

L. C. J. He hath anſwered it already, but he will do it again.

Mr. *Bedlow.* My Lord, tho' it was not expreſſed in the Letter, but only we want nothing elſe from beyond Sea, but your Aſſiſtance; tho' it was not expreſſed in the Letter to deſtroy the King and the Proteſtant Religion, yet the ſtill of the Diſcourſe betwixt Mr. *Colem n* and Mr. *Langhorn*, was to this Effect: We only ſtay for Money, when we have got that, we will put our ſelves into a Poſture.

L. C. J. If you obſerved it, he ſaid ſo before; when we asked him what the Effect of thoſe Letters was, that all Things were ready, it is a good Opportunity now for the effecting of our Deſign, having ſo eaſy a King to deal with, and your King having ſo powerful a Treaſury; do you but get the Money of him, and we ſhall do well enough.

Mr. *Bedlow.* Tho' it was not ſpecified in the Letters, what the Money was for, yet in the Diſcourſe between Mr. *Coleman* and Mr. *Langhorn*, it was Worded ſo, that it was plain, it was to deſtroy the Government, and introduce Popery.

Langhorn. My Lord, ask whether this be all that he charges upon me?

Mr. *Bedlow.* I cannot ſay that, my Lord, that this is all I have to ſay againſt him; Things may occur to my Memory hereafter, which do not now.

L. C. J. But at this Time you remember no more, do you?

Mr. *Bedlow.* No.

Mr. Juſt. *Atkins.* But to my Apprehenſion, what you ſaid laſt is moſt material, that is, the Diſcourſe between him and Mr. *Coleman*, for that rivets the whole. When he ſaid, that is we had but a Return of this Money, then we have made our ſelves ſafe, or Words to that Effect; but it was to the full meaning of this, that the Proteſtant Religion could not ſtand any longer here, having Aſſiſtance from *France*.

L. C. J. So they conſulted together after the Letters were tranſcribed, did they?

Mr. *Bedlow.* Yes, my Lord.

Dr. *Oates.* My Lord, I omitted one Thing that was very material in my Evidence, which comes in my Mind ſince. The Congregation at *Rome* did contribute 800000 Crowns, to be ſent into *England*, and Mr. *Langhorn* did enquire concerning that Money, and had Knowledge of the Receipt of it in *France*, as Mr. *Langhorn* did ſay, in the Month of *July*, or *Auguſt*.

L. C. J. Did he ſay it to you?

Dr. *Oates.* He did to Father *Harcourt*, Father *Kaines*, and Father *Fenwick*, that were there, 800000 Crowns come to *France*.

L. C. J. What ſaid he then, concerning the 800000 Crowns?

Dr. *Oates.* He gave an Account of the Money's being lodg'd at *Paris*.

L. C. J. You hear what he ſays, that you gave an Account of 800000 Crowns that were raiſed abroad, that it was lodg'd and receiv'd at *Paris*.

Mr. *Bedlow.* I recollect ſomething more now, tho' I was not in Mr. *Langhorn*'s Chamber; I met with Father *Kaines*, one Day, and ſaid he, I muſt go and ſpeak with one Mr. *Langhorn*, preſently, and when he came out again, he brought a Letter in his Hand, and afterwards we went to a Tobacco-ſhop in *Wild-ſtreet*, and there Father *Kaines* told me the Effect of the Letter. He told me, it was a Chiding Letter from the Secretary *de propaganda fide*, Cardinal *Barbarino*, who had ſent a Chiding Letter to Mr. *Langhorn*, and the reſt of the Conſpirators, for going on no faſter, when they had ſo fair an Opportunity.

L. C. J. Did you ſee the Letter directed to Mr. *Langhorn*?

Mr. *Bedlow.* Father *Kaines* told me the Effects of it, and he had the Letter from Mr. *Langhorn*.

L. C. J. He told you ſo; well, but this Evidence is as to the Plot in general, but not to Mr. *Langhorn* in particular. But that which he charges you particularly with, is this, Your Tranſcribing the Letters, wherein there was an Expreſſion made, of your being all in Readineſs, as for Arms and the Gariſons; and your Diſcourſe afterwards with Mr. *Coleman*, in what a Poſture all Things were for the Deſtruction of the Government, and the bringing in Popery, and there wanted nothing but Money, for the effecting the whole Deſign. This is that he ſays.

Langhorn. My Lord, I ſuppoſe he won't go out of the Court neither?

L. C. J. No, no, he will ſtay here.

Sir *Cr. Levins.* My Lord, there is one Witneſs, that we had not ready here, when we began to give ſome Account of the General Plot, I pray he may be Examined, his Name is *Buſs. Who was ſworn.*

L. C. J. What can you ſay of any Deſign upon the King's Life? What is your Name?

Mr. Buſs. My Name is *Thomas Buſs.*

L. C. J. What Profeſſion are you of?

Mr. Buſs. I ſerve the Duke of *Monmouth.*

L. C. J. In what Capacity do you ſerve him?

Mr. Buſs. I am his Cook.

L. C. J. How long have you ſerved him?

Mr. Buſs. Thirteen Years, I have lived with him.

L. C. J. Well, what is it you have to ſay?

Mr. Buſs. Being at *Windſor*, my Lord, with an old Acquaintance of mine, one *Handkinſon* that was then newly come from *Italy*——

L. C. J. When was this?

Mr. Buſs. In *September* laſt, within a Week after the Duke came from *Flanders*, and we were drinking together, for I had not ſeen him for many Years before, and there was one *Anthony* was in the Company, and ſaid he, I am newly come from *Italy*, and I am going again, and I am come to take my Leave of my Friends. When do you go away, ſaid I? I believe I go to Morrow, ſaid he; but pray, ſaid he to *Anthony*, have a ſpecial Care of thoſe four worthy Gentlemen. What Gentlemen, ſaid I? Four worthy Gentlemen, ſaid he, that I brought over with me. What, ſaid I, from *Italy*? No, ſaid he, they are four worthy *Iriſh* Gentlemen: They are very worthy Perſons, ſaid he, have a ſpecial Care of them, for they will do our Buſineſs.

L. C. J. What

L. C. J. What ſaid you to that?

Mr. Buſs. Nothing; for I knew nothing of it, till I ſaw *Coleman*'s Trial, where it ſpeaks of the four *Iriſh* Men that were to kill the King at *Windſor*, then I bethought me of it.

L. C. J. Would you not ask him what that Buſineſs was, or ſo?

Mr. Buſs. No, I did not know, at that Time.

L. C. J. But no Man in *England* but would have asked ſuch a Queſtion.

Mr. Buſs. No he ſaid, they were four Strangers: But ſaid I, did you bring them out of *Italy*? No, ſaith he, they are four *Iriſh* Gentlemen, that I brought over with me, worthy Perſons.

L. C. J. *North.* And what Religion was he of that ſaid ſo?

Mr Buſs. He was a Catholick, one that bought all into a College, that did ſo here before he went.

Mr. Prance. He belonged to the *Benedictine* Monks, my Lord, in the *Savoy*.

L. C. J. And what was he that he ſpoke to?

Mr. Buſs. He was a Catholick too, he was Servant to one that belongs to the Queen's Chapel.

L. C. J. *North.* Did you underſtand what the Buſineſs was, they ſaid they were to do?

Mr. Buſs. Not till I read Mr. *Coleman*'s Trial, and then I did gueſs theſe were the Perſons that were to have killed the King at *Windſor*.

L. C. J. You ſaw them not, did you?

Mr. Buſs. No; they were in Charge of this *Anthony*, that is now in ſome Place in the Queen's Chapel.

Mr. Juſt. *Atkins.* Did he ſpeak to *Anthony* to have a Care of them, or to you?

Mr. Buſs. To *Anthony*, he was the Perſon that was to take Care of them.

L. C. J. Is *Anthony* a Papiſt?

Mr. Buſs. Yes, a very ſtrong Papiſt, and we uſed to be often together; but now he is jealous, and will not come near me, to talk with me, as we uſed to do.

L. C. J. Now I underſtand the Reaſon of it, why he did not ask the Queſtion; it was not likely he ſhould, for it was not ſpoken to him, but he ſtood by, all the while the Diſcourſe was to *Anthony*, another Man, and it was to him that he ſpoke, to have a Care of the four *Iriſh* Men, for they would do their Buſineſs. What did *Anthony* ſay?

Mr. Buſs. He promiſed he would have as much Care of them, as of his own Life.

L. C. J. Where is this *Anthony* to be found?

Mr. Bedlow. My Lord, *Anthony* is a *Portugueſe*, and the Queen's Confeſſor's Man.

L. C. J. When did you ſee him?

Mr. Bedlow. He was ſeen this Morning, they call him Signior *Antonio*.

L. C. J. North. You ſhould have an Order to take this ſame *Anthony* into Cuſtody, but in order to the finding of him, let him go to my Lord *Oſſory*.

L. C. J. Mr. *Tiſſer*, we give you an Order for the taking of this Signior *Antonio*, you will find him at *Somerſet-Houſe*; for the doing of this, we do adviſe you to wait upon my Lord *Oſſory*, and tell him, that you have ſuch an Order, but that out of Reverence to the Queen, we have alſo ordered you to wait upon him, to deſire him to ſend him.

L. C. J. *North.* What is become of this *Hankinſon*?

Mr. Buſs. He is abroad, beyond the Seas, my Lord, for he ſaid he was come thither to take leave of his Friends, and was to go the next Morning into *Surrey*, and ſo away.

L. C. J. Well, what have you now to ſay, Mr. *Langhorn*?

Langhorn. I conceive this laſt Witneſs ſays nothing to me.

L. C. J. *North.* He ſpeaks only to the Plot in general, as the firſt Witneſſes did; but that which is upon you, is as to Mr. *Oates*, who ſpeaks to every Article of the Indictment expreſly; and Mr. *Bedlow* ſays, he did not only ſee you Tranſcribe and Copy out that Treaſonable Letter, but he carried other Letters to you, which you promiſed to Tranſcribe; and theſe are Overt-acts, that make you a Party to the Treaſon.

L. C. J. Beſides your Diſcourſe with *Coleman*, after the Letters were Tranſcribed.

Langhorn. Theſe two Gentlemen were Parties in this ſuppoſed Crime, the two Witneſſes which do concern me, are Mr. *Oates* and Mr. *Bedlow*, and they both of them clearly appear to have been in the ſame Treaſon that I ſuppoſe they charge me with; I deſire to know whether they have had their Pardon, or no?

L. C. J. I believe they have. Mr. *Oates*, and Mr. *Bedlow*, Have you your Pardons?

Mr. *Bedlow.* Yes, my Lord, I have three.

Dr. *Oates.* I have two Pardons under the Broad-Seal, but I don't know what is in them.

L. C. J. *North.* But make your Objection how you will; whether they had, or whether they had not, they are Witneſſes.

Mr. *Bedlow.* I never gave any Evidence, till I had my Pardon.

Langhorn. I ask for this Reaſon; I look upon your Lordſhip and the Court as my Council, to adviſe me in Matters of Law, whether theſe be good Witneſſes or not?

L. C. J. We do tell you, That if we had not judged them to be Witneſſes, we would not have heard them.

Langhorn. They come under the ſame Reaſon of Law with an Approver, having had their Pardon; I don't ſay they are directly Approvers, but I conceive they come under the ſame Reaſon of Law with them, and then if the Approver be pardoned, by the Law the Appellee ought to be diſcharged; and methinks by the ſame Reaſon, theſe Men having been *participes Criminis*, and having got their Pardons, ought not to be ſuch ſubſtantial Witneſſes againſt the Priſoner at the Bar. But, my Lord, I have one Thing yet further to ask, I deſire to know whether they have not received any Rewards, or Gratifications, for the Diſcovery they have made, and the Service they have done? And whether they do not expect further Rewards?

L. C. J. Is there any Allowance to be made to you?

Dr. *Oates.* I have received a Reward, by diſburſing 6 or 700 *l.* out of my Pocket, and I don't know when I ſhall ſee it again.

Mr. Juſt. *Pemberton.* Mr. *Langhorn* does ſuppoſe that the Witneſſes are corrupted and bribed; Do you think, Mr. *Langhorn*, that the King will Bribe his Witneſſes?

Langhorn. My Lord, I only propoſe it as a Queſtion.

L. C. J. Would you anſwer that Queſtion your ſelf?

L. C. J. *North.* If you can ſuppoſe there was any Subornation or Corruption, call your Witneſſes, and prove it; but for their receiving Suſtenance and

and Maintenance from the King, that is but reasonable, and can be no Objection. And you your self know, that an Approver, while he is in that Service, hath a Peny a Day, which in ancient Times was a great Matter for Livelihood and Sustenance; so that any Reward that they have, if you can prove it by Contract or Subornation, you cannot make an Objection.

Langhorn. My Lord, I am informed, by a Prisoner in the Goal, that Mr. *Bedlow* hath received 500*l.*

L. C. J. If you can prove any thing do, prove what you can.

Mr. Recorder. That 500*l.* was about a particular Fact.

L. C. J. But pray what is his Name?

Langhorn. His Name is Mr. *Reading.*

L. C. J. *North.* He is an infamous Person, he hath stood in the Pillory, we can't take him for a Witness; but now I'll tell you, for the 500*l.* 'tis a Thing we all know of. It was a Reward for a particular Business, not relating to the Plot, but it was for the Discovery of the Murtherers of Sir *Edmund-bury Godfrey.*

Mr. Just. *Atkins.* I think Mr. *Prance* is here, that will give an Account of that, for *Bedlow* discovered him.

Mr. *Bedlow.* I am so far from having any Benefit by this Discovery, that I am 700*l.* out of Pocket.

Mr. Just. *Ellys.* You shall have the Liberty to make what good Defence you can for your self, and prove what you can; you must not go this way to work.

L. C. J. 'Tis pretty reasonable for us to give a publick Satisfaction to all the World, that we do nothing under-hand, but that we do in this Case, as in all other Cases; any thing that is fit to be answered, they shall answer, and perchance in this Case something more than can be strictly required of us. 'Tis notorious enough, that Mr. *Oates* and Mr. *Bedlow* have been fed at the King's Charge, and it cannot be objected against them, and need not be wink'd at, for they were Parties in the Plot. And when they come to make the Discovery, without which we should never have known the Plot, for you know 'tis hard to discover any Crime, Forgery, or the like, but by one that hath been privy to it, and a guilty Person; yet these Men always have been, and are in Law, Witnesses, and 'tis just they should have a Competency to maintain them, since they came for the Publick Good to make such Discoveries.

L. C. J. *North.* And that particular Summ of Money was paid to Mr. *Bedlow*, in pursuance of the King's Proclamation, which we all know, which was all publickly done.

Langhorn. The Reason why I press this, was, because of the Proclamation, which was to invite Persons to come, touching the Discovery of this Plot; and to encourage them to it by a Promise of Reward. I think it may be reasonable enough, where any Person that is charged with a Crime doth absent, to propose a Reward for the bringing him in. But I think it is hard, that when a Prisoner is in Custody, Witnesses should be brought in against him by such Means.

L. C. J. *North.* You do artificially go off from the Point: Answer the Evidence that hath been given against you, and you shall be heard; but you labour very much, and trouble your self to make Answer to another Matter that is not pertinent.

L. C. J. Does your Defence consist wholly of this sort of Matter, objecting the Incompetency of the Witnesses? Can you make no Answer to the Fact?

Langhorn. I must tell your Lordship, My whole Defence must run to disable the Witnesses; for, my Lord, I was committed to *Newgate* the 17th of *October*, and I have been kept there a close Prisoner till this Day was Sevennight, or *Friday* the last Week; I never conversed with any Friend, or any Relation, nor knew any thing of News, but only with some few Persons, sent by Authority of the House of Commons or the Council. And I was never examined by any since I was committed. I never heard what was charged against me, and I could not foresee what these Men could testify, because I was not confident whereupon they would proceed; therefore I can have no Defence, unless it be by lessening their Credit, 'tis impossible I should.

L. C. J. Do, lessen it, if you can. If you have any Witnesses to take off their Credit, or contradict them, call them.

Mr. Just. *Atkins.* But I would say one Thing to you, Mr. *Langhorn*; You seem to put a very ill Construction upon the King's Proclamation, as if it were to invite and encourage Persons to come and swear about a Plot, where there was none; it was to invite People to make a further Discovery of a Plot that lay close, and we could not fully Discover for the Preservation of the King and Kingdom, without such a Means.

Langhorn. He did propose a Reward.

Mr. Just. *Atkins.* Ay, in order to a further Discovery of that Plot which we had Evidence of before.

Mr. Just *Pemberton.* And so you would be close in all your Accounts, and none should be rewarded that could make us any Discovery of them, but presently their Testimony must be gone. 'Tis very fine, but the Court over-rules it.

L. C. J. Mr *Langhorn*, whatsoever you object of this Kind, does fly in the Face, and reflect upon the Integrity and Wisdom, of King, Lords and Commons.

L. C. J. *North.* For it was done by the Advice of all Three.

L. C. J. If you'll go on, and prove any thing, but pray don't spend our Time to no purpose.

Langhorn. Call *Parrey*, and *Townley*, and *Doddington*, and the rest.

Dr. *Oates.* My Lord, here are Papists come into the Court with their Swords on.

L. C. J. They will not draw them here.

Lord Mayor. 'Tis well enough, 'tis well enough, Dr *Oates*, you are safe enough here.

L. C. J. Who will you have first?

Langhorn. I would have *Hilsley* set up. *Which was done.*

L. C. J. What would you ask him?

Langhorn. Your Lordship hath heard Dr. *Oates* affirm he came over, such a Time, in the Pacquet-Boat with Mr. *Hilsley*; I desire to know whether that be true, or no?

L. C. J. I can help you in that, for we had him and his Companions here Yesterday, but however we will hear them again, if you will have them. Do you know Mr. *Oates?*

Hilsley. I do, my Lord, very well.

L. C. J. When did you come over from St. *Omers?*

Hilsley. I came over the 24th of *April*, New Stile.

L. C. J.

L. C. J. Did Mr. *Oates* come with you?

Hilsley. No, he did not.

Dr. *Oates.* No, my Lord, he did leave me there, but I overtook him at *Calais.*

L. C. J. Look you there now, you did leave him there, but he overtook you at *Calais.* Did you leave him there?

Hilsley. I did leave him there.

L. C. J. Ay, but he overtook you then, did he not?

Hilsley. No, he did not.

L. C. J. He answers as he did Yesterday, that he did not come over with him. You lost your Money, did you not?

Hilsley. Yes, I did.

L. C. J. How did you lose it? Did you lose it at Play?

Hilsley. 'Tis no mattter how I lost it; I did not lose it at Play.

Dr. *Oates.* I'll tell the Court, if your Lordship please, how he lost it; he lent a great deal of Money to a Gentleman, who went away with his Money, and left him to pay the Reckoning.

L. C. J. What say you to that?

Hilsley. That is very true, and I confess it; but what is all this? nothing to the Matter. He was told this by some Body else, I never saw him, nor ever any Man in the Ship saw him come over with me.

L. C. J. Ill tell you what then; first, here is something now that you would not confess Yesterday, nor indeed would you confess it now, I asked you how you lost your Money; you see Mr. *Oates* can tell you how it was, tho' you won't tell us; so that, tho' this be a Secret, he knows it; and how could he know this Secret, unless he were there?

Hilsley. There is one that I met by the Way, that did tell him this Story.

Then one Gifford *stood up.*

L. C. J. Did you see Mr. *Oates?*

Gifford. Yes, my Lord.

L. C. J. What Discourse had you with him concerning *Hilsley?*

Gifford. Why he told us of his Departure.

L. C. J. When?

Gifford. After he was gone away.

L. C. J. How long after?

Gifford. Three or four Days.

L. C. J. What said he to you?

Gifford. He only told us he was gone.

L. C. J. What else said you of him?

Gifford. He only said he departed out of the College then.

L. C. J. What did you say to Mr. *Oates* about it?

Gifford. I don't remember what I said in particular.

L. C. J. Hilsley, Call up the other Person that you say told Mr. *Oates.*

Hilsley. He is not here, my Lord, but here is one that was in the Company when he told it.

L. C. J. Who was by?

Gifford. Mr. *Burnaby,* who came thither the 1st of *May.*

L. C. J. Hearken to me; When you talked with Mr. *Oates,* concerning Mr *Hilsley*'s being gone from the College, was there any body by?

Gifford. I cannot tell.

L. C. J. Was Mr. *Burnaby* by, when Mr. *Oates* and you talked about Mr. *Hilsley?*

Then another Witness started up.

Third Witness. Yes, my Lord, there was Mr. *Oates* with me, and Mr. *Burnaby* put himself into our Company in the Garden, and he acquainted me with this Story.

L. C. J. What said he?

Third Witness. He said he met this Gentleman, and that this Gentleman was cheated of his Money.

L. C. J. How did he tell you he was Cheated?

Third Witness. I don't know the Occasion, but he said a Fellow cheated him of the Money.

L. C. J. Was that all he said?

Third Witness. Yes, my Lord, but I do not remember upon what Occasion, he said he was Cheated by a shirking Fellow.

L. C. J. Did he name the Place he met him at?

Third Witness. I don't know, my Lord, whether he mentioned it or no.

L. C. J. So that Mr. *Oates* names the Place which he was never told; and unless he was there, how could he then tell it?

Third Witness. But this does not prove that I speak against my Conscience, that does not argue.

L. C. J. Look you, the Answer is this, Mr. *Langhorn.* You would charge Mr. *Oates* with Falsity in saying he came over in the Pacquet-Boat with *Hilsley,* and you call up him, and he says, he did not come, but he left him at St. *Omers*; Mr. *Oates* comes and says, 'tis true, he left me there, but I overtook him at *Calais,* by this very Token, said he, you were cheated of your Money, by a Person that you lent it to, who went away, and left you to pay the Reckoning. When I asked Mr. *Hilsley,* how he could tell if it were true that he was not with him, he answered, he was told it by another; but when I come to know what that other Person said, it was no more than this, he said, in Mr. *Oates*'s Hearing, Mr. *Hilsley* was Cozened of his Money, but did not say how, nor by whom, nor where.

Langhorn. Now, to prove that what Mr. *Hilsley* said is true, and that therefore Mr. *Oates* his Knowledge must come by another Hand, I desire that the Witnesses may be asked, how long Mr. *Oates* was at St. *Omers?*

L. C. J. How long was Mr. *Oates* at St. *Omers?*

Third Witness. From *December* till *June,* he was there, except one particular Day that he went to *Watton.*

L. C. J. And you saw him almost every Day?

Third Witness. Yes, I did.

L. C. J. You have fifteen or sixteen Witnesses that will say all this; but yet, if you will, we will call them.

L. C. J. When went he away, do you know that?

Third Witness. He went in *June,* I can't certainly say the Day.

L. C. J. Well, call another.

Third Witness. Pray, my Lord, let me speak, if your Lordship please to let me give you my Reason, why I might see him; I saw him in the Refectory; he had a little Table by him self, distinct from the rest, and dining together in a publick place, it was impossible but we should see his Place empty, if he were gone, and I know the Number of

of my own School, and can tell whether any one be absent.

L. C. J. What, because he sat at a Table by himself, therefore you think he was there all the while.

Third Witness. Certainly, if I may believe mine own Eyes, I saw him there every Day.

L. C. Baron. Were you there every Day your self?

Third Witness. Yes, my Lord, I was, I did not miss one Day, I had no Infirmity.

Langhorn. My Lord, Mr. *Oates* hath affirmed, that there was with him, when he came over in *April*, Sir *Robert Brett*.

L. C. J. He says only he believes so, he says positively, he came over in the Company of Sir *John Warner*, Sir *Thomas Preston*, and he thinks also Sir *Robert Brett*, but is not positive.

Langhorn. This he affirmed, both in his Narrative, and upon Oath, in the Lords House.

L. C. J. Shew any thing that he was sworn to here.

Mr. Just. *Atkins.* But what says this Lad more? let him speak, for he is very full of it.

Third Witness. The 1st Day of *May* I saw him in the Garden, with a Lay-Brother, at Kittle-pins, in the View of all the College.

Langhorn. Let us examine him as to Persons, and then refer it to the Lords Register.

L. C. J. Why, if you will prove something Mr. *Oates* hath sworn there, that you can contradict, first prove what he swore, and then contradict it.

Mr. Just. *Pemberton.* Pray take notice, you must not go to oppose him in any thing of that Oath, unless he hath sworn it here; whatsoever there be there, except he hath sworn the same here, 'tis in vain to object it, for he cannot be intended to have Witness to make good what he swore there.

Sir *Cr. Levins.* Let us hear what he does offer.

Langhorn. Under Favour, Mr. *Oates* hath acknowledged what he swore there was true.

L. C. J. You are mistaken, Mr. *Langhorn*, indeed when you asked him that Question, he said as far as what concerned what he swore here, was true, and he is bound at this Time to answer no more.

Langhorn. Then as to Sir *John Warner*, I desire my Witnesses may be examined.

L. C. J. I suppose they may be here, and say the same they did Yesterday; that he did not stir from his House at *Watton*, all *April* and *May*.

Fourth Witness. Yes, my Lord, he lived there all that while.

L. C. J. What Year?

Fourth Witness. In Year 1678.

L. C. J. That is the Time that Mr. *Oates* says he came over with him. You saw him almost every Day, did not you?

Fourth Witness. Yes, I did, only four Days that I was absent, being sent by him to St. *Omers*, at a great Feast.

L. C. J. And when you came back, you found him there?

Fourth Witness. Yes, I did.

L. C. J. You are his Gard'ner, are you not?

Fourth Witness. Yes, I am.

L. C. J. Did you stay all those four Days at St. *Omers*?

Fourth Witness. I was sent to the high Kirk, and carried some Instruments for the Musick, and there I stayed four Days, and the last Day of *April*, and the first, and second, and third of *May*. And I saw Mr. *Oates* there in the House, and I saw him going into the Refectory to Dinner.

L. C. J. He says, that Sir *John Warner* was at home all *April* and *May*, that he himself was absent but four Days, that he left him there, and when he came back found him there; and that in the four Days he was at St. *Omers*, he saw Mr. *Oates*; which was the last of *April*, the first, second and third of *May*. You don't know when Mr. *Oates* went away?

Fourth Witness. No, my Lord, not I.

Mr. Just. *Pemberton.* Was Sir *John Warner* there all *June*?

Fourth Witness. My Lord, I can't tell that, I only speak to *April* and *May*.

L. C. J. Those are the two Months that fit him.

Mr. Just. *Pemberton.* Why how come you not to remember that, as well as the other two, for that is since?

Fourth Witness. Because I took not so much Notice of him in those Times.

L. C. J. How came you to take more special Notice of them two Months, than of the other?

Fourth Witness. Because our Rector did then come into *England*, and he took the Charge of the House upon him in the Rector's Absence.

L. C. J. When did he come?

Fourth Witness. He came the 24th of *April*.

Mr. Just. *Dolben.* Pray who is your Rector? What is his Name?

Fourth Witness. Sir *Francis Williams*.

L. C. J. Where was Sir *John Warner* in *June* and *July*?

Fourth Witness. I cannot tell.

Mr. Just. *Pemberton.* And where was he in *August* and *September*?

Fourth Witness. He went out of Town, but where I am not certain.

L. C. J. You were Gard'ner there then?

Fourth Witness. Yes, I was.

L. C. J. Why can't you as well tell me then, where he was in *June* and *July*, as in *April* and *May*? Answer me plainly.

Fourth Witness. I think he was there all that Time, but I can't be certain.

L. C. J. Why not so certain for those two Months, as you are for the other?

Fourth Witness. Because I did not take so much Notice.

L. C. J. How come you to take more Notice of the one, than the other? that he was there in *April* and *May*, rather than that he was there in *July*?

Fourth Witness. Because the Question, my Lord, that I came for, did not fall upon that Time.

L. C. J. Now he hath answered plainly; when I asked the Question, Why he did not take so much Notice of those Months, as he did of *April* and *May*? he answered me, Because the Question did not fall upon those Months; and that, without all Question, is a plain and an honest Answer.

Mr. Just. *Dolben.* Indeed he hath forgot his Lesson; you should have given him better Instructions.

L. C. J. Look you, Mr. *Langhorn*, if he be to be believed, and that he doth not speak falsly, or more than he knows, it is impossible that *Oates*'s

Testimony and his can stand together; for he directly affirms, he saw Mr. *Oates* the last of *April*, the 1st, 2d, and 3d of *May*. Now Mr. *Oates* says he was here then; so that these two cannot stand together. The Question then is, Whether he be to be believed? and, Whether he does not come wilfully, or prepared? the Jury have heard what a kind of Testimony he gives, when the Question was asked him, How he came to take Notice of the Months of *April* and *May*, more than of *June* and *July*? and why he was more sure Sir *John Warner* was there at the one Time, than at the other? Why, said he, because the Question falls upon those former Months, and not upon those of *June* or *July*. Now that does shake all that was said before, and looks as if he came on purpose, and prepared for those Months, and now this, I am afraid, will go thro' all your St. *Omers* Men.

L. C. J. *North*. Indeed I doubt it will go a great way, to shake all their Testimony.

Sir *Cr. Levins*. You, Gard'ner, what do you say was your Rector's Name?

Fourth Witness. Sir *Francis Williams*.

Sir *Cr. Levins*. And he came over in *April* or *May*, did he?

Fourth Witness. He came over the 24th of *April*.

Sir *Cr. Levins*. Why, that is the Time that Mr. *Oates* came over, and he was one of the Persons that he said came over with him.

Fourth Witness. No, he came alone, only with a certain Officer of the College.

Langhorn. Pray let *Gifford* be asked the same Question about Sir *John Warner*; for if he did come, as he saith, from *Watton* to St. *Omers*, at that Time, he must see him at St. *Omers*, for he was at St. *Omers* then. The Question is about Sir *John Warner*, if he were at *Watton*, or St. *Omers*, then he could not come over with Mr. *Oates*.

L. C. J. When did you see Sir *John Warner*?

Gifford. I saw him about *June*, or thereabouts.

L. C. J. Where did you see him?

Gifford. I saw him there in St. *Omers* House.

L. C. J. When?

Gifford. In *June* or *July*, when he invited me over to *Watton*.

L. C. J. This Man does not serve the Turn, he does not know the Month upon which the Question runs.

Fifth VVitness. The 1st Day of *May* there was a great Feast, St. *Fortunatus* and *Gordianus*, and then I saw Mr. *Oates* four Days, and he was there all the Month of *May*.

L. C. J. Where was Sir *John VVarner* then?

Fifth VVitness. I cannot tell; but at St. *Omers* I saw Mr. *Poole*, and Sir *Robert Brett* at that Time.

L. C. J. Did Mr. *Poole* come over with you?

Dr. *Oates*. Yes, my Lord, he did.

L. C. J. VVitness, when did Mr. *Poole* come from St. *Omers*?

Fifth VVitness. He came first to St. *Omers* with Mr. *VVhitebread*, he was my Master of Musick, and he taught me, and it was impossible he should be missing without my Knowledge.

L. C. J. But he was gone to *England* long before that; and he could not be at *England* and at St. *Omers* at the same Time.

Fifth VVitness. You say right, he could not.

L. C. J. When came he from St. *Omers*?

Fifth VVitness. In the Month of *June*, or *May*.

L. C. J. Or *April*.

Fifth VVitness. No, it was the Month of *June*.

L. C. J. These are but Collateral Matters, Mr. *Langhorn*, for you to stand upon this, it spends Time to no purpose; but the great Question is, Friend, Whether you don't mistake the Month?

Fifth VVitness. Yes, yes, (*at which the People laugh'd*,) no, no, I don't mistake the Month, I only speak the Truth according to my Knowledge.

L. C. J. How can you so precisely remember, the Month of *May* he was there; for when I asked you when he went away, you could hardly tell the Month.

Fifth VVitness. Yes, my Lord, Mr. *Oates* says, in the Month of *May* he was in *England*, but I say I saw Mr. *Poole* then at St. *Omers*.

L. C. J. But the great Question is, Whether you are to be believed? We know you answer the Question positively, but my Reason why I fear you are not to be believed, is, because you are so precise, that Mr. *Poole* taught you all *May*; but I ask you once more, Was it in *June*, or was it in *May*?

Fifth VVitness. It was about *June*.

L. C. J. May is about *June*. Why then you cannot tell. Was it in *June*?

Fifth VVitness. Yes, my Lord, it was; it was about *June*. And this is nothing but what I know, for I actually saw Mr. *Oates* there at that Time.

L. C. J. I'll tell you what, Mr. *Langhorn*, use your Discretion, call whom you will, and we will hear them as long as you will; but we had Sixteen of them Yesterday, that did all speak to the same Purpose; but in Answer to these Sixteen Witnesses, Mr. *Oates* did produce, and he will produce again, six or seven Witnesses, and one of them a Papist, if not a Priest, who do swear, that Mr. *Oates* was here in *April* and *May*; I'll tell you beforehand, do you as you will.

Then one Baille *stood up, and being a Foreigner, an Interpreter was called.*

L. C. J. Where did you see Sir *John VVarner* in *April* and *May*?

Interpreter. He says he saw him actually at St. *Omers*.

L. C. J. What all the Month of *May*?

Interpreter. Yes, he says he conversed with him all the Month of *May*.

L. C. J. And was he there all *April*, and conversed with him then?

Interpreter. Yes, he says every Day, of both Months. He says he saw him from the first *Sunday* in *April*, to the 14th of *May*, and conversed with him.

L. C. J. Where did Sir *John VVarner* go the 14th of *May*?

Interpreter. My Lord, he says he went for one Day only to St. *Omers*, and came back again.

L. C. J. Ask him, how he knows this?

Interpreter. He says he was employed about a Building, by Sir *John VVarner*.

Then Carpenteir *stood up.*

L. C. J. When did you see Mr. *Oates*? and where?

Carpenteir. I speak as to Sir *Thomas Preston*.

L. C. J. What say you as to Sir *Thomas Preston*?

Carpenteir. I saw him at *Liege*.

L. C. J. When?

Carpenter.

Carpenter. All the Months of *March, April, May,* and *June,* he was ſtill there.

L. C. J. When went he away?

Carpenter. In the time of the Vacancies.

L. C. J. VVhen is that?

Carpenter. That is from the beginning of *Auguſt,* till the end of *September.*

L. C. J. VVhen came he again?

Carpenter. VVhen they came to School again, and that was on the ſecond or third of *October.*

Mr. Juſtice *Dolben.* VVere you with him all that time?

Carpenter. Yes, I was: He hath not been in *England* theſe three Years.

L. C. J. How long have you been there?

Carpenter. I have been there four Years, and I never knew that he was abſent, but in the time of the Vacancies.

Mr. Juſtice *Pemberton.* Call another VVitneſs.

Then ſtood up another Witneſs, who being a Dutch *Man, and not ſpeaking* Engliſh, *an Interpreter was called for him alſo.*

L. C. J. Well, what comes he for?

Interpreter. He ſays he comes to teſtifie, That Sir *John Warner* was at *Watton* in *April*; and he ſays he ſaw him there from the 14th of *April,* to the 25th of *April.*

L. C. J. And then to what time?

Interpreter. He ſays he was there till the 16th of *May.*

Mr. Juſt. *Pemberton.* Ask him where he was the beginning of *April?*

Interpreter. He ſays he was Superior there in the Houſe, and did Govern.

L. C. J. Ask him where he was the latter end of *May?*

Interpreter. He ſays he was likewiſe in the Houſe, ſave only one Day, when he went to St. *Omers?*

L. C. J. Then he might have ſaid, in ſhort, he was there all *April* and *May.*

Mr. Juſt. *Pemberton.* Call another Witneſs.

Langhorn. Call *John Joſeph. Who ſtood up.*

Mr. Juſt. *Pemberton.* What do you ask him, Mr. *Langhorn?*

Joſeph. That which I ſay is this, That Sir *Thomas Preſton* was at *Liege* in *March, April, May* and *June,* in the Year 1678.

L. C. J. Did you ſee him every Day in thoſe Months?

Joſeph. That I cannot well tell.

L. C. J. Did you ſee him every other Day?

Joſeph. Yes, my Lord, I believe I did once in two or three Days.

L. C. J. Where was he in *July?*

Joſeph. He was at *Liege* too: He was obliged to be ſo; but in the time of the Vacancies in *Auguſt,* he was abſent.

L. C. J. Then you ſay he was all thoſe months, *March, April, May, June* and *July* there.

Joſeph. Yes, my Lord, thoſe four months I am ſure of it.

L. C. J. What became of him in *Auguſt,* when he went, during the Vacancies, abroad? Do you know whither he went?

Sir *Cr. Levins.* Do you know whether he went into *England?*

Joſeph. I never heard that he was in *England.*

L. C. J. When did he return again?

Joſeph. When they began School, and that is in the beginning of *October.*

Then another Witneſs ſtood up.

L. C. J. Well, what ſay you?

Tenth Witneſs. I can ſay that Mr. *Oates* never ſtirred out of the College at that time when he ſays he came to *England,* that is, he ſays he came upon *Monday* the 25th of *April,* but he did not, for that Day he went into the Infirmary, and he ſtayed at St. *Omers* all *April* and *May.*

L. C. J. And how much longer?

Tenth Witneſs. A great part of *June.*

L. C. J. Was he there the 20th of *June?*

Tenth Witneſs. I am ſure he was, but how much longer I cannot tell.

L. C. J. Where was he in *February* and *March?*

Tenth Witneſs. He was there too; in *January* he lay out one Night, and that was at *Watton,* but I am ſure he did not come over the 24th of *April,* New Stile, as he ſays.

Mr. *Recorder.* Now he ſays, it is New Stile, not Old Stile, as he ſaid Yeſterday.

Then another Witneſs ſtood up.

L. C. J. Well, what do you ſay?

Eleventh Witneſs. Mr. *Poole* was ſick, and I can remember when his Nephew went to him into the Infirmary before he went away from the College, and he gave him good Counſel, as he ſaid, and I remember that Mr. *Brett* was ſick at *Watton,* and did come home again on Horſeback, and I believe he did not ſtir out; and Mr. *Poole* was at St. *Omers,* I am ſure I ſaw him once in two or three Days all *April* and *May.* He went by the Name of *Killingbeck.*

L. C. J. But he does not poſitively ſay he ſaw Sir *Robert Brett* every Day there, he ſays he believes he did.

Eleventh Witneſs. He came into the School and gave the Boys Queſtions to diſpute of.

Mr. Recorder. Call the reſt of your Witneſſes.

Then another Witneſs was called and ſtood up.

L. C. J. *North.* When did you ſee Mr. *Oates* at St. *Omers?*

Twelfth Witneſs. I ſaw him almoſt every other Day from the time he came till he went away.

L. C. J. When was the firſt time you ſaw him?

Twelfth Witneſs. The beginning of *December.*

L. C. J. Did you ſee him in *April* there?

Twelfth Witneſs. Yes, I ſaw him in *April* there at an Action.

L. C. J. And did you ſee him in *May* there?

Twelfth Witneſs. Yes, I can teſtifie I ſaw him the firſt Day of *May* in the Garden.

L. C. J. How long ſtaid he there?

Twelfth Witneſs. Till *June.*

L. C. J. How came you to take ſuch preciſe Notice?

Twelfth Witneſs. By his very Place I could not but take Notice if he were miſſing.

L. C. J. How can you ſay you ſaw him in the Garden the firſt of *May?*

Twelfth Witneſs. I'll tell your Lordſhip why, becauſe there was a great Feaſt, and he play'd at Nine-pins in the Garden, and I can tell what they play'd for.

L. C. J. What ſay you as to Mr. *Nevil*, and Sir *Robert Brett*'s being at St. *Omers*.

Twelfth Witneſs. I did not take ſo much Notice of Sir *Robert Brett*, as for *Nevil*, I think I ſaw him once in three Days.

Mr. Juſt. *Pemberton.* And there is nothing ſaid of him here.

Then another Witneſs ſtood up.

L. C. J. When did you ſee Mr. *Oates* firſt at St. *Omers*?

Thirteenth Witneſs. I firſt ſaw him in the Month of *December*.

L. C. J. Did you ſee him in *April* and *May*?

Thirteenth Witneſs. Yes, my Lord, I did.

L. C. J. Was he there all thoſe Months?

Thirteenth Witneſs. Yes, my Lord, he was.

L. C. J. North. Was he there all the Month of *June*?

Thirteenth Witneſs. He went away towards the latter end of *June*.

L. C. J. *North.* Yeſterday you ſaid the latter end of *July*. Call another *Witneſs*.

Then another Witneſs ſtood up.

L. C. J. *North.* Come you, hear the Queſtion, Did you ſee Mr. *Oates* at St. *Omers*, in the Month of *April*?

Fourteenth Witneſs. Yes, my Lord, he was there all the Month of *April*.

L. C. J. Was he there all the Month of *May*?

Fourteenth Witneſs. Yes, my Lord he was.

Mr. Juſtice *Pemberton.* And a good part of *June*?

Fourteenth Witneſs. Yes, my Lord.

Langhorn. What do you ſay as to Mr. *Poole*?

Fourteenth Witneſs. I ſaw Mr. *Poole* in the Infirmary the third Day of *May*.

L. C. J. *North.* How came you to take notice of it, ſo well as to remember it, that it was the third of *May*?

Fourteenth Witneſs. It was a Feſtival Day. And the Feaſt we kept was the Invention of the Holy Croſs. We had the Action the Day before, and ſome that were in the Infirmary would have it Acted over again to them, and we did ſo. My Lord, within one or two Days after, Mr. *Hilſley* went away, I diſcourſed with Mr. *Oates* about half an Hour; he came out within a Day or two after out of the Infirmary, and I ſaw him walking in the Gallery. And again, the 2d of *May* I ſaw him walking with one Mr. *Burnaby*, who arrived the Day before, the firſt of *May*, and then I ſaw him the 3d, 4th and 5th; in this *Burnaby*'s Company; I ſaw him again the 26th of *May*, with a Band about his Head in order to Confirmation, for they always have a Linen Cloth bound about their Head at ſuch a time.

L. C. J. Call another. *Who ſtood up, his Name was* ****.

L. C. J. What can you ſay?

**** All that I can ſay is this, that between the ſaid Month of *December*, 1677. and *June*, 1678. which is the time in Queſtion, Mr. *Oates* was never out of the College above one Night, when he went to *Watton* in *January*; and this is certain, that from the time that I ſaw him firſt, till the time he went away for altogether, there were not two Days that paſſed away wherein I did not ſee him, except in the Month of *March*, and when he was in the Infirmary the 24th of *April*, but then I heard that he was there——

L. C. J. Who did tell you ſo?

**** The Man that keeps that part of the Houſe; and coming into my Office after my Recovery out of a Fit of Sickneſs a Week before *Chriſtmas* or thereabouts, I ſaw Mr. *Oates* by this Circumſtance, The Servitors of the Houſe ſaid they were glad to ſee me, and Mr. *Oates* being in that Place at the Refectory that was aſſigned to him, I asked who he was, and they told me ſuch an one, but I had heard of his admiſſion a few Days before. Likewiſe Mr. *Oates* was there when Mr. *Hilſley* came for *England*, which was about the 24th of *April*, by this Circumſtance, that he was preſent in the Refectory with ſome of the Scholars. Mr. *Richard Burnaby* came to the College about a Week after Mr. *Hilſley* went away, and Mr. *Oates* was actually there then, and we did very much wonder that he became acquainted with him ſo quickly after his Arrival. I ſay Mr. *Oates* was actually there when Mr. *Killinbeck* and Mr. *Conqueſt* came for *England* about the 3d of *May*, by this Circumſtance, that I had ſome Diſcourſe with Mr. *Oates*, and ſome others of the Scholars, that Mr. *Conqueſt* would by no means get out of his Bed betimes that Day he was to go away, being unwilling to leave the College. He was there the 26th of *May* by this Circumſtance, that the Biſhop dined there that Day, and Mr. *Oates* was there Confirmed that Day. Mr. *Oates* was there alſo in *June* my Lord.

L. C. J. Yes, he was there in *June*, he does not deny it.

Mr. Juſtice *Pemberton.* And was he there all *May*?

**** Yes, my Lord he was, and all *April*, except the time he was in the Infirmary, which was three or four Days.

Langhorn. What do you ſay as to *Poole* and *Nevil*?

**** They were there all the whole time in queſtion, and they were never abſent any competent time to come to *England*, as he ſays.

L. C. J. North. We muſt not allow that, you muſt tell us what time they were there, that we may know it.

**** They were there in *March*, *April*, *May*, *June* and *July*.

L. C. J. But did you ſee him every Day from the beginning of *Chriſtmas*, to the time he went away in *June*?

**** Yes, except the time he was at *Watton*, and when he was in the Infirmary.

Mr. Recorder. But was not Mr. *Oates* twice in the Infirmary?

**** He was I remember there on St. *Thomas* of *Canterbury*'s Day, and I remember he was there in *April*.

Sir *Cr. Levins.* I did hear you ſay ſomething of ſomebody that was abſent five or ſix Days, was it you?

**** I was ſick in the Month of *March*, and I was in the Infirmary till about the twelfth or fourteenth Day.

Sir *Cr. Levins.* And did you ſee him there all that time?

**** I excepted that time, but I heard his Voice once in that time, in the next Room to the Infirmary, where I was by this Circumſtance; he uſed to come to a Table by himſelf, and it was near

near the Door, and *Nevil* and *Poole* were there, as I ſaid before.

Mr. Recorder. He ſpeaks much more to the purpoſe to Day, Mr. *Langhorn*, than he did Yeſterday.

L. C. J. North. And much louder.

Langhorn I hope your Lordſhip will take notice that he ſpeaks likewiſe of the Reſidence of Mr. *Poole*, Sir *Robert Brett*, and Mr. *Nevil.*

L. C. J. Yes, I do. Call another Witneſs.

(Who ſtood up, and being a Foreigner, his Evidence was likewiſe Interpreted.)

L. C. J. Ask him what he ſays.

Interpreter. He ſays he ſaw Mr. *Oates*, he was there, and he remembers it till about the 25th of *June.*

L. C. J. Where did he ſee him?

Interpreter. He ſays it was either in the Houſe, or in the Garden.

L. C. J. *North.* When was that, that he was in the Infirmary?

Interpreter. He ſays, he was in the Infirmary towards the latter end of *December* or the beginning of *January.*

L. C. J. Ask him what he ſays about *Nevil* and *Poole.*

Interpreter. He ſays they were there all *June*, and that Mr. *Poole* went away in the Month of *July*; and he further ſays, that he being a Waterman, he carried this ſame *Williams* and *March* in his Boat the laſt Sunday in *April.*

L. C. J. *North.* Who is your next, Mr. *Langhorn?* let him ſtand up: *(Which he did.)* When did you ſee Mr. *Oates* at St. *Omers?*

Sixteenth Witneſs. In the Month of *April*, 1678.

L. C. J. And in *May* too was he?

Sixteenth witneſs. Yes, he was.

L C. J. Was Mr. *Poole* there all that time?

Sixteenth witneſs. Yes, he was; and ſo was Mr. *Nevil* and Mr. *Brett.*

L. C. J. Where is *Nevil* now?

Sixteenth witneſs. I believe I left him there.

L. C. J. What are theſe Perſons.

Sixteenth witneſs. The one is a Prefect, and I believe he is there ſtill. In the Month of *May* I made Mr. *Killinbeck* a Sute of Clothes, and Mr. *Oates* came into the Shop, and asked me whoſe Clothes they were? I ſaid Mr. *Killinbeck*'s: ſaid he, how can that be? they are black: ſaid I, they muſt be black, for he is in mourning.

Langhorn. Here is Mr. *Grove*'s Wife and his Maid.

Then Mrs. Grove *ſtood up.*

L. C. J. What Queſtion would you ask of her.

Langhorn. Mr. *Oates* hath ſworn, and given us ſeveral Circumſtances of his coming over, and being here at that which he calls the Conſult, and that he lay at Mr. *Groves*'s three or four Nights; I deſire ſhe may be asked that Queſtion, whether he did ſo or no?

L. C. J. Do you know Mr. *Oates*, Mrs. *Grove?*

Grove. No, I never ſaw him.

L. C. J. Were there any Lodgers lay at your Houſe in *April* was Twelvemonth.

Grove. Yes, my Lord, there were.

L. C. J. Do you uſe to have Lodgers that you do not know?

Grove. My Houſe was full of Lodgers at that time. I did not know them till they lay there.

Sir *Cr. Levins.* Why then, Mr. *Oates* might be there, and you not know him.

Grove. If he lay there, I muſt needs know him.

L. C. J. Why might not a Man lie with any of your Lodgers three or four Nights, and you not know him?

Grove. Who ſhould he lie withal my Lord?

Dr. *Oates.* I had a Bed to my ſelf when I lay there.

L. C. J. Mr. *Oates* deſcribe the Chamber as well as you can.

Dr. *Oates.* It was a place taken out of another Room, where two Men were taken out that were committed to Priſon.

L. C. J. Were there any Perſons taken out of your Houſe, and ſent to Priſon?

Grove. Yes, my Lord, there were.

L. C. J. In that very Room he lay out of which thoſe Perſons were taken.

Grove. He did not.

Dr. *Oates.* Upon my Oath I did lie there three or four Nights, more or leſs.

Sir *Cr. Levins.* You were in a Diſguiſe, Sir, at that time, were you not, and went by another Name, and ſo the Woman might not know you?

Dr. *Oates.* Yes, I did ſo.

L. C. J. You cannot make any great matter of this, ſhe had ſome Lodgers and ſhe knew them, but he went by a wrong Name, and was in a Diſguiſe.

Langhorn. Mrs. *Grove* ſays, ſhe knew all the Lodgers that then lay there, pray ask her if ſhe did not?

L. C. J. Do you remember who lodged in your Houſe in *April* was a Twelvemonth.

Grove. Yes, I do.

L. C. J. Name them.

Grove. Why, there was one Pair of Stairs, one Mr. *Strange* by Name, and one Mrs. *Fitzherbert*, and above there lay my Siſter.

L. C. J. What, all the Month of *May* and *April?*

Grove. Yes.

L. C. J. And not in *June?*

Grove. I am not demanded of *June.*

L. C. J. She anſwers exactly to them two Months, what ſay you to *March?*

Grove. They were there in *March.*

L. C. J. Who lay in the Room from whence the Men were taken that were carried to Priſon?

Grove. There was one Maſter *Crupper*, and another Young-man that lay with him.

L. C. J. Why might not that be Mr. *Oates?*

Grove. He was one that was a Priſoner by Mr. *Oates*'s Order. And Mrs. *Fitzherbert* lay there.

L. C. J. What, in that Room whence the Young-men were taken out in *April* or *May?*

Grove. Yes, my Lord.

L. C. J. Well, what ſay you to the other Months, *March*, and *June* and *July?*

Grove. I was not to be examined further than the two Months I ſpoke of before.

L. C. J. Look you, ſhe ſays, that for *April* and *May* two Gentlemen had the Lodging that Mr. *Oates* ſays he lay in; but for any other Time ſhe was not to be Examined: Well, have you any more Witneſſes?

Langhorn. Here is Mrs. *Grove*'s Maid.

[*Who ſtood up.*]

L. C. J.

L. C. J. Maid, Can you tell who lay in *Grove*'s Houſe, in *April* and *May* was Twelvemonth?

Maid. Yes, my Lord, I can.

L. C. J. Who were they?

Maid. There was my Miſtreſſes Brother and Siſter lay there.

Mr. Juſt. *Pemberton.* Do you know them all? What Men lay there?

Maid. None but Maſter *Strange*, my Lord.

L. C. J. Miſtreſs *Grove* ſaid, that her Houſe was full.

Maid. Indeed, my Lord there was her Brother, Mr. *York*, and his Wife.

L. C. J. But who is that *Fitzherbert?*

Maid. She is a Gentlewoman.

L. C. J. Who lay there in *March?* and who lay there in *July?*

Maid. Maſter *Strange*, and Mrs. *Fitzherbert*.

L. C. J. How long did they lie there?

Maid. In *April*, *May*, *June*, *July* and *Auguſt*.

L. C. J. She ſays, they lay there in *March*, *April*, *May*, *June*, *July* and *Auguſt*, and her Miſtreſs ſaid, they were there but a Quarter of a Year, only ſhe ſaid ſhe was to be examined no further.

Langhorn. My Lord, I deſire to prove a Copy of the Record in the Lords Houſe.

L. C. J. That is not to be given in Evidence here.

Mr. Recorder. You know how far ſuch a Thing will be Evidence, manage your own Evidence well.

Langhorn. It is an Extract out of the Journal of the Houſe of Lords.

L. C. J. What Particular do you pitch upon?

Langhorn. About thoſe Perſons who, he ſays, came over with him from St. *Omers*.

L. C. J. *North.* Do you think it reaſonable, that any Man ſhould come to anſwer now, all that ever he hath ſworn in his Life? If you can ſhew any Record to contradict what he hath ſworn here, ſhew it. Do you think he can come prepared to juſtify all he hath ſworn in any other place?

Langhorn. He referred to that himſelf.

L. C. J. No, he does not.

Langhorn. But he hath ſaid over and over, that Sir *John Warner* came over with him, Sir *Thomas Preſton*, and *Poole*.

L. C. J. What ſhould you urge that Book for? Can you make any other Proof?

Langhorn. I would have the Perſons called that took the Narrative of *Ireland*'s Trial.

L. C. J. If you have any more Witneſſes, call them.

Langhorn. Won't your Lordſhip allow me to prove by Witneſſes, what he affirmed, in relation to me, at another Trial.

L. C. J. By no means, you muſt not meddle with that.

Langhorn. Pray, my Lord, why not? I will prove the Words ſpoken by a Witneſs.

L. C. J. *North.* You muſt not; that is no Evidence againſt you, nor can it be an Evidence for you.

Langhorn. Then you take off the Defence that I have, and make it as if I had never any.

Mr. Juſt. *Atkins.* That is not Evidence in a civil Cauſe, and therefore muſt not be Evidence here.

Then came in my Lord of Caſtlemain.

L. C. J. What do you come for, Sir? What is your Name?

E. *Caſtlemain.* My Name is *Caſtlemain.*

L. C. J. Are you my Lord of *Caſtlemain?*

E. *Caſtlemain.* Yes, my Lord, I am.

L. C. J. Does your Lordſhip come as a Witneſs for Mr. *Langhorn?* Mr. *Langhorn*, do you call my Lord of *Caſtlemain?*

Langhorn. My Lord, I don't know what he comes for, whether he comes as a Witneſs for me, or not, perhaps he may.

E. *Caſtlemain.* My Lord, I come to wait upon your Lordſhip and the Court, to give you an Account, that ſome of the Witneſſes that were ſummoned here for the Priſoners, are ſo beaten and abuſed without, that they dare not come to give their Evidence, for fear of being killed.

L. C. J. That is a Thing that is not to be ſuffered; let us but ſee any Perſon that dares but offer to meddle with them, and I'll aſſure you we will take care to ſee them puniſhed, according as they do deſerve.

L. C. J. *North.* 'Tis a very unjuſtifiable Thing, a Thing that we will very ſeverely puniſh, if they be hindred of free Ingreſs and Regreſs.

Mr. Juſt. *Atkins.* Indeed 'tis a very horrid thing that they ſhould be ſo abuſed; they ought to have their Liberty of coming and giving their Evidence here without any Moleſtation.

E. *Caſtlemain.* I can aſſure your Lordſhip, that one of them was ſo beaten and bruiſed, that we can't tell but it may coſt him his Life.

L. C. J. Nay, we muſt look to ſuch a Thing as that; for it is by no means to be allowed of. If your Lordſhip will but tell us who they are; let us but know them, and we will take Care for the Puniſhment of them; for we will ſhew our ſelves juſt and fair, and give them all the fair Play that can be.

Mr. Juſt. *Pemberton.* Mr. *Langhorn*, have you any more Witneſſes?

Langhorn. Call the Woman that kept the *White-Horſe*-Tavern. *Who ſtood up.*

L. C. J. To what Purpoſe do you call this Woman?

Langhorn. I deſire, my Lord, to ask one Queſtion of Mr. *Oates*, touching the Conſult at the *White-Horſe*-Tavern in the *Strand*; How many Perſons met there?

Dr. *Oates.* Before that Queſtion be asked, I pray your Lordſhip would ask her, When ſhe came to the *White-Horſe*-Tavern, to keep it.

Witneſs. I don't keep it now.

L. C. J. When did you keep it?

Witneſs. I kept it in *June*, and I left it the beginning of *July*.

Dr. *Oates.* She does not come to the Time.

L. C. J. Did you keep it all the Year before that?

Witneſs. I kept it Seven Years before, till *July* laſt.

Langhorn. I would know of him, how many might be there at that Time.

L. C. J. What Number of Perſons do you ſay met at that Conſult?

Dr. *Oates.* That Queſtion, if it pleaſe your Lordſhip, hath no Reference to this Trial, neither is it at all material, but becauſe I have given the Priſoners ſo much Freedom, they impoſe upon me with Queſtions.

L. C. J. 'Tis a Queſtion they can't expect a preciſe Anſwer to from you; but yet I would have you give them as ſatisfactory an Anſwer as you can, what Number there might be there at a Time.

Dr. *Oates.*

Dr. *Oates.* My Lord, I think there might be at the *White-Horse*-Tavern, at a Time, about Eighteen or Twenty.

L. C. J. Were they in one Room, or in ſeveral Rooms?

Dr. *Oates.* They were in two or three Rooms.

Witneſs. Is this Mr. *Oates*, my Lord?

L. C. J. Yes, that he is.

Witneſs. I never ſaw him in my Houſe in my Life.

L. C. J. Was there no body never in your Tavern, but who you knew? What! can you tell all the People that were ever in your Tavern?

Witneſs. The moſt of my Company were People that I knew.

L. C. J. What is your Company?

Witneſs. Thoſe that frequented my Houſe.

L. C. J. Can you ſay who was in your Houſe, *April* 24, 1678?

Witneſs. No, my Lord, I will not undertake that, but I will give you as true an Account as I can.

Langhorn. I'll tell you why I ask this Queſtion, Mr. *Oates* did ſay, in his Depoſitions before the Lords, there met fifty.

L. C. J. At ſeveral Times in the Day.

Langhorn. But this muſt all be in the Morning.

L. C. J. Why ſo? ſuppoſe there met, of that Company, Twenty, in the Morning, and then ſome went away, and others came in their room, and ſo they did for divers Times in the Day, is not this properly ſaid of me, that there might be about Fifty at that Conſult?

Langhorn. He ſaith, in *Coleman*'s Trial, there met Fifty, upon the 24th of *April*, and afterwards they adjourned into leſſer Colloquies.

Dr. *Oates.* I ſay, they met there the 24th Day, but the Conſult was not diſſolved till the 26th Day at Night.

L. C. J. *North.* You muſt go only upon what is ſworn now. And we ask the Queſtion, upon your Propoſal, How many were there at a time? and he ſays about Eighteen or Twenty at a Time. Now if he proves there were Eighteen at one Time, Twenty at another Time, and Ten at another, that makes about Fifty.

L. C. J. Good Woman, is your Houſe a little Houſe?

Witneſs. 'Tis a ſmall inconſiderable Houſe, there is not a Room in it that will hold above a dozen, I never remembred ſo great a Company was in my Houſe at one Time, but once, in all my Seven Years, and that was a Jury of the Pariſh, and they could not be together, but were divided into three Rooms.

Then there ſtood up a Stranger; who was ſworn.

L. C. J. Well, Sir, do you know the *White-Horſe*-Tavern in the *Strand*?

Firſt VVitneſs. Yes, my Lord, I do, very well.

L. C. J. Do you know the biggeſt Room in the Houſe?

Firſt VVitneſs. Yes, I do, my Lord.

L. C. J. How many may Dine there?

Firſt VVitneſs. It may be Twenty People, I have ſeen a Dozen, or Sixteen there often.

L. C. J. Did you know the Tavern a Year ago?

Firſt VVitneſs. Yes, my Lord, this was a Year ago.

Then a Second Witneſs ſtood up in the Court, and ſaid, That Twenty-five, or Thirty, might Dine in one Room that was backward, and another that was forward. And a Third atteſted, That he was at a Wedding, and there did Dine above Twenty, in one Room next the Street.

Mr. Recorder. If ſhe make a Jury to be in three Rooms, that is but four in a Room.

Mr. Juſt. *Pemberton.* Thoſe Juries are Sixteen, generally, or more.

Langhorn. My Lord, I don't know this Tavern my ſelf; but I thought it very conſiderable, if they had not a Room that would hold ſuch a Number as he ſpoke of, Fifty.

L. C. J. But you ſee how unfortunately it happens, the matter had not been much if it had been proved; but it's very unlucky, that theſe Perſons ſhould be here in Court, by whom the other is contradicted, it had been better it were never medled with. That ſhe ſhould be ſo peremptory, in what Standers-by know to be falſe, makes this Contradiction in one Thing, to give a Suſpicion that all your Witneſſes may be falſe in all the reſt.

Sir *Cr. Levins.* Here is a Gentleman of good Quality, that ſaith, there have been Fifty in a Room.

Langhorn. My Lord, I hope neither the Court nor the Jury will reflect upon me for this.

L. C. J. No, it can't do that; but it reflects upon your Evidence, eſpecially this Woman.

Langhorn. I have been a Priſoner ſo long, and I know nothing but what Friends and Relations inform me.

L. C. J. The Thing was reaſonably offered, but it proves ſo unfortunate it will not hold. Have you any more Witneſſes to call?

Langhorn. Yes, my Lord.

L. C. J. I pray call them.

Langhorn. My Lord, I deſire I may examine them after the King's Council have done.

Mr. Juſt. *Pemberton.* You may ſay what you will, for your Defence, but you muſt examine no new Witneſſes then, Mr. *Langhorn.*

Langhorn. I muſt ask this Gentleman a Queſtion or two, if the Court think fit.

L. C. J. Propoſe them to the Court; what is it you would have?

Langhorn. My Lord, it is in relation to a Matter that happened at *Ireland*'s Trial, I know not whether it be proper, but the Queſtion I would ask is, Whether *Ireland* were here in *Auguſt*, or no?

L. C. J. He hath given you no Occaſion to ask this Queſtion at this Trial: And is there any Reaſon that we ſhould examine him to ſuch a Thing? Do you think it reaſonable, or according to Law, that Mr. *Oates* ſhould be examined, in your Trial, concerning what he then ſaid, of *Ireland*'s being here in *Auguſt*, or not being here, when 'tis no part of his Accuſation that he brings againſt you? Can he be imagined to be prepared for ſuch a Juſtification, ſince he does not at all give any Evidence of it here?

L. C. J. *North.* Since he gave not any Occaſion or Uſe for ſuch a Proof now at this Time, 'tis not fit he ſhould be examined about it: Indeed Yeſterday he gave it in Evidence, becauſe it concerned a Circumſtance of Time that related to the Priſoners then to be Tried.

L. C. J. 'Tis true, as my Lord ſays, that it was Yeſterday proper, becauſe he gave Evidence that *Fenwick* and *Ireland* were here in *Auguſt* together. Now that did ſome way concern him, but you have no Concern at all in it.

Mr. Juſt. *Pemberton.*

Mr. Juſt. *Pemberton.* That brought it in at that Time, but this is a foreign Matter, it cannot be here.

L. C. J. Have you any more Witneſſes, Maſter *Langhorn?*

Langhorn. My Lord, Mr. *Oates* hath affirmed, when I asked him touching his receiving a Reward, he ſaid, he had his Reward, for he had been out of Purſe Six or Seven Hundred Pounds, and it is my Deſire to examine a couple of Witneſſes, touching the Probability of that; for he was ſo very poor, before this happened, that it is impoſſible, without a Purſe being made for him, to lay out Six or Seven Hundred Pounds.

L. C. J. Look you, here is the Thing, he gives you an Anſwer, to which he was not in the leaſt bound, nor is it to be charged by you; he ſays he is out Seven Hundred Pounds, but that is not any Evidence, nor is the Jury to take Notice of it, nor is it to affect him. And would you have him give us an Account how he came by that Money?

Langhorn. My Lord, I'll tell you how far it concerns me; the proving of his Indigency before this Thing happened, will concern me thus far——

L. C. J. If you ſhould prove this Man in an indigent Condition, what is that to the preſent Purpoſe? it goes to no part of the Evidence.

Langhorn. My Lord, I ask the Queſtion for this Reaſon, for certainly if he were ſo very indigent, it cannot be imagined in probability that any Man would truſt him with ſuch a great Sum, unleſs it were to give this Evidence.

L. C. J. If you have any more Witneſſes, call them, and make an end of them; if not, then you may obſerve what you will to the Court and Jury, after the King's Council hath done.

Mr. Juſt. *Pemberton.* But all your Witneſſes you muſt call now.

Langhorn. Doth your Lordſhip debar me from uſing this Copy of the Record of the Houſe of Lords?

L. C. J. To what Purpoſe would you have it read?

Langhorn. Becauſe *Bedlow* therein ſays, that he had no Perſon more to charge, either in the Houſe or out of the Houſe, than what he then charged.

L. C. J. What then?

Langhorn. I was not one of thoſe Perſons, then he knew nothing againſt me.

L. C. J. 'Tis but a Memorial taken by a Clerk, and do you think that his Omiſſion ſhall be concluſive to us?

Langhorn. 'Tis the Journal of the Lords Houſe, my Lord.

L. C. J. *North.* But can you think that can be uſed as Evidence here? If you had an Affidavit ſigned by the Party, and had Witneſſes to prove that he did make ſuch an Oath, you ſay ſomething.

Mr. Juſt. *Pemberton.* You can't read that againſt his Teſtimony, you underſtand that, being a Lawyer. If you have any Witneſſes, call them, but you pick out collateral Matters, and ſpend our Time to no Purpoſe.

L. C. J. Really, if it were a Thing conducing to the Point, I would very much ſtretch; but it being ſuch a kind of Thing as this is, he ſays he had nothing to ſay againſt any Body elſe, and I was not named then: What is this to the Fact you are charged with?

Mr. Juſt. *Pemberton.* Why, it may be, he did not remember it then, will you conclude him, that he ſhould never remember it, or ſpeak of it?

L. C. J. You ſee that now at theſe Trials, he ſays ſometimes, this is all I can remember at preſent, but by and by he recollects himſelf; would you hinder him from ſaying then what he remembers?

L. C. J. *North.* Beſides, upon an Affidavit, or an Anſwer in Chancery, we never allow it, unleſs we have the Party to prove that he took the Oath.

Langhorn. I deſire to know of Mr. *Oates*, whether he did diſtribute any of theſe Commiſſions, and to whom? for he hath ſaid I did.

Dr. *Oates.* That which I ſay, is this, thoſe Commiſſions that I named, they were diſtributed, but the Perſons I do not know; I know the Commiſſions were for thoſe five Perſons, and in *July* or *Auguſt* he did ſay he had diſtributed them, but he ſaid not to whom, only one, indeed, he ſent by his Son, to the eldeſt Son of my Lord *Arundel* of *Wardour*, to be Commiſſary General; and he came back, and ſaid, it was delivered.

Langhorn. You do not ſpeak of any other?

Dr. *Oates.* I do not recollect that I know of any other.

Langhorn. I ask for this Reaſon, becauſe, in the Lords Houſe, he hath charged me, that I ſent my Lord *Arundel*'s Commiſſion, and that I ſent it by my Son, and that he ſaw a Letter in my Chamber, of the receipt of it.

Dr. *Oates.* My Lord, there is ſome part of the Evidence, that does reflect upon the Lords, which I charge not upon Mr. *Langhorn*, becauſe I would not diſcover my Evidence againſt the Lords. He goes now to expatiate upon the Informations, but I hope, the Court will excuſe me, becauſe I reſerve it for another Trial.

Langhorn. I deſire Mr. *Lydcot* may be asked, whether he did not hear Maſter *Oates*, at a former Trial, ſay, (for ſo I find it in the Narrative) (it was at *Coleman*'s Trial) that he came to me the next Day after the Conſult, and communicated it to me, and that he never ſaw me afterwards.

L. C. J. Do you know any Teſtimony, Maſter *Oates* gave concerning Maſter *Langhorn?*

Langhorn. You are not the Perſon that took the Trial, are you?

Lydcot. I know nothing of the Buſineſs, at all, I was at the Trial, but I cannot particularly ſpeak what was ſaid there.

Langhorn. The Perſons that took the Trial were ſummoned to be here. Call Mrs. *Sylliard.* (*But ſhe appeared not.*) Call Mr. *Blayney.*

L. C. J. Here is Mr. *Blayney*, what would you ask him?

Langhorn. I would know of him, what Mr. *Oates* hath teſtified concerning me?

L. C. J. Do you know what Mr. *Oates* ſaid concerning Mr. *Langhorn?*

Mr. *Blayney.* When, my Lord?

L. C. J. Nay, I can't tell.

Langhorn. At *Coleman*'s Trial, Sir.

Mr. *Blayney.* My Lord, I was preſent at *Coleman*'s Trial, and I remember Mr. *Oates* did ſay ſomething about Mr. *Langhorn*, but I have not my Book here, I can't tell what it was.

Langhorn. Here is the Book, Sir, here is the Narrative.

Mr. *Blayney.* That was not printed by my Copy, Sir.

Langhorn. Who were they that did take it?

Mr. *Blaney.*

Mr. *Blayney.* Of my own Knowledge I don't know whose Copy it was, but by hearsay.

L. C. J. It was taken as well as it could be taken, but you must not urge that which is but an Historical Narrative against him.

Mr. Justice *Pemberton.* Mr. *Langhorn,* do you think to convict a Man by an History? To say a Man is forsworn because he does not swear as that History says he did swear?

L. C. J. We will do you all the Right, and give you all the fair Play we can; but we are of Opinion that it signifies nothing, that you can make no use of it.

Langhorn. If I can have no Light, how can I imagine what they will charge me with?

L. C. J. Have you in any other Case observed it? If a Man be indicted of Felony or Treason, any Capital Crime, he is clap'd up, and is not permitted to have a Copy of the Indictment, nor he cannot by Law.

Langhorn. They know something of what they are accused for, they are confronted before a Justice of Peace.

Mr. Justice *Pemberton.* Why, I'll suppose you had been examined, do you think your Examination would have been Evidence for you here?

Then one Elizabeth Sylliard *was called, but affirming, That she durst not speak unless the Court would promise her protection against the Rabble, because some of the Witnesses had been abused; which the Court not being able to do, otherwise than by promising to punish those that offered to meddle with her if she brought them before them, she was, by Mr.* Langhorn's *consent, set aside, and not examined.*

Langhorn. She comes in relation to a Point that happened at *Reading*'s Trial, where Mr. *Bedlow* did depose, That he did not say all he could have said against Mr. *Whitebread* and Mr. *Fenwick,* but that he knew more against them than he gave in Evidence at their first Trial.

Mr. Justice *Pemberton.* What is that to you?

Langhorn. That I take to be a kind of Perjury in him; for they are sworn, *To speak the Truth, the whole Truth, and nothing but the Truth.*

L. C. J. Is this material in your Case what he said about *Whitebread* and *Fenwick?*

Langhorn. It makes it material to make him uncreditable.

L. C. J. Mr. *Whitebread* made that Objection, but he was answered; for he was told, That he could not tell all that he knew at that time, because he was in treaty with Mr. *Reading* about the lessening of his Evidence against them, and the Lords in the *Tower,* and the Lords were to judge what measure they should have from him, by his kindness to *Whitebread* and *Fenwick.* If you have no more, the King's Council will go on.

Sir *Cr. Levins.* My Lord and Gentlemen of the Jury, you have heard the Evidence that Mr. *Langhorn* hath given for the making of his Defence, which hath been principally to reflect upon Mr. *Oates*; and he first calls Mr. *Hilsley* to prove, that whereas Mr. *Oates* did swear he came over with him, he affirms he did not; but it falls out, that Mr. *Oates* hath counterproved him by such a Circumstance as does contradict him in what he says; for speaking of the loss of his Money, *Hilsley* said, some body else had told him of it; but producing his Witness for that, he only affirms, that Mr. *Oates,* in his Company was told, that Mr. *Hilsley* had lost his Money, but not how nor where; but Mr. *Oates* gives you a particular Circumstance, that he was cheated by a Person he lent his Money to, and that left him to pay the Reckoning, which Mr. *Hilsley* does confess was true, and which he could not hear from the others, for the others did never know it. Gentlemen, they have brought you a great many other Witnesses to prove, that Mr. *Oates* was not in *England* on the 24th of *April,* the time he says he was, and they all agree as to that time, tho' as to other times they are not so exact; but we shall give you as plain and as full an Evidence that he was here at that time, as that you are there now, and shall very fully satisfie you in it. For that of Sir *John Warner,* and Sir *Thomas Preston* they are Matters that were transacted beyond Sea, to be sure they did not come over by those Names, no more did Mr. *Oates* himself; therefore it would be hard to find out these Persons, or to give you so particular an account of them that were thus in Disguises, and had changed their Names; but truly if that were a matter done in *England,* it were far more easy for us to confront their Testimony in that; for matters that are done here lie more ready for our proof, than those that are done beyond Sea; for the last Woman that he called, which was the Woman about the *White-Horse*-Tavern, her Evidence would have gone as punctually for truth, if it had been a Matter done in *Flanders,* as any thing could be in the World; but it happening to be near Home, it hath the ill fortune to meet with a very sudden Answer, which is a manifest proof how they stretch to help themselves, and in my Opinion this contradiction overthrows all their Evidence. Gentlemen, we will call our Witnesses, and prove it as plainly as any thing can be in the World, that Mr. *Oates* was here at that time. First swear *William Walker.* *Which was done.*

L. C. J. Do you know Mr. *Oates.*

Mr. *Walker.* Yes, Sir, I have known him Seven or Eight Years.

L. C. J. When did you see him in *England* last Year?

Mr. *Walker.* I saw him the latter end of *March* 1678. or towards the middle of *April* following, I saw him then in a Disguise, insomuch as that I knowing what he was, and what he had been, I could not a great while recollect the face of the Man, and it was a great Trouble to me, that having known him so many Years, I should not then know him. I went home, but could not recollect my self that Night; but before I rose again the next Morning, I did recollect my self that it was *Titus Oates,* and I presently turned my self out of my Bed, and went to a Gentlewoman whose Name I did not then well know, to inquire of her about it. After the Salutation, said I, How does Mr. *Oates?* said she, knocking her Hand upon the Counter, He is an undone Man: Why, what is the Matter, said I? He is turned, said she, to the Church of *Rome:* Do you know where he is, said I? No, said she, but he is lurking up and down the Town, and only dares appear in the Evenings. Well then, said I, I saw him later than you did; for I saw him between St. *Martins*-Lane and *Leicester* House Yesterday, but he was in a Disguise: and I told her what Habit he was in.

L. C. J. What time was that?

Mr. *Walker.* It was about Ten of the Clock in the Morning.

L. C. J. But what time of the Year was it?

Mr. *Walker.* It was the latter end of *March*, or the middle of *April.*

Mr. Juſt. *Pemberton.* It was before the end of *April?*

Mr. *Walker.* Ay, ay, my Lord.

L. C. J. And that contradicts all your Witneſſes; for they ſay, that he was there all *March*, and all *April*, and all *May*, nay, from *December* to *June.*

Langhorn. He hath ſaid the latter end of *March*, or the middle of *April*, I would have him be as certain as he can.

L. C. J. He cannot be certain; for thoſe things in point of time, you know, and all Mankind muſt agree, that a thing done a Year ago that was of no greater importauce at that time, cannot ſo eaſily be remembred, or that he ſhould take ſuch ſpecial notice of the critical Day. What Man in the World does remember or take notice ſo as to charge himſelf in what Week or what Month ſuch an accidental thing as this happened? but to ſatisfie Mr. *Langhorn* I ask you, Can you ſpeak any more particularly than you have done?

Mr. *Walker.* Becauſe I would not be miſtaken, or do any one any wrong, I do rather take an uncertain time than a certain, but I do think it was in the Month of *April*, and towards the middle of the Month, that is all I can ſay.

Langhorn. But how is he ſure, ſince he is ſo uncertain in his Memory, that this was 1678. and not 1677?

Mr. *Walker.* Becauſe, my Lord, it was but a little more than a Year ſince, and I am able to judge of the Year as well as another.

L. C. J. Do you remember what you went about?

Mr. *Walker.* I was wont, about that time of the Year, to receive Money of my Lord *Thomas Howard*, and upon that Errand I came to Town then.

L. C. J. But are you ſure it was Mr. *Oates* that you ſaw?

Mr. *Walker.* Yes, my Lord; for according to my apprehenſion I did know the Face when I firſt ſaw it, but I could not recollect who it was till I had refreſhed my Memory, and the next Morning I did ſo, and then concluded it was he.

Mr. Juſt. *Dolben.* How came you hither?

Mr. *Walker.* I was brought here for a Witneſs.

Mr. Juſt. *Dolben.* Did you diſcover this to Mr. *Oates*, or did Mr. *Oates* firſt come to you, to put you in mind of it?

Mr. *Walker.* I had diſcourſed with ſome Perſons about it a while after the Plot was diſcovered, and ſo I ſuppoſe it came by accident to him.

Then Mrs. Ives *was ſworn and ſtood up.*

L. C. J. Well, Miſtreſs, what ſay you?

Mrs. *Ives.* This is the Gentleman that told me this buſineſs.

L. C. J. What did he tell you?

Mrs. *Ives.* He asked me when I ſaw *Titus Oates?* I told him I had not ſeen him a long time, that he was gone beyond Sea: he asked me, if I never ſaw nor heard from him ſince? I told him, No; but of late ſome of his Friends had told me, that he was about the Town, and that they had ſeen him, but they did not know the place where he lodged. Then ſaid he, I have ſeen him ſince you; for I was Yeſterday going in *Leiceſter-Fields*, and going along I ſaw him, for he was in coloured Cloaths, and very much altered from what he had been.

L. C. J. When was this? How long was this ago?

Mrs. *Ives.* It was about the middle of *April* was Twelvemonth, and I remember it by a very good Token; for his Father Mr. *Oates* came then to my Houſe to ſee me, and that is the firſt Month that our new thin Cheeſes come in, and I did then ask him, if he would not come in and eat ſome new thin Cheeſe; and when he was come in and ſate down eating of Cheeſe, and drinking a draught of Drink, I was a ſaying to him, Pray, Sir, when did you ſee your Son? Said he, I have not ſeen him of late, I heard from him a little while ago, but I have not ſeen him: Then, ſaid I, I can tell you News of him. Here was ſuch a Gentleman in my Shop that ſays he met him in *Leiceſter-Fields*, but in a diſguiſe, and he told me what Habit he was in.

Sir *Cr. Levins.* Set up *Butler.* [*who was Sworn.*]

L. C. J. How long have you known Mr. *Oates?*

Butler. I have known him two or three Years before he went to Sea.

L. C. J. When did you ſee him laſt Year?

Butler. When he came back, he came to my Maſter's Houſe the beginning of *May* laſt was Twelvemonth.

L. C. J. Who is your Maſter?

Butler. Sir *Richard Barker*, my Lord.

L. C. J. What did he come there for?

Butler. He came to enquire for Doctor *Tongue.*

L. C. J. Did you know him?

Butler. Yes, I did.

L. C. J. Are you ſure that's he?

Butler. This is the Gentleman.

L. C. J. And what ſaid he?

Butler. I was in the Gate about my Coach, and he comes in and asked me if Dr. *Tongue* was within. I told him, No: At preſent I did not know him, becauſe he was in ſuch a diſguiſed Habit; I knew him vety well before, becauſe he went in ſuch a Habit as he does now: But this is the Man, and *Titus Oates* is his Name. Said I, *Mr.* Oates, *you are welcome into* England *again:* But he took no notice but went forward into the Houſe, but he made but a little ſtay there, and came out again; it ſeems ſomebody had affronted him, and laughed at him, becauſe he was more like a Shepherd than a Miniſter: His Hair was cut, and he had a gray Coat on, and plain Shooes, and a flopping Hat; and ſo he went out of the Gate, and would not take any notice of me, or what I ſaid.

Langhorn. How does he know it was in 1678, and not in 1677? He ſays it was in the Month of *May* was Twelvemonth.

Butler. I know it by this Circumſtance: In *February* I went down into *Lincolnſhire*, and I came up again the ſame Month: Sir *Richard Barker* was then ſick and in the Conntry, and there he was a great while; and when he came to Town I did acquaint my Maſter that Dr. *Oates* was there to enquire for Dr. *Tongue*, in the ſtrangeſt Habit that ever I ſaw Man in in my Life.

L. C. J. How long after he had been there was it that you did tell your Maſter?

Butler. It was as ſoon as my Maſter came back, as ſoon as I ſaw him, it might be a Week.

L. C. J. Was it about a Week or a Fortnight?

Butler. I do not know exactly.

Mr. *Belwood.* Then ſwear *Cicily Mayo.* [*Which was done.*

L. C. J. Do you know Maſter *Oates?*

Mayo.

Mayo. I never saw his Face before that time, nor had I taken notice of him then, but that there was a Young-man that lived with Sir *Richard Barker*, who had a great acquaintance with him, and seeing him in that Garb he called me to the Window, and said, *Mr.* Oates *is surely turn'd Quaker or Jesuit by the change of his Habit: No*, said I, *he is no Quaker, for he hath got a Periwig on.*

L. C. J. Maid, when was this?

Mayo. This was before *Whitsuntide.*

L. C. J. Which *Whitsuntide?*

Mayo. Whitsuntide was Twelvemonth.

L. C. J. How long before that was it?

Mayo. It was a matter of a Fortnight before, as I remember.

L. C. J. Are you sure you know him now?

Mayo. Yes, this is the Man.

L. C. J. *North.* Did you tell your Master of it?

Mayo. I was not so well acquainted with him as to speak to Sir *Richard Barker* about it, but the other Servants they told him.

Mr. Belwood. Set up *Philip Page.* [*who was sworn.*] Do you know Mr. *Oates?*

Page. Yes, my Lord, I have known him these five Years.

L. C. J. When did you see him?

Page. About *May* was Twelvemonth.

L. C. J. Where?

Page. In Sir *Richard Barker*'s House.

L. C. J. Are you sure this was the Man?

Page. Yes, I am sure it was he.

Langhorn. What time in *May* was it?

Page. About the beginning of *May.*

L. C. J. And you take it upon your Oath that you saw Mr. *Oates* the beginning of *May* was Twelvemonth in Sir *Richard Barker*'s House.

Page. Yes, my Lord, I do.

Mr. Just. *Atkins.* What is become of the Boy that spoke to the Woman about him?

Mayo. He is dead, my Lord.

Sir *Cr. Levins.* Then swear Sir *Richard Barker. Which was done.*

L. C. J. Do you know Dr. *Oates*, Sir?

Sir *Rich. Barker.* I have known him these many Years, I have known him from a Child.

L. C. J. Did you see him about a Year ago?

Sir *Rich. Barker.* My Lord, I did not see him then; I was out of Town, but as the Servants tell your Lordship, so they told me, when I came Home, that Mr. *Oates* had been there in a strange kind of Habit, that he was either turned Quaker, or Jesuit. I did very much admire at it, for I had seen his Father but a little while before, and he told me nothing of it. I had a mind to have given him a Living while he was in our Church.

L. C. J. When did your Servants tell you they saw him?

Sir *Rich. Barker.* They told me when I came home, which was in the latter end of *Whitsun-week*, or the beginning, as I remember.

L. C. J. Was it in *Whitsuntide?*

Sir *Rich. Barker.* It was about that time; they told me the odd kind of Posture he was in, and that young Fellow that they speak of told me several passages of Mr. *Oates.* (He is now dead.)

L. C. J. But when did they speak of it to you?

Sir *Rich. Barker.* My Lord, when I came home, two or three of them told me of it with great Admiration, as they have told your Lordship and the Court; and I said to one of them, *What! did he leave no Message?* They told me he enquired for Dr. *Tongue*, and asked for me, but that was all that they told me.

L. C. J. Come, was it in *May?*

Sir *Rich. Barker.* Yes, my Lord, it was in *May* was Twelvemonth.

L. C. J. How do you know it was *May* was Twelvemonth?

Sir *Rich. Barker.* It was last Year, about the beginning of *May.*

L. C. J. *North.* Nay, he tells you this, when you asked him the Question, Whether he knew Mr. *Oates.*? Yes, said he, I did know him formerly; and when he was of our Church I did intend to have given him a Benefice.

Langhorn. Certainly his change, that is, his becoming a Roman Catholick, could not be a thing so strange that he should intend then to give him a Benefice.

Mr. Just. *Atkins.* But hark you, Sir, I suppose you remember it by your own Sickness very well?

Sir *Rich. Barker,* Yes, my Lord, very well; I had a little Distemper upon me, and Dr. *Needham* of the Charter-house came to see me; and I lay sick a matter six or seven Weeks, and the latter end of my Sickness I continued taking of Physick till I came to Town.

L. C. J. But you are sure of the Year by that?

Sir *Richard Barker.* Yes, my Lord, and Yesterday I should have acquainted your Lordship and the Court, that there are some Persons not unknown to some of the Bench, if not near ally'd to them, and that is Sir *William Tyrril*'s Family, of *Lincolnshire*, his Grandson, who had been at *Cambridge*, and then came to visit me, tho' I happened not to be at home (they being my Wife's Relations) and it was before *Whitsuntide*, because he came to take the advantage of that Season of the Year: and he had conversed with Mr. *Oates*, but he is not in Town at present; and there are two or three of the University that conversed with Mr. *Oates* at that time.

Mr. Justice *Pemberton.* Are they here?

Sir *Richard Barker.* I only tell it you for a Circumstance.

Sir *Cr. Levins.* Then set up Mr. *Clay.* [*Who was sworn.*

L. C. J. Do you know Mr. *Oates?*

Mr. *Clay.* Yes, I know him very well.

L. C. J. How long have you known him?

Mr. *Clay.* Since last *April* was a Twelvemonth.

L. C. J. Where did you see him then?

Mr. *Clay.* I saw him at Mr. *Howard*'s, my Lord.

L. C. J. What *Howard?* one of my Lord of *Norfolk*'s Brothers?

Mr. *Clay.* Yes, my Lord.

L. C. J. What is his Christian Name?

Mr. *Clay.* His Name is Mr. *Charles Howard*, my Lord.

L. C. J. Where was it?

Mr. *Clay.* In his House.

L. C. J. Where was his House?

Mr. *Clay.* It was Part of *Arundel*-House, 'tis now made a new Street.

L. C. J. Did you speak with him there?

Mr. *Clay.* Yes, we saluted one another, and he said, *Your Servant, Sir.* I am sure I saw him there.

L. C. J. How often did you see him in that House?

Mr. *Clay.* Twice.

L. C. J. In *April* and *May*?

Mr. *Clay.* Yes, in *April*, and in the beginning of *May*.

Langhorn. I ask you if you do remember any Circumstance of it, to bring this to your Memory?

L. C. J. By what token do you remember it, that it was *April* and *May*?

Mr. *Clay.* By this Token, that Mr. *Charles Howard* told me he was one that was come from beyond the Seas, from St. *Omers*; *and*, said he, *he hath some thoughts of being a* Jesuit, *but I think I shall divert him from that.*

L. C. J. How do you know that it was that Month?

Mr. *Clay.* It was in the latter end of *April*, and the beginning of *May*.

Mr. Just. *Dolben.* Are you sure it was last Year?

Mr. *Clay.* Yes, I am, it was in the Year 1678.

Langhorn. Was it at Dinner, or no?

Mr. *Clay.* No, no.

Langhorn. Did he dine there that Day?

Mr. *Clay.* I did not see him at Dinner, but I saw him there twice.

L. C. J. Are you a *Roman* Catholick?

Mr. *Clay.* Yes, I am of the Church of *Rome*, but not of the Court of *Rome*.

L. C. J. That is no new Distinction.

L. C. J. *North.* No, they have the Court of *Rome* distinct from the Church, and particular Favourites of it, as other Princes have, and there are those that profess themselves of that Religion, that won't acknowledge the exorbitant Power that the Pope claims.

Langhorn. Will your Lordship please to ask him, whether he does remember that Mr. *Oates* did at that time play with Mr. *Howard*'s Son, and instruct him, and talk to him about his Learning, and put Questions to him.

L. C. J. Did he talk or put any Questions to Mr. *Howard*'s Son about Learning his Book?

Mr. *Clay.* Not any thing that I heard.

Langhorn. Was Mr. *Howard*'s Son there?

Mr. *Clay.* No, not in the Room, as I think, I cannot tell certainly, my Memory is frail.

Then Mr. Smith *was called and sworn.*

L. C. J. How long have you known Dr. *Oates*?

Mr. *Smith.* I knew him before the Fire, he was my Scholar at the School where I was Usher.

Mr. Just. *Pemberton.* What time did you see him last Year?

Mr. *Smith.* The beginning of *May*.

Mr. Just. *Pemberton.* How do you know that?

Mr. *Smith.* He came to see me, and dined with me.

L. C. J. Where?

Mr. *Smith.* At *Islington*, at my House there.

L. C. J. How long was he with you?

Mr. *Smith.* Three or Four hours.

L. C. J. What time was it?

Mr. *Smith.* It was, as I take it, the first *Monday* in *May*, and I give this Reason for my remembrance why it was in *May*, because we dined by the Fire-side, being a little cold, of which we took particular notice.

L. C. J. And you wondered that you should dine by the Fire-side in *May*.

Langhorn. Was it on a *Monday* in *May*?

Mr. *Smith.* It was on the first *Monday* in *May*, to the best of my Remembrance.

L. C. J. Was there none of the Family there besides?

Mr. *Smith.* Yes, there was my Wife there.

L. C. J. Why did you not bring her to testifie the same?

Dr. *Oates.* He cannot find his Wife.

L. C. J. *North.* How long do you say was he with you?

Dr. *Oates.* Three or Four Hours.

L. C. J. What did you talk of?

Mr. *Smith.* We talked about his Travels, about his Journey into *Spain*, and to *Valledolid*, and *Sallamanca*.

Mr. Just. *Pemberton.* Was he in a Priest's Habit, or in another Habit?

Mr. *Smith.* My Lord, he was in a Cinnamon-coloured Suit, trim'd with green Ribbons.

Sir *Cr. Levins.* We have done with our Evidence, my Lord.

L. C. J. Now, Mr. *Langhorn*, the King's Council have done with their Witnesses.

Langhorn. Pray call Mr. *Charles Howard* and his Wife.

L. C. J. I do not think Mr. *Charles Howard* will appear.

L. C. J. *North.* I believe he does not think it safe to come here; we know upon what Account.

But upon calling, after a while he did appear and stood up.

L. C. J. Well, what have you to say to Mr. *Howard*?

Langhorn. The Question that I would ask him is this; it hath been affirmed here by Mr. *Clay*, that old Gentleman, that about the end of *April*, or beginning of *May* last was a Twelvemonth, he did meet Mr. *Oates* at Mr. *Howard*'s House; I would know the truth of it.

L. C. J. Mr. *Howard*, you have heard the Question, do you know Mr. *Oates*?

Mr. *Howard.* Yes, my Lord, very well.

L. C. J. How long have you known him?

Mr. *Howard.* Above two Years.

L. C. J. When was he at your House?

Mr. *Howard.* My Lord, he hath been at *Arundel* House about two Years ago, and several times since.

L. C. J. Was he there about a Year ago?

Mr. *Howard.* Thereabouts he was.

L. C. J. Do you think he was there about *May* was Twelvemonth?

Mr. *Howard.* My Lord, after *July* I remember he was there.

L. C. J. Was he there in *May*?

Mr. *Howard.* No, my Lord, not to my remembrance.

Langhorn. Pray, Sir, when did your Son die?

Mr. *Howard.* The Fifth of *May* was two Year, 1677.

L. C. J. Why, how does that appear to be any thing in this Case; he did not say that Mr. *Howard*'s Son was there.

Langhorn. He said he was in the House, but he could not tell whether he was in the Room or no.

L. C. J. You asked him whether he talked any *Latin*, or asked him any Questions; and he says he cannot tell whether the Son were there in the Room or no.

L. C. J. *North.* He says, *About two Year ago I remember*

member he was at my Houſe, and about a Year ago; which contradicts all your Witneſſes.

Langhorn. No, he ſays, *About two Year ago I remember he was there, and about a Twelvemonth ago, after* July; but he cannot remember whether he was here in *April* and *May* was a Twelvemonth.

Mr. *Howard.* Mr. *Oates* was in my Lodging in *April* 1677, and then my Child was alive, and dined together with him and Mr. *Clay.*

L. C. J. That is two Years ago?

Mr. *Howard.* Yes, my Lord, two Years ago Mr. *Oates* was there with Mr. *Clay*, but not ſince.

L. C. J. Call Mr. *Clay* again to confront him in that.

Dr. *Oates.* I did not know Mr. *Clay* two Years ago.

L. C. J. You are miſtaken, I believe, for Mr. *Clay* does pretend that he did but juſt begin to know Mr. *Oates* in *April* was a Twelvemonth, and ſo *Oates* ſwears too.

Mr. Juſtice *Pemberton.* And he ſays nothing whether you had a Child died or no.

L. C. J. When was the time that you firſt knew Mr. *Oates*?

Mr. *Clay.* The latter end of *April* laſt Year.

L. C. J. Did you ever know him before that time?

Mr. Clay. I never did.

L. C. J. Do you remember that ever you dined with him?

Mr. Clay. I do not remember the Day exactly, and I do not remember that e'er I dined with him.

Mr. Juſtice *Pemberton.* But he is poſitive that he did not know him but a Year ago.

L. C. J. Do you remember whether Mr. *Howard*'s Son was alive?

Mr. Clay. He had a Son alive at that time.

Dr. *Oates.* He had one Son indeed that died a Year before Mr. *Clay* and I met there.

Mr. Howard. I ſpeak of my eldeſt Son, who died two Years ago.

Mr. Clay. I never knew him.

L. C. J. Well, 'tis plain there was a Miſtake in it, he ſpoke of a Son that was then and is now alive, and you ſpeak of your eldeſt Son that died two Years ago. Have you any more Witneſſes, Mr. *Langhorn?*

Mr. Langhorn, No, my Lord, I have no more Witneſſes.

L. C. J. Well, would you ſay any thing? If you would, ſay what you have a mind to ſay.

Langhorn. My Lord, I am charged here by two Witneſſes, the firſt is Mr. *Oates*; if I can prove any one Point (in anſwer to that which he hath given in Evidence) not to be true, then I conceive, my Lord, he ought to be ſet aſide: And I think it hath been clearly proved, That whereas he ſaid Sir *Thomas Preſton* came over with him in *April*, it hath been clearly proved he was then at *Liege*; and whereas he hath affirmed, Sir *John Warner*, Mr. *Poole*, and two or three more that were at St. *Omers*, came over with him, I have proved That not to be true, beyond any contradiction: Then, as the Witneſſes about his own not coming over in *April*, Mr. *Hilſley* ſays he came not over with him in the Pacquet-Boat; and the other ſays that he was ſick in the Infirmary after Mr. *Hilſley* came away: Theſe Points being thus proved, I think there can be no credit given to what he ſays; for I can ſay, and I know it to be truth, that from *November* 1677, to this very Day, I never ſaw him: I have been a cloſe Priſoner ſo long, and have had but one Weeks time to provide, and therefore muſt be fain to take ſuch Information as my Friends and Relations could pick up, to anſwer what he hath ſaid in his Narratives, ſuppoſing he would have ſaid the ſame here; therefore I am not able to make any better Defence.

L. C. J. Did you never know Mr. *Oates*?

Langhorn. I have ſeen him once or twice.

L. C. J. When was that?

Langhorn. In *Michaelmas*-Term, 1677.

L. C. J. Upon what occaſion?

Langhorn. He brought me a Letter from one of my Sons, my younger Son in *Spain*, and then he told me he was going to St. *Omers*: He ſaid he could not be ſettled in any of the Colleges in *Spain*, and therefore he would go to St. *Omers*: and from that Day I never ſaw him till I ſaw him in the Court: I hope truly I have well proved that he was not here in *England* when he ſays he was, but that I muſt leave to the Jury: But ſurely theſe Boys cannot be ſuppoſed to have any Deſign, or to be bribed by any Reward, for I never ſaw the Face of any of them till now.

L. C. J. *North.* They are all Papiſts, and ſpeak in a general Cauſe.

Langhorn. If that be an Objection againſt them, I think it is hard if they are not to be believed becauſe they are Papiſts and Friends; then the other, on the contrary, are not to be believed becauſe they are Enemies: I think it is clear that he did not lodge at *Groves*'s Houſe; and I think it is clear that he did not come over in the Pacquet-Boat with Mr. *Hilſley*, and that Sir *Thomas Preſton* did not come over with him, nor *Warner*, nor *Poole*; and if any of theſe Points be clear for me, I think his Teſtimony ought to be ſet aſide. Now, as to what *Bedlow* ſays, in truth it is impoſſible for me to examine any Witneſſes, and that I think will be your Lordſhip's Opinion; it will not ſeem probable that one that was in my way of Practice ſhould become a Clerk to regiſter Letters, and to keep Accounts of any particular Religious Order, as he makes me to do; or, if I were, that I ſhould admit Mr. *Bedlow* to be privy to thoſe Accounts; but that I muſt leave to the Court; my Lord, 'tis impoſſible to prove a Negative: Mr. *Bedlow* is a Perſon that I have no acquaintance with, truly I do not know that ever I ſaw him before this time in all my Life; tho' it is poſſible I may have ſeen him, but I do not know that ever I did: Now that I ſhould admit ſuch a Perſon to ſuch a Privacy in Accounts of this Nature, (if I were guilty of them) ſeems very improbable; but yet, as I ſaid, it is impoſſible to prove a Negative. If I had known what he would have charged upon me before, perhaps I might have made a better Defence; and for thoſe Witneſſes that I have had, they were prepared by ſuch Friends as thought they would be uſeful for me. Theſe Men have had time to get their Witneſſes together: I never ſaw one of mine till they came into the Court. I hope, my Lord, I ſhall find no diſadvantage in my coming here upon the account of my Religion, for that would ſeem as if you condemned me meerly for that: I diſclaim all Principles of Diſloyalty; and I do aſſure your Lordſhip, I do believe it is Damnation to any one that ſhall go about to kill the King, or deprive him of his Government; I ſhall leave the reſt to your Lordſhip and the Jury.

The

The Lord Chief Juſtice's Directions to the Jury, againſt Mr. Langhorn.

Look you, Gentlemen, you have had an Account, in the firſt Part of the Evidence, in general, That there was a general Deſign of bringing in *Popery*; and in order to that, as the beſt and quickeſt Means to accompliſh it, to deſtroy the *King*. And without doubt, they were in the right for that matter: To deſtroy the *King*, was the moſt effectual Courſe to introduce *Popery* they could take. Whether they would do it, or no, is not now any Queſtion; but, How much Mr. *Langhorn*, the Priſoner at the Bar, is concerned in it? And that depends upon the Teſtimony of Witneſſes.

The Teſtimony that Mr. *Oates* gives againſt him, amounts but to thus much: *I cannot affirm*, ſays he, *that Mr.* Langhorn *was at the Conſult, on the* 24th *of* April, *at the* White-Horſe-*Tavern, where they Signed the Agreement to deſtroy the* King: *But this I can ſay, That the next Day, or within a Day or two, I went, by Order from the Fathers,* Whitebread *and* Harcourt, *to* Langhorn's *Chamber, and acquainted him with what they had Agreed upon.* And he ſwears, That Mr. *Langhorn* did lift up his Hands and Eyes, and pray to God to give them good Succeſs. He tells you further, That after ſome Talk with him, about bringing in of *Popery*, and deſtroying of the *King*, he had alſo Diſcourſe concerning ſeveral Commiſſions; that he ſaw about Seven or Eight of them, and that he told him, he had more: One for my Lord *Bellaſis*, to be General, and one for himſelf, to be Advocate General, with others; but thoſe, he ſays, he ſaw, and peruſed them: And tho' he does not know of the Delivery of thoſe ſeveral Commiſſions, yet he does know of the Delivery of one to his Son, to be carried to my Lord of *Arundel*'s Eldeſt Son: And he does ſay, That Mr. *Langhorn* did tell him, he had ſent it; and ſwears, that he had ſome Diſcourſe with him, concerning Killing the King.

Bedlow, he comes, and ſwears, That he was there twice, and that he ſaw him Tranſcribe Letters; and that the Effect of one of them was, That they were prepared with Arms, and all Things, but Money. That the Gariſons alſo were ready to be delivered up to them, but they ſtaid only for this, and Six Thouſand Pounds would do it, which the *Benedictines* were to raiſe. If that came, then there was nothing wanting. They had an eaſy King, whom they could deſtroy as they pleaſed; an Army in Readineſs, every thing in good Poſture, and no Time like this, to bring in Popery: Which Diſcourſe, he ſays, was before Mr. *Coleman*. Here is the Effect then of thoſe Letters which by him were written into a Book, and in which this Plot and this Contrivance was mentioned. Theſe were Tranſcribed by Mr. *Langhorn*, ſays he, while Mr. *Coleman* and I walked in his Chamber. I ſaw him write them. And he ſwears it.

Now the Matter is this; If theſe two Witneſſes do ſwear true, then is this Indictment of *Treaſon* highly Proved. For the contriving, *To bring in Popery*, *To Levy War*, and, *To Kill the King*, (which, when he was acquainted withal, he lift up his Hands and Eyes, and begg'd of God to give it good Succeſs; and which *Bedlow* ſays was the Effect of the Letters that he Tranſcribed into the Book,) Mr. *Langhorn* himſelf will not deny to be High Treaſon: And when this is Sworn here by Two Witneſſes, he muſt either Invalidate their Teſtimony, or acknowledge it Juſt, if you find him Guilty of the Indictment with which he is Charged. Now the Queſtion is, What Defence there is againſt it?

Mr. *Langhorn* ſays, If I can diſprove a Witneſs in any one material Thing that he ſays, then will it take off from his Credit in every thing he ſays. And firſt as to Mr. *Oates*; Saith he, I did know him, I muſt confeſs, but I never ſaw him ſince the Year 1677. The Thing that Mr. *Oates* charges him with, is in *April* or *May* 1678, or thereabouts. And Mr. *Langhorn* ſays, he never ſaw him ſince 77. Why Mr. *Oates*, ſaith he, was not here in *England*; and produces a great many Witneſſes, that came from Beyond Sea, to teſtify, That Mr. *Oates* was there in *April* and *May*, and longer. And whereas Mr. *Oates* ſays, That there came over in his Company with him, Sir *John Warner*, Sir *Thomas Preſton*, Mr. *Poole*, and others. He proves by ſome Witneſſes, that Mr. *Oates* was there both Months; and by others, that Sir *John Warner* was at *Watton*, and Sir *Thomas Preſton* at *Liege*, and *Poole* at St. *Omers*, at the Time that Mr. *Oates* ſays they came over with him: And this, ſays he, I hope will be plain Evidence why you ſhould not believe Mr. *Oates*; and the rather, becauſe theſe Witneſſes are ſuch, ſays he, as that I do not ſo much as know their Faces; and you will not preſume, that People to whom I am wholly a Stranger, ſhould come hither, from St. *Omers*, to teſtify a Lye for me.

In Anſwer to this, I ſay, 'Tis no good Argument for all that; for tho' I believe they are Strangers to him, they are not Strangers to the Errand they came about. They came to defend all the *Roman* Catholicks, whom we would hang here for a *Plot*; and they are ſent over for that Purpoſe, as far as their Teſtimony can go. How far that is, tho' they are not upon their Oaths, (for the Law will not permit it) I muſt ſay to you, in Favour of the Priſoner at the Bar, as I did to the Jury Yeſterday, You muſt not take it, therefore, as if it were meer Talk and no more; nor reject them too much becauſe they do not ſwear: They would ſwear, 'tis likely, if the Law would allow it. Only one Remark I muſt obſerve to you upon their own Evidence: The St. *Omers* Gard'ner (which is one of them) takes upon him to give a very exact Account of Mr. *Oates*, in the Months of *April* and *May*; but when I came to enquire, what he knew of him in the Months of *June* and *July*? he tells you, Thoſe were not the Months in Queſtion.

But on the other ſide, Did not the Principles of their Religion ſo teach, and make us to know, that they will not ſtick at any Wickedneſs to propagate it: Did not the beſt and chiefeſt Doctors of their Church Preach and Print it: Did not His Holineſs, the *Pope*, allow it; and never condemn any one Book in the World that hath aſſerted the Lawfulneſs of DEPOSING and KILLING KINGS, for ſeparating from their Religion: Did not they Teach and Practice all ſorts of Equivocations, and that a Lye does God good Service, if it be for the Propagation of the Faith: Were not theſe Young Boys capable of having this Doctrine inſtill'd into them; and, Were not they bred up in Colleges chiefly to ſerve that End; Then Mr. *Langhorn* had ſaid ſomething. Neither are theſe Things artificially objected againſt them, for the Doctrines of their Church are ſo Falſe and Pernicious,

Pernicious, ſo Deſtructive and ſo Bloody; and the Way they take to come off from all Vows, Oaths, and Sacraments, by Diſpenſations before-hand, or Indulgence and Pardons afterwards, is a Thing ſtill ſo much worſe, that they are really unfit for human Society. They ſhould get their Pope, if they would not have it thrown into their Diſh, and have it believed by us; I ſay, they ſhould get the Pope of *Rome* to Decry and Anathematize ſuch Doctrines of Depoſing and Killing Kings, and Diſcharging Subjects from their Allegiance: But that will never be; for His Holineſs, the *Pope*, will keep himſelf where he is, and will part with Nothing that he hath of Advantage over any.

Look you, Gentlemen, thus much I cannot omit, with a good Conſcience, to ſay, The Profeſſion, the Doctrines, and the Diſcipline of the Church of *Rome* is ſuch, that it does take away a great Part of the Faith that ſhould be given to theſe Witneſſes; nevertheleſs, we muſt be fair, and ſhould hear them, if we could not anſwer what they alledge, by Evidence to the contrary. Mr. *Oates* therefore, to juſtify himſelf, hath produced, I think, Seven or Eight Witneſſes, that do prove, that he was here in the latter end of *April*, and beginning of *May*, which does contradict all their Teſtimony, who does ſay, he was Abroad all along, from *December* to *June*, and that they ſaw him every other Day.

'Tis true, if we were certain that what theſe Young-Men ſpake, were indeed ſo as they ſay, it is impoſſible for Mr. *Oates*'s Teſtimony to be believed. If I were ſatisfied, that really and truly Mr. *Oates* was not here, but was Six Months together there, and that he hath invented this Story, and made this himſelf; I could no longer confide in the Man, nor find Mr. *Langhorn* Guilty: Yet is not the Time really the Subſtance of the Thing, tho' he hath made it ſo now, becauſe the Conſult was the 24th of *April*, at which he was preſent; and he did go, he ſays, to Mr. *Langhorn*, within a Day or two after, to acquaint him with the Reſolution of it.

To this End hath Mr. *Oates* produced Seven or Eight Witneſſes that ſaw him, as they ſwear. He hath produced a Miniſter, that ſays he ſaw him in a Diſguiſe, but having known him before, recollected him to be the Man. He hath produced a Woman that agrees with that Story; for ſhe ſays, that he came and talk'd with her about it, and told her then, that he had ſeen Mr. *Oates* the Day before, and gives you a Token why it was about that Time of the Year. Now, if this be not a new Matter, and new found out, this Woman (if ſhe ſwears true) does juſtify the other in what he did ſay a Year ago, when they could never imagine that any great Weight and Moment ſhould be laid upon that Accident of his ſeeing *Oates* in the Street. He hath produced to you the Coach-man of Sir *Richard Barker*, that ſays, he knew him well, when he came to his Maſter's Houſe. There he call'd him by his Name, That asking for Dr. *Tongue*, but not finding him within, he went away preſently; That he was in Diſguiſe; That they acquainted their Maſter with it, as ſoon as he came Home; and their Maſter ſays that ſo they did. And the Perſon that then lived in the Houſe, and now is dead, ſaid to the Maid, Yonder is Mr. *Oates*, I think he is either turned Quaker or Prieſt, what a Kind of Habit he is got into! No, ſaid the Maid, he can't be a Quaker, becauſe he wears a Periwig; but ſhe ſays, he named him to her, *Oates*, and that this is the Man, ſhe knew him ſince. 'Tis the ſame Man that the Young-Man ſpoke to her about.

He hath produced farther, one of their own Religion, one that is a Papiſt ſtill, and he ſays, he ſaw him twice at Mr. *Charles Howard*'s, in *Arundel*-Houſe. There was indeed ſome Perplexity, they would have put upon it, by reaſon of Mr. *Howard*'s Son being dead a Year before; but the Witneſs ſays he did not know the Son. A Papiſt he confeſſes himſelf expreſly to be, if not a Prieſt; and I would not ask him the Queſtion, becauſe 'tis not fair to make him accuſe himſelf: But he does ſwear expreſly, he ſaw Mr. *Oates* at Mr. *Charles Howard*'s, in *April* or *May*, which contradicts all their Witneſſes. He alſo produces a Schoolmaſter, that tells that he Dined with him the Beginning of *May*: And I remember it, ſays he, very well, for we dined by the Fire-ſide, which gave me occaſion to wonder at it, in *May*, and remember it. He ſays, moreover, that he ſtaid three or four Hours with him, and talk'd of all his Travels in *Spain*. Now muſt all theſe People be downright Perjured; it can be no Miſtake, but they are all falſly forſworn, if there be not Truth in it. And when here are Seven or Eight Witneſſes poſitively Swearing, againſt the Affirmation of ſo many others, we leave the Credit of both Sides to you, who are the Judges of the Fact.

There is indeed, (and I will repeat it for you, for I would not miſs any thing, as near as I can, that would make for the Priſoner's Advantage); there is a Proof concerning Sir *John Warner*, and *Preſton*, and *Poole*, that they were there at the Time, and there hath been no Anſwer given to it: But I ſay ſtill, 'tis the ſame Thing, for if you do not believe thoſe Witneſſes to ſpeak true, that affirm that *Oates* was there all the Time, but rather believe that he was here, by Seven or Eight People that teſtify it: I ſay, if you cannot believe he was there, you will never change your Mind for one Circumſtance, whether he came over with Sir *John Warner* and others, or not; for it is but a Circumſtance.

Langhorn. They are not the ſame Witneſſes.

L. C. J. 'Tis true, they are not; you have Four or Five Witneſſes that ſpeak apart; but two of them do ſay, that they knew *Oates* alſo was there at the ſame Time that they ſpeak that Sir *John Warner* was at home.

Langhorn. Not thoſe two of *Liege*, my Lord, about Sir *Thomas Preſton*.

L. C. J. No, they do not, for I leave it to you of the Jury, upon the whole Matter; there is little more to be ſaid by me. If ſo be Credit is to be given to theſe Witneſſes of *Oates*, more than to the others, then you muſt find him Guilty, and the rather, becauſe I do a little ſuſpect, they come over inſtructed, to ſay what they do. You find they apply themſelves to the Thing they came for, and not only the Gard'ner, but another could tell you (which hath a very great Influence upon me, as to their Credit) that the Months of *April* and *May* were the Months in *Queſtion*, and they were not to be Examined any farther. So that it looks as if theſe Young-Men were ſent of an Errand, and tho' you do not know them, Mr. *Langhorn*, and are innocent as to any tampering with them, yet I am afraid they are come to ſerve the Catholick Cauſe, as they call it. For they are very well taught, and they keep to thoſe Months of *April*

and

and *May*, of all the Months in the Year. Then they bring the Woman of the *White-Horse*-Tavern, where the Conſult of the 24th of *April* was; and what is the Uſe they would make of her? why, it is, that Mr. *Oates* ſhould make a Story of Fifty Fathers being in her Tavern at one Time (but he inſiſts now there was a matter of Twenty) when there was not a Room in her Houſe, that would hold Ten: But you hear how ſhe was anſwered, from Teſtimony riſing up in the Court of themſelves, that were acquainted with her Houſe, and know, that Forty People may Dine in two of her Rooms: And the King's Council obſerved well, how Chance it ſelf hath put to Silence this Evidence. So that when Matters are alledged to be done at *Home*, there is not ſo great a Difficulty as in proving Things that are done *Abroad*.

I leave it to you, Sirs. Here is a Gentleman that ſtands at the Bar, upon his Life, on the one Hand; but if Mr. *Oates* ſays true, all our Lives, and Liberties, our King, and Religion, are at the Stake, on the other Hand. God defend that innocent Blood ſhould be ſhed, and God defend us alſo from Popery, and from all Popiſh Plots, and from all the bloody Principles of Papiſts, which are very Cruel, as we know by Experience; and you cannot blame us to look to our ſelves. For I muſt tell you, the Plot is proved as plain as the Day, and that by *Oates*; and farther, *Oates*'s Teſtimony is confirm'd by that which can never be anſwered. For when he comes at his firſt Teſtimony, and ſays, that upon the 24th of *April*, ſuch a Conſult was Summoned, and Held, it falls out, that five Days after a Letter is found amongſt *Harcourt*'s Papers, (a principal Perſon in the Deſign,) which does order the Meeting upon the 24th of *April*, being the Day after St. *George*'s Feaſt, and gives them a Caution that they ſhould not come too ſoon to Town; that they ſhould not appear too much in *London*, for fear of diſcovering the *Deſign*, and of diſcloſing *That*, *the Nature of which requires Secrecy*. Plainer than this is hardly to be writ from a Jeſuit, eſpecially in ſo dangerous a Matter. And what can be anſwered to this Letter, that is found in a Prieſt's Hands, four Days after Mr. *Oates* had given in his Information about it?

Put all this together, and if you be ſatisfy'd herein, you may judge the better, as to the particular Buſineſs of Mr. *Langhorn*, how far the Teſtimony of *Oates* and *Bedlow* affect him. You know what you do. And for *Bedlow*, 'tis true, what he ſays, that there is nothing to be ſaid to his Evidence, becauſe no Man can prove a Negative; and he ſwears expreſly, that he had this Diſcourſe with him, of theſe Treaſonable Matters, Killing the King, and Altering Religion. If this be ſo, and you are ſatisfy'd in that particular, (and that a Man may very well be, as to the Subſtance,) I do not ſee any conſiderable Anſwer that is given. I ſay once more, there is the Life of a Gentleman at Stake, and there are all our Lives at the Stake: Follow you your Conſciences; do Wiſely, do Honeſtly, and conſider what is to be done.

L. C. J. *North*. With my Lord's Leave, becauſe there hath been mention made of this Letter, which goes much in Confirmation of Mr. *Oates*'s Teſtimony; it is in Court, but it hath not been produc'd at the Bar, I deſire it may, if your Lordſhip pleaſe.

Sir *Cr. Levins*. It is here in Court, my Lord, we will give your Lordſhip an Account how we came by it. Swear Sir *Thomas Doleman*. *Which was done.*

Sir *Cr. Levins*. Sir *Thomas*, did you find the Paper amongſt Mr. *Harcourt*'s Papers?

Sir *Thomas Doleman*. I found this Letter among the Papers of Mr. *Harcourt*, that were committed to my Search.

L. C. J. When did you find it, Sir?

Sir *Thomas Doleman*. It was ſome five or ſix Days after Mr. *Oates* had given in his Information to the King and Council.

L. C. J. Do you mark it, Gentlemen? After Mr. *Oates* had told the Council of the Conſult in the 24th of *April*, is this Letter found.

L. C. J. *North*. 'Tis in Confirmation of Mr. *Oates*'s Teſtimony.

Then the Letter was read, being the ſame with that in Page 292, *in the Trial of* Whitebread, Harcourt, *&c.*

L. C. J. This Letter is only as to the Plot in general, and not to be applied to Mr. *Langhorn* in particular.

Langhorn. Mr. *Oates* might very well be able to ſpeak of this Meeting of this Congregation, as they call it, before this Letter was taken, 'tis eaſy to believe, becauſe Mr. *Oates* being at St. *Omers*, I ſuppoſe the like Letters of Summons might come over to St. *Omers*, to fetch ſome of them over hither.

L. C. J. You ſay well, but if you have but the Luck to give me an Anſwer to a Thing or two, you'll have better Fortune, and more Skill than the *Prieſts*. 'Tis true, he might, perchance, know of the Conſult, if he were at St. *Omers:* But will you tell us what that *Deſign* was? And what is the meaning of the putting thoſe Words into the Letter, *That they ſhould not come too ſoon to* London, *nor appear too much about Town, for fear of diſcovering that Deſign*, which they knew required Secrecy in its own Nature?

Langhorn. My Lord, I will tell you what I take to be the Meaning of that Letter. The *Deſign*, was the holding of a Congregation: There were divers of them, and it was like the Meeting of a Dean and Chapter in a College, and he bids them not to come too long before the Time, for they were certainly in very great Danger to be Taken.

L. C. J. What! at that Time? What Danger were they in then?

Langhorn. Yes, my Lord, the Parliament was then ſitting.

L. C. J. But you know what Indulgence there was to all Papiſts at that Time, if they would be but quiet. Well, but put it all together, they were to come to *London*, *not too ſoon*, *nor to appear too much*, becauſe the Parliament was Sitting, *for fear of diſcovering the Deſign*. What, was that only for Mr. *Whitebread*, and his Fellows, to make an Officer! Can it be anſwered by that?

Langhorn. Certainly, their holding of a Congregation in *England* does require Secrecy.

L. C. J. Gentlemen, here is the Thing, this is only an Evidence to the Plot in general, that there is a Plot, and you may make what reaſonable Uſe you think fit of it. It is not a particular Evidence againſt Mr. *Langhorn*'s particular Perſon, only it ſhews there was a Plot, and you have heard what they ſay to him in particular about it. And I'll tell

tell you one Thing more, which, if *Oates* ſwears true, concerns you very much. He ſaith, they were a talking of the Ten Thouſand Pounds that Sir *George Wakeman* was to have for poyſoning the King, when their other Attempts had failed, and that he would not take under Fifteen Thouſand Pounds: You, Mr. *Langhorn*, was very angry, and ſaid it was a baſe, covetous Thing in him; and it being ſuch a publick Cauſe, it would have been no matter if he had done it for nothing. I have repeated as much as I can well remember, without any Prejudice to Mr. *Langhorn*'s Teſtimony. And ſo I leave it with you.

Then an Officer was ſworn to keep the Jury, who withdrew to conſider of their Verdict; and the Judges alſo went off from the Bench. The Lord Chief Juſtice telling the Auditory, that the Day being ſo far ſpent, and the Commiſſion determining that Night, becauſe of the Term, Sir Geo. Wakeman, *and the reſt, could not be Tryed till next Seſſions. And after a ſhort ſpace the Jury returned, and anſwering to their Names, delivered in their Verdict.*

Clerk of the Crown. Gentlemen, Are you all agreed of your Verdict?

Omnes. Yes.

Cl. of Cr. Who ſhall ſay for you?

Omnes. Foreman.

Cl. of Cr. Richard Langhorn, hold up thy Hand. Look upon the Priſoner: You of the Jury, How ſay you? Is he Guilty of the High Treaſon whereof he ſtands Indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What Goods or Chattels?

Foreman. None, to our Knowledge.

Cl. of Cr. Hearken to the Verdict, as the Court hath Recorded it: You ſay that *Richard Langhorn* is Guilty of the High Treaſon whereof he ſtands Indicted: But you ſay that he had no Goods or Chattels, Lands or Tenements, at the Time of the High Treaſon committed, or at any Time ſince, to your Knowledge. And ſo you ſay all?

Omnes. Yes.

Mr. Recorder. It is a Verdict according to the Juſtice of the Evidence.

Upon which there was a very great Shout.

Then Mr. Recorder ſent for the Priſoners Convicted before, to receive their Judgment; and they were brought to the Bar, and the Court proceeded thus:

Cl. of Cr. Richard Langhorn, hold up thy Hand: Thou ſtandeſt Convicted of High Treaſon; What canſt thou ſay for thy ſelf, why the Court ſhould not give Judgment on thee to Die, according to Law?

Langhorn. I have nothing to ſay.

Cl. of Cr. Thomas White, otherwiſe *Whitebread*, hold up thy Hand: Thou ſtandeſt Convicted, in *Middleſex*, of High Treaſon; What canſt thou ſay for thy ſelf, why the Court ſhould not give Judgment on thee to Die, according to Law?

Whitebread. I can ſay nothing.

Cl. of Cr. John Fenwick, hold up thy Hand: Thou art in the ſame Caſe with him that went laſt before thee; What canſt thou ſay, *&c.?*

Fenwick. I have nothing more to ſay.

Cl. of Cr. William Harcourt, hold up thy Hand; Thou art in the ſame Caſe with the Two that went laſt before thee; What canſt thou ſay, *&c.?*

Harcourt. I have nothing at all to ſay.

Cl. of Cr. John Gavan, hold up thy Hand: Thou art in the ſame Caſe with the Three that went laſt before thee; What canſt thou ſay, *&c.?*

Gavan. I have nothing more to ſay, than I did ſay. God bleſs the King, and the Kingdom.

Cl. of Cr. Anthony Turner, hold up thy Hand: Thou art in the ſame Caſe with the Four that went laſt before thee; What canſt thou ſay, *&c.*

Turner. I have nothing to ſay.

Cl. of Cr. Then, Cryer, make Proclamation of Silence while Judgment is given, upon pain of Impriſonment. *Which was done, on both ſides of the Court.*

Then Mr. Recorder gave the Judgment thus:

You, the Priſoners at the Bar: You have been ſeverally Arraigned, and now are ſeverally Convicted, of High Treaſon: And that attended with all the ill Circumſtances, that can be poſſible to aggravate ſo high a Crime. You attempted the Life of the beſt of Kings; who was full of Mercy and Compaſſion, even to You, under whom you might ſtill have lived peaceably and quietly, had not your own Malice and Miſchiefs prevented it. Nor were you ſatisfied with that alone; for you intended thereby to make way for the Deſtruction of the greateſt part of the Kingdom, by a publick Maſſacre, by cutting the Throats of all *Proteſtants*; for that alſo appears to be your Deſign: To effect which, the neareſt Way, and the beſt Means you could think of, was firſt to kill the King. And this was to be done, for the introducing of another Religion, as you call it; which, as we think, we more properly call Superſtition; and ſo root out the beſt Religion that is Eſtabliſhed amongſt us by Law. And I therefore call it the Beſt of Religions, even for your ſakes; for had it not been for the ſake of our Religion, that teaches us not to make ſuch Requitals, as yours ſeems to teach you, you had not had that fair formal Way of Trial, and of being Heard, as you now have been; but Murder would have been returned to you, for the Murder you intended to commit, both upon the King, and moſt of his People. What a ſtrange ſort of Religion is that, whoſe Doctrine ſeems to allow them to be the greateſt Saints in another World, that can be the moſt impudent Sinners in This? Murder, and the Blackeſt of Crimes here, are the beſt Means, among you, to get a Man to be Canonized a Saint hereafter. Is it not ſtrange, that Men profeſſed in Religion, that uſe all Endeavours to gain Proſelites for Heaven, ſhould ſo pervert the Scripture, (as I perceive ſome of you have done) and make That juſtify your impious Deſigns, of Aſſaſſinating Kings, and Murdering their Subjects? What can be ſaid to ſuch a ſort of People, the very Foundation of whoſe Religion is laid in Blood? Nay, leſt you ſhould not be able ſo eaſily to perſuade them ſo cleverly to imbibe thoſe Bloody Principles, you do Abſolve them from all the Obligations that they remain under, of Obedience to their Sovereign; you do therefore from the Pulpits publickly teach, That the Oaths of Allegiance and Supremacy, ſignify nothing. It's a

ſtrange Religion, that applies every thing to theſe wicked and deteſtable Purpoſes.

There is one Gentleman that ſtands at the Bar, whom I am very ſorry to ſee, with all my Heart, in this Condition, becauſe of ſome Acquaintance I have had with him heretofore: To ſee a Man who hath Underſtanding in the Law, and who hath arrived to ſo great an Eminency in that Profeſſion, as that Gentleman hath done, ſhould not remember, that 'tis not only againſt the Rules of all Chriſtianity, but even againſt the Rules of his Profeſſion, to attempt any Injury againſt the Perſon of the King. He knows, that it is againſt all the Rules of Law, to endeavour to introduce any Foreign Power into this Land. So that you ſinned both againſt your Conſcience, and your own certain Knowledge. But your ſeveral Crimes have been ſo fully proved againſt you, that truly, I think no Perſon that ſtands by, can be in any Doubt of the Guilt: Nor is there the leaſt room for the moſt ſcrupulous Man to doubt of the Credibility of the Witneſſes, that have been Examined againſt you: And ſure I am, you have been fully Heard, and ſtand fairly Convicted of thoſe Crimes you have been Indicted for.

I rather mention theſe Things to you, becauſe I know not whether you will think it neceſſary to have any Aſſiſtance, (I mean, ſuch Aſſiſtance as by the Law of the Land, is to be allowed to Perſons in your Condition, of any Proteſtant Divines, or of any other Proteſtants) to prepare you for another World. And tho' what hath been ſaid proceeds from a Lay-man, to you that are Profeſſed in Religion; yet I hope, it will not be thought amiſs, it being intended for your Advantage. Let that vaſt Eternity, that you are e're long to enter into, you are now on the Brink of it; I ſay, let that prevail with you to conſider, that there is a God in Heaven, who will call you to an Account for every one of thoſe private Conſultations, of which we can never come to any certain Knowledge. Tho' you have put all thoſe Obligations of Secrecy, upon your Party, which Religion could tye them by; tho' you give them the Sacrament, not only to oblige them to do wicked Acts, but to conceal them when they are done; yet remember, there is a God in Heaven, from whom you cannot keep them ſecret. All your Ties and Obligations, all the Diſpenſations that you can give to your Inferiors, or your Superiors to you, will never diſpenſe with that Account you are to give to the Great God of Heaven.

Gentlemen, with great Charity to your immortal Souls, I deſire you, for the Love of God, and in the Name of his Son Jeſus Chriſt, Conſider theſe Things; for it will not be long e're you be Summon'd before another Tribunal about them: And Great and Dreadful is the Day of Judgment, at which You and all Men muſt appear.

And I hope all Perſons that ſtand by, will take Notice, that it is not the Principles of the Proteſtant Religion, to Murder any, (let it be upon their own Heads that profeſs it) for we abhor theſe Things. And we hope theſe publick Teſtimonies of our Religion, and this fair ſort of Trial, will not only confirm thoſe that are Proteſtants now, but will prevail upon thoſe whom they have inveigled into their Perſuaſion, to deſert ſuch a Religion, till ſuch time as they alter their Principles, from the Bloodineſs and Inhumanity they are ſtained with, and which theſe Men have inſtilled into all their Proſelites. And this I thought fit to premiſe to you in great Compaſſion and Charity. And I pray God it may have that Effect which I deſigned; that is, that it may put you in Mind of that Great Immortality that you are to enter upon e're long. And thus, having given you this Hint, and the Law having had its Courſe upon you, you have been fairly Tried, fully Heard, and have nothing to ſay, why that Judgment ſhould not be pronounced, which the Law hath deſigned againſt ſuch Offenders: I am, therefore, in the Name of the Court, to do the Duty which the Law requires of the Court; and I do, in the Name of the Court, pronounce this to be your Sentence:

That you be conveyed from hence to the Place from whence you came, and from thence you be drawn to the Place of Execution, upon Hurdles; That you be there ſeverally hang'd by the Neck; That you be cut down Alive; That your Privy Members be cut off; That your Bowels be taken out, and burnt in your View; That your Heads be ſever'd from your Bodies; That your Bodies be divided into four Quarters, and your Quarters to be at the King's Diſpoſe. And the God of infinite Mercy be merciful to your Souls.

After which there was a very great Acclamation.

Whitebread. My Lord, ſince we have not long to live, we deſire we may have the Benefit of the Company of our Friends, that they may be permitted to come at us.

Mr. Recorder. Yea, 'tis fit they ſhould have the Comfort of their Friends and Relations; and God forbid, but we ſhould do all we can to make their Paſſage as comfortable as may be. You muſt keep that Decorum that becomes ſuch as are in your Condition. You know you are under the publick Notice of the World, therefore you muſt uſe the Liberty that is granted to you with that Moderation and Prudence, that 'tis fit to uſe ſuch a Priviledge with; for I ſhall not deny you any lawful Favour.

Langhorn. Sir, there will be more People come to me than ordinary, in Regard of their Buſineſs, that I have had in my Hands; I deſire they may have the Liberty to come to me.

Mr. Recorder. I would not deny Mr. *Langhorn* any thing that I could grant him: If it be any Buſineſs that any Perſon would have an Accompt of, which you have been concern'd in for them, they may be permitted to come to you.

Capt. *Richardſon.* There is no Body to be in private with him, to ſay any Thing but what I ſhall hear?

Langhorn. Yes, my Lord, I hope my Wife and Children may.

Mr. Recorder. Yes, God forbid but he ſhould have his Wife and Children with him.

Langhorn. Or any others, that come about Buſineſs?

Mr. Recorder. Yes, Captain, with the Caution I have given you.

Then the Court Adjourned for London, *to* Guild-Hall, *the* 14th *of* July; *and for* London *and* Middleſex, *in the* Old-Baily, *the* 16th *of* July *next. And the Priſoners were carried back to the Goal.*

The

The Tryals of Sir GEORGE WAKEMAN, *Baronet*, WILLIAM MARSHAL, WILLIAM RUMLEY, *and* JAMES CORKER, Benedictine *Monks.*

Publiſhed by Authority.

UPON *Friday* the 18th of *July*, 1679, at the Seſſions-Houſe in the *Old-Baily*, *London*, the Court being met, and Proclamation made for Attendance, the Trials proceeded thus:

Clerk of the Crown. Set Sir *George Wakeman*, *William Marſhal*, and *William Rumley* to the Bar.

Sir *George Wakeman*, hold up thy Hand. *Which he did.* *And ſo of the other Two.*

You ſtand Indicted, by the Names of Sir *George Wakeman*, late of the Pariſh of St. *Giles in the Fields*, in the County of *Middleſex*, Bar. *William Marſhal*, of the ſame Pariſh and County, Gentleman, and *William Rumley*, of the ſame Pariſh and County, Gentleman.

For that you, as falſe Traitors againſt the moſt Illuſtrious, Serene, and moſt Excellent Prince, Charles *the Second, by the Grace of God, of* England, Scotland, France *and* Ireland, *King, Defender of the Faith,* &c. *your Supream and Natural Lord; the Fear of God in your Hearts not having, nor weighing the Duty of your Allegiance, but being moved and ſeduced, by the Inſtigation of the Devil; and the cordial Love, true, due, and natural Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King do, and of Right ought, to bear towards Him, our ſaid Sovereign Lord the King, utterly withdrawing and endeavouring, and intending, with all your Strength, the Peace and common Tranquility of this Kingdom of* England *to diſturb, and the true Worſhip of God within this Kingdom of* England *uſed, and by the Laws of the ſame eſtabliſhed, to Overthrow, and the Government of this Realm to Subvert, and Sedition and Rebellion, within this Kingdom of* England, *to Move, Stir up, and Procure, and the cordial Love, true, due, and natural Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King, ought, and of Right are bound, to bear towards Him, our ſaid Sovereign Lord the King, wholly to Withdraw, Put out, and Extinguiſh, and Him, our ſaid Sovereign Lord the King, to Death and Final Deſtruction to Bring and Put, You, the ſaid Sir* George Wakeman, William Marſhal, *and* William Rumley, *the* 30th *Day of* Auguſt, *in the Thirtieth Year of the Reign of our ſaid Sovereign Lord King* Charles *the Second, at the Pariſh of St.* Giles in the Fields, *aforeſaid, in the County aforeſaid, falſly, maliciouſly, ſubtilly, adviſedly, and traiterouſly did purpoſe, compaſs, imagine and intend, Sedition and Rebellion, within this Kingdom of* England, *to move, ſtir up, and procure, and miſerable Slaughter among the Subjects of our ſaid Sovereign Lord the King, to cauſe and procure, and our ſaid Sovereign Lord the King, from his Royal State, Title, Power and Government of his ſaid Kingdom of* England, *wholly to deprive, depoſe, caſt down, and diſinherit, and Him, our ſaid Sovereign Lord the King, to Death and final Deſtruction to bring and put, and the Government of this Kingdom of* England, *and the ſincere Religion of God, within the ſame rightly and by the Laws of the ſame Eſtabliſhed, at your Will and Pleaſure to Change and Alter; and the State of this whole Kingdom of* England, *through all its Parts well Inſtituted and Ordained, wholly to Subvert and Deſtroy; and War againſt our ſaid Sovereign Lord the King, within this Kingdom of* England *to Levy; and to accompliſh and fulfil thoſe your moſt wicked Treaſons, and traiterous Imaginations and Purpoſes, You, the ſaid Sir* George Wakeman, William Marſhal, *and* William Rumley, *and other falſe Traitors unknown, the aforeſaid* 30th *Day of* Auguſt, *with Force and Arms at the Pariſh aforeſaid, in the County aforeſaid, maliciouſly, ſubtilly, adviſedly, and traiterouſly did aſſemble, unite, and gather your ſelves together; and then and there, falſly, maliciouſly, ſubtilly, adviſedly, deviliſhly and traiterouſly did conſult, conſent and agree, our ſaid Sovereign Lord the King, to Death and final Deſtruction to bring and put; and the Religion within this Kingdom of* England *rightly and by the Laws of the ſame Eſtabliſhed, to Change and Alter to the Superſtition of the Church of* Rome; *and to move, procure, and perſwade them, the ſaid* William Marſhal, William Rumley, *and other falſe Traitors unknown, the Agreement aforeſaid to fulfil and accompliſh, You, the ſaid Sir* George Wakeman, *after, to wit, the ſaid* 30th *Day of* Auguſt, *in the Pariſh aforeſaid, in the County aforeſaid, to them the ſaid* William Marſhal, William Rumley, *and other falſe Traitors unknown, did traiterouſly promiſe to give your Aſſiſtance, the Government of this Kingdom to ſubvert, and the True Worſhip of God, in this Realm rightly and by the Laws thereof Eſtabliſhed and Uſed, to the Superſtition of the Church of* Rome *to alter: And that You, the ſaid Sir* George Wakeman, *then and there, falſly, maliciouſly, ſubtilly, adviſedly, deviliſhly and traiterouſly, did undertake to Kill and Murder our ſaid Sovereign Lord the King: And in further Proſecution of the Treaſons, traiterous Conſpiracies, Intentions and Agreements aforeſaid, You, the ſaid Sir* George Wakeman, *the ſaid* 30th *Day of* Auguſt, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, traiterouſly, and againſt the Duty of your Allegiance, did receive and had (from a certain*

tain Perſon unknown, pretending to be Provincial of the Jeſuits in England, *and claiming Authority for the Granting Commiſſions in that Part from the See of* Rome,) *one Commiſſion to inſtitute and authorize you the ſaid Sir* George Wakeman *to be Phyſician-General of the Army, to be raiſed for the waging War againſt our ſaid Sovereign Lord the King within this Kingdom of* England, *and the ſame Commiſſion then and there falſly, adviſedly, maliciouſly and traiterouſly did inſpect and read over, and traiterouſly did keep in your Poſſeſſion, and to the ſame falſly, knowingly, adviſedly and traiterouſly did conſent and agree, with that Intention, that you the ſaid Sir* George Wakeman *ſhould have, receive and exerciſe the Place and Office of Phyſician-General of the Army aforeſaid, when you the ſaid Sir* George Wakeman, William Marſhal, William Rumley, *and the ſaid other falſe Traitors unknown, ſhould have performed and accompliſhed your Treaſons, Compaſſings, Imaginations, Purpoſes, and Traiterous Agreements aforeſaid. And that you the ſaid* William Marſhal *and* William Rumley, *in further proſecution of your Treaſons, Traiterous Conſpiracies, Intentions and Agreements aforeſaid, the ſaid* 30th *Day of* Auguſt, *in the Pariſh aforeſaid, in the County aforeſaid, did falſly, ſubtilly and traiterouſly conſult, conclude, conſent and agree, that you the ſaid* William Marſhal, William Rumley, *and other falſe Traitors unknown, ſhould pay the Sum of* 6000 *l. towards furthering and conſummating the Traiterous Agreements aforeſaid, amongſt the ſaid falſe Traitors had, our ſaid Sovereign Lord the King to kill and murther, the true Worſhip of God within this Realm rightly and by the Laws of the ſame eſtabliſhed, to the Superſtition of the Church of* Rome *to alter, and the Government of this Kingdom of* England *to ſubvert, againſt the Duty of your Allegiance, againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity, and againſt the form of the Statute in this Caſe made and provided.*

Cl. of Cr. How ſay'ſt thou Sir *George Wakeman*, art thou Guilty of this High Treaſon whereof thou ſtandeſt Indicted or not Guilty?

Sir *George Wakeman*, Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Sir *George Wakeman.* By God and my Country.

Cl. of Cr. God ſend thee a good Deliverance. (And ſo the other Two.)

Cl. of Cr. Set *James Corker* to the Bar, (who was arraigned and pleaded the laſt Seſſions.) *James Corker*, hold up thy Hand. You the Priſoners at the Bar, Sir *George Wakeman*, *William Rumley*, *William Marſhal* and *James Corker*, Thoſe Men that you ſhall hear called and perſonally appear, are to paſs between our Sovereign Lord the King and you, upon Trial of your ſeveral Lives and Deaths; If therefore, you or any of you will challenge them, or any of them, your time is to ſpeak unto them as they come to the Book to be ſworn, and before they be ſworn. Call *Ralph Hawtrey* Eſq; who appeared, and there being no Challenges the Twelve that were Sworn are as follows.

JURY.

Ralph Hawtrey of *Riſlipp*, Eſquire.
Henry Hawley of *New-Brentford*, Eſq;
Henry Hodges of *Hanwell*, Eſq;
Richard Downton of *Iſleworth*, Eſq;
John Bathurſt of *Edmunton*, Eſq;
Robert Hampton of *Greenford*, Eſq;
William Heydon of *Greenford*, Eſq;
John Baldwyn of *Hillingdon*, Eſq;
Richard Dobbins of *Harvile*, Eſq;
William Avery of *Enfield*, Eſq;
Richard White of *Cripplegate*, Gent.
William Wayte of St. *Clement Danes*, Gent.

Cl. of Cr. Cryer count theſe. *Ralph Hawtrey.*

Cryer. One *&c.*

Cl. of Cr. Richard White.

Cryer. Twelve good Men and True, ſtand together and hear your Evidence.

Then the uſual Proclamation for Information was made, and the Priſoners being bid to hold up their Hands, the Clerk of the Crown charged the Jury with them thus.

Cl. of Cr. You of the Jury, look upon the Priſoners, and hearken to their Cauſe. They ſtand Indicted by the Names of *(prout in the Indictment mutatis mutandis)* and againſt the form of the Statute in that Caſe made and provided: And he the ſaid *James Corker*, ſtands Indicted by the Name of *James Corker* of the Pariſh of St. *Giles in the Fields*, in the County of *Middleſex* Clerk;

For that he with Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *as a falſe Traitor againſt the moſt Illuſtrious, moſt Serene and moſt Excellent Prince,* Charles *the Second, by the Grace of God of* England, Scotland, France, *and* Ireland, *King, Defender of the Faith,* &c. *his Supream and Natural Lord; not having the Fear of God in his Heart, nor weighing the Duty of his Allegiance, but being moved and ſeduced by the Inſtigation of the Devil, the Cordial Love, true, due, and natural Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King, towards him ſhould, and of right ought to bear, wholly withdrawing; and deviſing, and withall his Strength, intending the Peace and common Tranquility of this Realm to diſturb, and the true Worſhip of God within this Kingdom of* England *uſed, and by the Law Eſtabliſhed, to overthrow, and the Government of this Realm to Subvert, and Sedition and Rebellion within this Kingdom of* England, *to move, ſtir up and procure, and the Cordial Love, and true, and due Obedience which true and faithful Subjects of our ſaid Sovereign Lord the King, towards him ſhould, and of right ought to bear, utterly to withdraw, put out, and extinguiſh, and our ſaid Sovereign Lord the King to Death and final Deſtruction to bring, and put, on the Four and Twentieth Day of* April, *in the Thirtieth Year of the Reign of our ſaid Sovereign Lord, King* Charles *the Second, at the Pariſh of* St. Giles in the Fields, *in the County of* Middleſex *aforeſaid; He the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *with diverſe other falſe Traitors Subjects of our ſaid ſovereign Lord the King, to the Jurors unknown, falſly, ſubtilly, adviſedly, maliciouſly, and traiterouſly, did purpoſe, compaſs, imagine, and intend Sedition and Rebellion within this Kingdom of* England, *to move, ſtir up, and procure, and a miſerable Slaughter among the Subjects of our ſaid Sovereign Lord the King, to procure, and cauſe, and our ſaid Sovereign Lord the King, of his Kingly State, Title, Power and Government of his ſaid Kingdom of* England, *utterly to deprive, depoſe, caſt down, and diſinherit, and him our ſaid Sovereign Lord the King, to Death and final Deſtruction, to bring, and put, and the Government of this Kingdom of* England, *and the Sincere Religion of God within the ſame, rightly, and by the Laws of the ſame Eſtabliſhed, at his will and pleaſure, to change and alter, and the State of this whole Kingdom*

dom of England, *thro' all its parts well Inſtituted and ordained, wholly to ſubvert, and deſtroy, and War, within this Kingdom of* England, *againſt our ſaid Sovereign Lord the King, to levy: And to accompliſh, and fulfill their ſaid moſt wicked Treaſons and Traiterous Imaginations and Purpoſes; He the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *and other falſe Traitors againſt our ſaid Sovereign Lord the King, to the Jurors unknown, the ſaid Four and Twentieth Day of* April, *with Force and Arms, &c. in the Pariſh aforeſaid, and County aforeſaid, falſly, maliciouſly, ſubtilly, adviſedly, devilliſhly, and traiterouſly did aſſemble, unite and gather together, and then and there, falſly, maliciouſly, ſubtilly, adviſedly, devilliſhly, and traiterouſly did conſult, conſent, and agree, our ſaid Sovereign Lord the King, to Death and final Deſtruction, to bring and put, and the Religion of this Kingdom of* England, *rightly, and by the Laws of the ſame Eſtabliſhed, to the Superſtition of the* Romiſh Church, *to change and alter, and the Government of this Kingdom of* England, *to Subvert; and that one* Thomas Pickering, *and one* John Grove, *ſhould Kill and Murder our ſaid Sovereign Lord the King, and that he the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *and other Falſe Traitors, againſt our ſaid Sovereign Lord the King, to the Jurors unknown, ſhould therefore ſay, celebrate, and perform, a certain Number of Maſſes, then and there amongſt themſelves agreed on, for the Soul of the ſaid* Thomas Pickering, *and for that Cauſe, ſhould pay to the ſaid* John Grove, *a certain ſum of Money, then and there amongſt themſelves agreed on; and that he the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *and other Falſe Traitors to the Jurors unknown, in further proſecution of the Treaſons and Traiterous Conſultations and Agreements aforeſaid; afterwards the ſaid Four and Twentieth Day of* April, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, ſubtilly, adviſedly, maliciouſly, devilliſhly, and traiterouſly, did ſeverally each to the other engage themſelves, and upon the Sacrament Traiterouſly did ſwear and promiſe, to conceal, and not to divulge the ſaid moſt wicked Treaſons, and Traiterous Compaſſings, Conſultations, and Purpoſes aforeſaid amongſt themſelves, had Traiterouſly to kill and murder our ſaid Sovereign Lord the King, and to iutroduce the* Romiſh Religion *within this Kingdom of* England, *and the true reformed Religion within this Realm, rightly, and by the Laws of the ſame Eſtabliſhed, to alter and change; and that he the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *and other Falſe Traitors to the Jurors unkuown, in further proſecution of their ſaid Treaſons and Traiterous Intentions and Agreements aforeſaid, afterwards the ſaid Four and Twentieth Day of* April, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, ſubtilly, adviſedly, maliciouſly, devilliſhly, and Traiterouſly, did prepare, perſwade, excite, abet, comfort, and counſel, four other Perſons to the Jurors unknown, Subjects of our ſaid Sovereign Lord the King, Traiterouſly our ſaid Sovereign Lord the King, to kill and murder, againſt the Duty of his Allegiance, againſt the Peace of our Sovereign the King, his Crown and Dignity, and againſt the form of the Statute in that Caſe, made and provided.*

Upon theſe ſeveral Indictments they have been Arraigned, and thereunto have ſeverally pleaded, Not Guilty, and for their Trial put themſelves on God and their Country, which Country are you. Your Charge is to enquire, whether they be Guilty of the High Treaſon whereof they ſtand Indicted, in Manner and Form as they ſtand Indicted, or not Guilty, *&c.*

Then Edward Ward, *Eſq; of Council for the King in this Cauſe, opened the Indictment thus.*

Mr. *Ward.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury. Sir *George Wakeman* Bar. *William Marſhal*, and *William Rumley*, the Priſoners at the Bar ſtand Indicted; for that they as falſe Traitors againſt our Sovereign Lord King *Charles* the Second, their Supream and Natural Lord, not having the Fear of God before their Eyes; did traiterouſly endeavour and intend with all their ſtrength, the Peace and Tranquility of this Kingdom of *England*, to diſturb, and the Worſhip of God in the ſame rightly, and by the Laws of the ſame Eſtabliſhed, and the Government of the Kingdom in all its parts well inſtituted and ordered, to ſubvert and overthrow, and Sedition and Rebellion within the ſame, to move and procure, and to bring and put the King to Death and final Deſtruction; and to that Purpoſe the 30th of *Auguſt*, in the 30th Year of the King that now is, they did falſly, maliciouſly, ſubtilly, adviſedly, and traiterouſly compaſs, imagine, intend, and deviſe, thoſe things that I have enumerated to you; that is Sedition and Rebellion in the Kingdom to move, the Peace and Tranquility of the ſame to diſturb, the Worſhip of God to overthrow, and the King from his Royal State, Title, Power, and Government, wholly to depoſe, and to put the King to Death and final Deſtruction, and the Religion at their Wills and Pleaſures to alter, and to Introduce the *Romiſh* Superſtition, and War within the Kingdom to Levy againſt our Sovereign Lord the King. And to accompliſh theſe Treaſons and Purpoſes, they the Priſoners at the Bar, with other falſe Traitors unknown, the Day and Year beforementioned, did aſſemble and meet together, and did then and there conſent and agree to put the King to Death and final Deſtruction. And to perſwade *Marſhal*, and *Rumley*, to theſe Treaſons, the ſaid Sir *George Wakeman* promiſed his Aſſiſtance; firſt, to ſubvert the Government, and then to alter the Religion to the *Romiſh* Superſtition, and Traiterouſly undertook to kill the King: and he did receive for that Purpoſe, from the pretended Provincial of the Jeſuits in *England*, (who claimed an Authority from the *See* of *Rome*, of granting out Commiſſions) a Commiſſion which conſtituted him Phyſician-General of the Army; which Army was to be raiſed for the levying of War againſt the King, and the Subverſion of the Government and Religion: That he read this Commiſſion, that he kept it in his poſſeſſion, that he conſented to it, accepted it, and intended to execute the Employment, when their Deſigns were accompliſhed. The Indictment further ſets forth, that *Marſhal*, and *Rumley*, and other falſe Traitors, agreed to pay the Summ of 6000*l.* for the carrying on and effecting of this Treaſon; and this is laid, to be againſt the Duty of their Allegiance, againſt the King's Peace, Crown, and Dignity, and againſt the Form of the Statute. To this Indictment, they have pleaded, Not Guilty; if we make out theſe Crimes againſt them or any of them, you are to find them Guilty.

There

There is also another indicted, that is *James Corker*; For that he as a false Traitor against the King, and withdrawing his Allegiance, and due and natural Obedience, which he owed to him, as his Sovereign, together with other Persons there mention'd, *White*, *Fenwick*, *Harcourt*, *Gavan*, and *Turner*, did intend to overthrow the Religion, to subvert the Government, and to do all those Treasons that I have here enumerated, and that they did the 24th. of *April*, in the 30th Year of this King, at the Parish of *St. Giles in the Fields* in your County, compass, and imagine the King's Death, levying of War, and those other Things; and in order thereunto, they did contrive that *Pickering* and *Grove* should kill the King, and that *Corker* and the Others should say Masses for the Soul of *Pickering*, and should pay *Grove* a sum of Money. That to this they plighted their Faith and received the Sacrament upon it: And that *Corker* and the others the Day and Year aforesaid, traiterously perswaded, excited and abetted Four other Persons to Murder the King. To this he hath pleaded not Guilty, if we prove him Guilty of any of these things, we hope you will find it so.

Then Sir Robert Sawyer, *one of the King's Learned Council in the Law, opened the Charge thus.*

Sir *Robert Sawyer*. My Lord, and you Gentlemen of the Jury, The Prisoners at the Bar with whom you are charged, stand Indicted as principal Actors and Instruments of that late most Catholick and Bloody Plot sometime since discovered; and I hope, by the Blessing of Almighty God, in a great measure prevented. The Design, Gentlemen, was against the King and the Church; both Church and State were too little a Sacrifice to be offered up to the universal Supremacy of *Rome*. They well knew, Gentlemen, that so long as God should preserve the Life of our Prince, and as long as those Legal Pales, wherewith the Church of *England* is encompassed, did but continue firm, neither the Gates of Hell nor *Rome* could prevail against it. And I wish that all Protestants were of the same Mind.

I shall not enter now into any large Discourse of it, nor trace the several Steps of this Plot, which is so well known to all Men of this Nation at this Day, but only touch upon those Parts of it that do concern the Prisoners now at the Bar, unless they shall give me occasion to recurr to any former Passages. Gentlemen, we shall make Proof to you, that the 24th of *April*, 1678, there was a very great Consult of a numerous Company of Jesuits here in *London*; and there was the foundation laid, or at least the execution was then determined of bringing this Plot to its accomplishment. To this Consult we shall make it appear, that the Gentlemen at the Bar were privy and consenting to it. The King must die, that is resolved on, and you have heard formerly of the several Ways that it was to be acted; some Persons were designed to shoot him, these have received their Trial and condign Punishment; then there was another Sett, and they were to Stab him, and some of these have been brought to Justice too; but then there was a third Sort, (for they did invent all the imaginable ways of Death) and that was Poysoning; and that will come principally before you at this time. And they had chosen out a very proper Instrument for it, a Gentleman whose Experience rendred him able, and whose near relation to and dependance upon the Royal Family, gave him a great opportunity to commit that Horrid Crime. But, Gentlemen, tho' his Perswasion might go a great way, yet he would not do it *Gratis*, and thereupon he must be hired for a great Summ of Money, not under 15000 *l.* and then he undertook that great Employment.

We shall prove to you, that this was his Bargain, that part of his Wages he had received, for he would be sure of something in Hand before the Work were done. We shall make it appear, Gentlemen, that he was privy also to the Consult (for I apply my self at present peculiarly to him) and approved of it. And as a further Reward besides that of Money, he was to be preferred to be Physician-General of the Army that was then to be raised, that Employment was designed for him; nay, he accepted of the Commission, as we shall endeavour to prove to you.

We shall also prove, that the other Gentlemen at the Bar, the other Malefactors that stand there, were privy to the great Consult of the Death of the King. That there was 6000 *l.* which was to be furnished by the *Benedictine Monks*, for tho' the Jesuits were the great Engineers, yet all the other Orders were to contribute, and 6000 *l.* was to be furnished by them. And in the course of our Evidence we shall give you several Instances which will concern all these particular Prisoners now at the Bar; and One truly that there was such a Design of Poysoning, which is very remarkable, and that was from a very great Engineer that hath suffered already, and that was Mr. *Ireland*, and and wherein I must desire that you would observe another thing that falls out very materially, that tho' Mr. *Ireland*, at the time of his Death, and all along, disowned that he was here in *London* in *August*, and with great Asseverations did affirm it; it will appear by the course of our Evidence that he was here in *London* then, and had frequently Discourses that it was an easie matter to take off the King by Poyson: And for that purpose do I mention it to you as an Instance that Poyson was one of the great ways that they intended to murther the King by. And, Gentlemen, you will collect from that Evidence, what credit is fit to be given to the words of such dying Men, and whether living Witnesses that are upon their Oaths, are not rather to be believed, than those whose concern it is for more Reasons than one to perswade the People that they are innocent. And you will likewise collect, that those who have lived in the Sin of committing such horrid Crimes as these are, will not stick to protect that same Church (which they would propagate by those Crimes) by denying the plainest Truth.

We will not trouble you any farther with the opening of the Evidence, because the Witnesses are many and their Testimony various, but we shall call our Witnesses and let them tell it you themselves.

Mr. *Ward*. Call Dr. *Oates*, Mr. *Bedlow*, Mr. *Dugdale*, Mr. *Jennison*, and Mr. *Prance*, (who were all Sworn, and Mr. *Dugdale* set up.)

Sir *Robert Sawyer*. Gentlemen, we call first Mr. *Dugdale* to give you a general account of the Plot, not so much for the proof of the things here charged particularly on the Prisoners, as the general Design.

Mr. *Ward*.

Mr. *Ward.* Pray, Sir, ſpeak your knowledge of what you know concerning the Plot in general.

Mr. *Dugdale.* I have for this ſeven Years known ſomething of it, but nothing particularly till within theſe two Years. About two Years ſince it was communicated to me by Mr. *Ewers*, Mr. *Gavan*, Mr. *Peters*, Mr. *Lewſon*, and ſome other Prieſts which I cannot now remember their Names, and they did perſwade me to be of the management of the Buſineſs, for the carrying on of the Deſign, for the introducing their Religion, and for the killing of the King and the Duke of *Monmouth*; both thoſe two things were communicated to me, upon my Oath, by Mr. *Gavan*, Mr. *Ewers*, Mr. *Peters*, Mr. *Lewſon*, and my Lord *Stafford.*

Mr. Juſtice *Atkins.* What, Mr. *Gavan* that was executed you mean?

Mr. *Dugdale.* Yes, he was the Man: I have had ſeveral Pacquets of Letters which concerned the Plot: All the Letters that came from Mr. *Hartourt*, or from any others concerning the Plot, were directed to me: I have had ſometimes eight, ſometimes nine, ſometimes more Letters at a time, but I never ſaw any, almoſt, but they all tended to the carrying on of this Deſign.

Lord Chief Juſtice, (Sir *William Soroggs.*) Did they ſhew you theſe Letters, or did you open them?

Mr. *Dugdale.* I did open ſeveral of them, a great many, and ſome of them that I could not handſomely ſeal up again, I kept.

L. C. J. They did not know you opened them?

Mr. *Dugdale.* No, they did not all the time.

L. C. J. To what Purpoſe did they write?

Mr. *Dugdale.* My Lord, they were to give Inſtructions to Mr. *Ewers* how he ſhould manage the Affairs for carrying on the Deſign, how he muſt go about for the Raiſing of Money, and for the ingaging the Gentlemen in the Country, as particularly Mr. *Gerard* of *Hilderſon*, and Mr. *Howard* of *Horecroſs*, and Sir *James Simons* and one Gentleman that is dead, one Captain *Atherley* and ſeveral other Gentlemen were engaged in it, to be Officers when they had accompliſhed their buſineſs of Killing the King.

Sir *Robert Sawyer.* You ſay they were to be Officers, what were they to be military Officers, or what?

Mr. *Dugdale.* Yes, they were to be military Officers.

Sir *Robert Sawyer.* Was there an Army to be raiſed?

Mr. *Dugdale.* Yes, there was an Army ſpoken of to be raiſed.

Sir *Robert Sawyer.* By whom?

Mr. *Dugdale.* There was Money ready in *July* laſt, for I ſaw Acquittances that came from St. *Omers* that the Money was paid. But then there was Caution given to be ſure not to make any Rumor of Arms or any thing, till the King was diſpatched.

L. C. J. Did they write that in a Letter?

Mr. *Dugdale.* They writ that in a Letter directed to me.

L. C. J. To you?

Mr. *Dugdale.* Yes, to me.

L. C. J. Who writ that Letter?

Mr. *Dugdale.* My Lord, truly I cannot be certain at preſent who it was, but upon recollection I can, may be, remember who it was: but it contained that there ſhould be Caution given to all, to be ſure that none ſhould mention Arms, or any thing till the King was diſpatched.

Sir *Rob. Sawyer.* From whence did that Letter come Mr. *Dugdale?*

Mr. *Dugdale.* It came from Mr. *Harcourt* I am certain, and in Mr. *Grove's* Pacquet, but I am not certain of the Perſon that writ the Letter, but I can recollect hereafter perhaps who it was.

L. C. J. Did it come from beyond Sea or *London?*

Mr. *Dugdale.* It came from *London*, but I ſuppoſe it came thither from beyond Sea.

L. C. J. The Letter came to you, you ſay, was it dated from any place, and what?

Mr. *Dugdale.* I am not certain whether it was dated from any Place, there were ſeveral Letters that came from all Parts, ſome from St. *Omers*, ſome from *Paris*, ſome from *Rome.*

Sir *Rob. Sawyer.* Pray what do you know of any Correſpondence that was between your principal Agents in *Staffordſhire*, and thoſe Conſpirators here at *London.*

Mr. *Dugdale.* Yes, there was a Correſpondence between them.

L. C. J. Between whom? Name them.

Mr. *Dugdale.* Betwixt Mr. *Ewers*, Mr. *Gavan*, and Mr. *Vavaſor*, theſe were in *Staffordſhire*; and betwixt Mr. *Ireland*, Mr. *Harcourt*, Mr. *Fenwick* and Mr. *Grove*, theſe I know,

L. C. J. Where were theſe laſt?

Mr. *Dugdale.* In *London* theſe Perſons were, they did write conſtantly three times a Week Letters into *Stafford-ſhire* about this buſineſs.

L. C. J. But pray was there any thing mentioned in any of theſe Letters concerning killing the King.

Mr. *Dugdale.* Yes, there was.

L. C. J. Was there any thing plain of that in thoſe Letters?

Mr. *Dugdale.* There was in one from Mr. *Whitebread.*

L. C. J. What did that Letter ſay?

Mr. *Dugdale.* There was one from him that did give a Caution to Mr. *Ewers*, that he ſhould be ſure to chooſe no Perſons but ſuch as were ſtout and hardy, or to that Effect.

L. C. J. To do what?

Mr. *Dugdale.* To kill the King.

L. C. J. Was that expreſſed in the Letter?

Mr. *Dugdale.* Yes, my Lord, it was.

L. C. J. And did they write that they ſhould chooſe hardy Perſons to kill the King? Was that the Subject of it?

Mr. *Dugdale.* Yes, my Lord, it was.

L. C. J. Did it come by the common Poſt?

Mr. *Dugdale.* Yes, my Lord, it did, but they had deviſed it ſo, that there was care taken they ſhould not be diſcovered, they would ſet but two Letters of their Names to them, and they were directed all to me, ſo that I was to bear all the Danger.

Sir *Rob. Sawyer.* How was the Direction? Was it directed plainly to you on the out-ſide?

Mr. *Dugdale.* Yes, it was, and if it were diſcovered, I was ſworn by Mr. *Ewers* to deny it, and then they could not be diſcovered.

Mr. Juſt. *Atkins.* Did they give you any Oath to that Purpoſe?

Mr. *Dugdale.* Yes, I was ſworn Ten times at leaſt to Secreſie, and promiſed it on the Sacrament.

Sir *Rob.*

Sir *Rob. Sawyer.* Besides what came in those Letters, had you any Discourse with any touching killing the King?

Mr. *Dugdale.* Yes.

Sir *Rob. Sawyer.* With whom?

Mr. *Dugdale.* With Mr. *Gavan*, Mr. *Ewers*, Mr. *Lewson*, and my Lord *Stafford.*

L. C. J. And would they have perswaded you to have done it?

Mr. *Dugdale.* Yes, I was to have been employed as an Actor in it, either to have taken his Life away, by Shooting, or by Stabbing, or some Way.

L. C. J. Did they propose it to you, and how, in what manner would they have you do it?

Mr. *Dugdale.* No, my Lord, I was not told absolutely in what manner; but I was directed to come to *London*, and I should have Instructions about it there.

L. C. J. Tell us again who they were that did solicit you?

Mr. *Dugdale.* Mr. *Ewers*, Mr. *Gavan*, Mr. *Peters*, Mr. *Lewson*, and my Lord *Stafford.*

Mr. Just. *Atkins.* My Lord *Stafford* you say?

Mr. *Dugdale.* Yes, I said so before, my Lord.

L. C. J. They ingaged you in the business in General you say, and you were to have Directions about it at *London*, that is that you say?

Mr. *Dugdale.* Yes, my Lord, Mr. *Ireland* was to take care of me there.

Sir *Rob. Sawyer.* Pray Sir had you discourse of the several Ways, what Ways were to be taken.

Mr. *Dugdale.* I had no particular way mentioned, but I was told that it was easy to be done by shooting or stabbing.

L. C. J. Did you ever come to *London* upon that Errand?

Mr. *Dugdale.* No, never.

L. C. J. When they had engaged you to do the Thing, why did not they send you about it.

Mr. *Dugdale.* I was not to come till *October.*

L. C. J. When was it that you were engaged first?

Mr. *Dugdale.* I had particular intimation of the matter of the Plot about two Years before, but I was not to come up till *October.*

L. C. J. Which *October.*

Mr. *Dugdale.* Last *October.*

L. C. J. Why, you were engaged a great while before, how chanced you were not to come up till *October.*

Mr. *Dugdale.* I was engaged a Year and a half before, but it was not positively then said to me, that I was to be instrumental in killing the King, till that time, which was about *July*, when my Lord *Stafford* came down, and I was to come up in *October.*

L. C. J. I thought you had said that you were engaged in it a Year and half before.

Mr. *Dugdale.* That was only in the Plot in general.

L. C. J. Was there no time appointed for the killing the King then? When was it that you were first engaged to be an Instrument to take away the King's Life?

Mr. *Dugdale.* Two Years ago I was spoke to about the Plot, but I was not particularly assigned till the last Summer, and then I was appointed to come to *London* in *October.*

L. C. J. What said they then to you?

Mr. *Dugdale.* My Lord *Stafford* did offer me 500 *l.* he told me I should have that for a Reward at present, and if Things did go on, I should have a better Reward when the Thing was accomplished, but this was for my present Encouragement.

L. C. J. When were you to have the Money?

Mr. *Dugdale.* When I came to *London.*

L. C. J. And why did not you come to *London* then?

Mr. *Dugdale.* I was to come to *London*, and the Plot was broke out and discovered first.

Mr. *Ward.* Pray, do you know of any Letters about the Death of Sir *Edmund-bury Godfrey?*

Mr. *Dugdale.* Yes, there was a Letter came down to my Lord *Aston's*, it was directed to Mr. *Ewers*, and it contained in it, *This very Night Sir* Edmund-bury Godfrey *is dispatched:* those were the words of the Letter.

L. C. J. What Night was that?

Mr. *Dugdale.* I have well remembred it since, and it was *Saturday* Night, which was about the twelfth of *October*, or thereabouts, as I remember: it had those words, *This very Night Sir* Edmund-bury Godfrey *is dispatched*; and it went on with more things relating to the Plot, which I cannot particularly now remember; and I catched Mr. *Ewers* at the reading of it, and said I to him, *Do you think this is the way to have the Design succeed, if this do not overthrow the Plot I will be hang'd. Not so,* said he, *be patient and do not mistrust it, he was a Man that was used to punish debauch'd Persons, and it will rather reflect upon them than us.*

L. C. J. Did that Letter come to your Hands?

Mr. *Dugdale.* Yes, it did, but it was writ to Mr. *Ewers.*

Mr. Justice *Atkins.* What Day did it come to you?

Mr. *Dugdale.* Upon *Monday* Morning.

Mr. Justice *Atkins.* When was it writ?

Mr. *Dugdale.* It was writ the *Saturday* Night before.

L. C. J. Did Mr. *Ewers* shew it you? or did you break open the Letter?

Mr. *Dugdale.* Mr. *Ewers* shewed it me for an encouragement, that one of our Enemies was taken out of the way.

Mr. Justice *Wyndham.* Did you report it to any Body?

Mr. Dugdale. Yes, to the Parson of the Town, and a Relation of my Lord *Aston's.*

L. C. J. What was his Name?

Mr. Dugdale. One Mr. *Sandwich* and Mr. *Philips*; said I, *Do you not hear of a Knight, a Justice of* VVestminster *that is killed? No,* said they, *we hear nothing of it:* but it seems Mr. *Sandwich* went to Dinner to —— —— —— and there he did report it.

L. C. J. Why did they look upon Sir *Edmund-bury Godfrey* as such an Enemy to them?

Mr. Dugdale. They had intrusted him before, but he began to be strict with Dr. *Oates*, searching and prying into all the whole Concern, as Mr. *Ewers* told me (for I knew no more than he informed me of) so they thought good to take him off.

Sir *Robert Sawyer.* Gentlemen, will you ask him any Questions?

Corker. I would have been glad to have heard what he said, but I could not hear the tenth part.

Sir *Robert Sawyer.* Gentlemen, there is nothing that does particularly reflect upon you at the Bar, but is only to prove the general design of the Plot.

Sir *George Wakeman.* 'Tis the worst made out that ever I think was Trial.

Mr. Dugdale.

Mr. *Dugdale.* If there be any more Queſtions, that your Lordſhip or the Court will be pleaſed to ask me, I will be ſure to anſwer them.

L. C. J. I will tell you the Effect of what he ſays, and that is this; he ſpeaks in general, that there was a Plot to bring in Popery, and in order to that, the beſt way was to kill the King; and to that Purpoſe, there were ſeveral Letters ſent weekly into *Staffordſhire*, and very often directed by the Cover to him, wherein were Seven or Eight ſeveral Letters, as from *Ireland*, and *Harcourt*, and *Grove*, to People that were in *Staffordſhire*; that is, to *Ewers*, and *Lewſon*, and *Vavaſor*, and many times they did write concerning the going on with this Plot of Killing the King, that they muſt uſe great Secrecy in it, and makes mention what Officers they ſhould have for an Army to ſupport that Matter, when they had done; they engaged him particularly, firſt, about two Years ago, to be one in it, but more preciſely in *June* or *July* laſt was Twelvemonth, and he ſhould have gone, he ſays, in *October* after, up to *London*, in order to it; and there he ſhould have Directions from *Ireland*, how he ſhould manage himſelf. And he gives you an account, that my Lord *Stafford* promiſed him he ſhould have 500 *l.* as part of his Reward, and when the Work was done, he ſhould be better gratified; and he ſays, he did intend to have gone up in *October* to this Purpoſe, but the Plot broke out, and he was prevented.

Sir *Rob. Sawyer.* Pray, Mr. *Dugdale*, you have been formerly Examined, did you hear any thing of a Maſſacre? or of any particular Perſons to be Murthered, beſides the King and Duke of *Monmouth*?

Mr. *Dugdale.* I do not remember any in particular, but they two; but in general, all Proteſtants they intended to cut off.

Mr. *Ward.* All Proteſtants?

Mr. *Dugdale.* Yes.

Mr. Juſt. *Atkins.* Pray, Sir, what did induce them to have ſo much Confidence in you? Had you any ſuch Zeal for their Religion?

Mr. *Dugdale.* Yes, inſomuch that they thought I was a Prieſt in the Country.

Mr. Juſt. *Atkins.* Had you been free of your Purſe? did you give them any Money?

Mr. *Dugdale.* Yes, I gave them for this, and for the praying for my Soul, the Summ of 400 *l.* which was ſecured upon a Deed of Land; and I promiſed them another 100 *l.* when they made Moan for the Want of Money; and when Mr. *Peters* ſaid if they did not make more Haſte with their Contributions, they ſhould be at a great loſs: And Mr. *Gavan* promiſed me, I ſhould be Canonized for a Saint.

L. C. J. When had you given the 400 *l.*?

Mr. *Dugdale.* I had given it them in Money, it was upon a Deed of Land, which was conveyed to Mr. *Gerrard*, and was to be ſold for the raiſing of that Money.

Corker. Mr. *Dugdale*, you make mention of a certain Letter ſent from *London* here, from Mr. *Harcourt*, but not Mr. *Harcourt*'s Letter, in which Letter you ſay it was mentioned that the King ſhould be killed, and that an Army ſhould be raiſed, and ſome ſuch Matters of grand Deſign. Sir, don't you know from whom that Letter came, I ask you?

Mr. *Dugdale.* I cannot directly at preſent call to mind the Perſon's Name, I may by and by, perhaps.

Corker. Then, my Lord, I appeal to the Court, and beg the Judgment of the Court, whether a Letter of that vaſt Concernment, about killing the King, the Deſtruction of the Nation, and the raiſing of an Army, ſhould be ſent from a Man that he himſelf does not, nor can tell his Name, nor the Place this Letter came from. That a Man ſhould be ſo mad to ſend by the common Poſt a Letter of ſuch vaſt Concern, and yet neither the Party to whom, nor the Party from whom it came, be remembred.

Mr. *Dugdale.* I can give you Satisfaction, as to ſome Letters I have received, and I can tell you in particular from whence they came. One came from *Paris* to St. *Omers*, and ſo from St. *Omers* to *London*, and from thence by a ſpecial Meſſenger to *Tixall* in *Staffordſhire*; and my Lord *Aſton* and Mr. *Ewers* read it one Night, in my ſight, in the Parlour.

Corker. Juſt now he ſaid it was by a ſpecial Meſſenger, before he ſaid, the Letters came by a common Poſt.

Mr. *Dugdale.* I ſpeak of another Letter now, than thoſe I ſpake of before.

L. C. J. He did, indeed, ſay before, that there was a Letter as you repeat it, that had the Importance of killing the King, but he could not particularly charge himſelf with the Perſon that writ it, but ſaith he, I can now remember another Letter, that was ſent by a ſpecial Meſſenger, and he will tell you who that Letter was writ by, and who it came from. From whom came it?

Corker. That was only to correct a former Lye.

Mr. *Dugdale.* There was *J. W.* writ to it, and I ſuppoſe it was from Sir *John Warner*.

L. C. J. Where was it dated? Whence did it come?

Mr. *Dugdale.* There was one from *Paris*, it was firſt begun at *Paris*, where Advice was firſt to be had, and Aſſiſtance was promiſed, how it ſhould be carried on, and they thought it was the beſt Way, after they had killed the King, for the Papiſts to give the firſt Alarm, that it was thoſe ſtill King-killing Presbyterians, that had done that Act, and that then the Church of *England* Men would be willinger to join with the Papiſts to cut them off.

L. C. J. This was the Subſtance of the Letter?

Mr. *Dugdale.* Yes, this was the Subſtance of the Letter. And the Letters from *London* ſaid, they thought it good Advice, and there were ſeveral Lords in *England* ſet their Hands to it, acknowledging it as good Advice: And in that very Letter there was an Army mentioned, that there ſhould be an Army ready to cut off thoſe that ſhould eſcape having their Throats cut.

L. C. J. Who brought that Letter?

Mr. *Dugdale.* I do not know who brought it from *London* to *Boſcobel*, but there was a ſpecial Meſſenger brought it thence to *Tixal*, and his Name was —— *Carrington.*

L. C. J. You ſay there were ſeveral Lords ſet their Hands to it, what Lords were they?

Mr. *Dugdale*, I have formerly mentioned them, there was my Lord *Stafford*, my Lord *Bellaſis*, and my Lord *Arundel*.

L. C. J. To what Purpoſe did they ſet their Hands to it?

Mr. *Dugdale.* That they approved it as good Advice.

L. C. J. Then, Gentlemen, this is that he ſays. Here is a Letter that was brought by one —— *Carrington*, to my Lord *Aſton's*, and the Subſtance of the Letter was to juſtify the Killing of the King, by the raiſing of an Army, and that this Letter came from St. *Omers*, and that it had the Letters *J. W.* Subſcribed to it, which was ſuppoſed to be Sir *John Warner*, and that this Letter was looked upon by ſome at *London*, and that they, as approving of it, ſet their Hands to it as good Advice, and then ſent it down into the Country.

Corker. Was the Letter dated from St. *Omers*? Was St. *Omers* writ in the Inſide, what ſay you? Speak.

Mr. *Dugdale.* There were three Letters, I ſay, that came in that Pacquet from St. *Omers*; one came from *Paris*, another from St. *Omers*, and another from *London*.

L. C. J. And all theſe in one Cover?

Mr. *Dugdale.* Yes.

Sir *George Wakeman.* How could the ſame Cover cover all thoſe Letters?

Mr. *Dugdale.* All the Letters were cover'd in *Grove's* Pacquet.

L. C. J. Here is the Matter; he ſuppoſes there was a Letter writ, firſt at *Paris*, and that is then ſent to St. *Omers*; and then there was a Letter writ there, by Sir *John Warner*, or ſome of them, and ſent to *London*, and peruſed in *England*, by the Lords, and all ſent in one Cover into *Staffordſhire*.

Corker. Your Lordſhip makes Senſe of it, but he made none but Contradictions, and ſaid he did not know whence it came, nor who writ it. You ſay, Sir, you were one of thoſe to kill the King, pray when were you to kill the King?

Mr. *Dugdale.* In *October*, I was to have done it, when I came up.

Corker. My Lord, here is a Plot and a Deſign driven on ſeveral Ways, to murder the King. Dr. *Oates* in his Narrative, as I perceive, gives us a Deſcription of ſeveral Contrivances that were made uſe of to commit this Murther. He, in all his Deſcriptions, tells us only, as I take it, of three Ways of killing the King, the one by *Grove* and *Pickering*, another by the Ruffians, I know not whom, a third was by Poiſon, now Dr. *Oates*, in all his Relations, makes not any mention of a fourth Deſign to kill the King, or of any other Plot or Deſign at *London* to kill the King; but he ſays, if *Grove* and *Pickering* miſcarried, it was to be done by the four Ruffians, and they miſcarrying, it was to be done by Poyſon, now comes he with a Thing that never was thought of before, that *Oates* never gives any Relation of.

L. C. J. What then?

Corker. He, my Lord, tells us, that this was to be done in *October*, when all the other Things that were to be done were paſt; and what, ſhould they deſign to kill the King in *October*, when it was to be done before in *July* or *Auguſt*?

L. C. J. Look you, the firſt part of your Objection, wherein you ſay he names but three Ways of killing the King, what do you infer from that? that becauſe this Gentleman ſays there was a fourth, there was not. Dr. *Oates* told you as much as he knew of the matter, but he does not undertake to give you an account of all the Plot or Plotters in this Affair. If you make any reaſonable Objection againſt Mr. *Dugdale's* Teſtimony, I will allow it, but theſe Inferences I muſt not. That this is a ſtrange Story of Mr. *Dugdale's*, becauſe 'tis not part of *Oates's* Diſcovery, is that a reaſonable Objection? But then for the latter Part, that Dr. *Oates* ſays the King was to have been killed in *July* or *Auguſt*, therefore what ſhould they think of killing him in *October*, he tells you, that in *June* and *July* they did engage him in the general Plot, and firſt then to be inſtrumental in killing the King, but he was not to be gone till *October* to *London* to do it.

Corker. When the Thing was done.

Mr. Juſt. *Wyndham.* No, no, becauſe the Thing was not done, or becauſe it might miſcarry by others, therefore he was to come then.

L. C. J. They could not tell when it would be done, or by what Hand it would be done; therefore they were engaging as many as they could, provided the Thing were not done.

Marſhal. Amongſt other Things that ſeem to render his Teſtimony ſuſpected, there is one which is taken from the common Practice of all Men, in Caſes of like Nature, for where there is Danger in Matters of Concernment, Men uſe to be very circumſpect who they chooſe, and make choice of as few as poſſible; but now here is Perſon after Perſon, Conſpiring without End, and Letters to this Perſon, and to that Perſon, and nothing is proved to be done upon it, ſo that here is the greateſt Confuſion imaginable, an Hundred of Men, nay, almoſt a whole Nation are acquainted with it, when a few might ſerve the Turn.

Sir *Rob. Sawyer.* Why do you ſay 'twas known to the whole Nation, when 'twas ſo cloſe a Conſpiracy?

L. C. J. North. You that are at the Bar; We do not object to what you ſay, as to the Way of it, but as to the Time that you deliver it in, it is the Courſe, that you deliver your Objections when the King's Evidence is done; indeed when the King's Council have done what Queſtions they have to ask of the Witneſſes, then you may ask them what Queſtions you will, but for the Obſervations that you would make by way of Objection to the Evidence, and as to their Credit, you ſhould reſerve that to the laſt, when the King's Evidence is done.

Priſoners. My Lord, we deſire we may be allowed Pen, Ink and Paper.

Mr. Recorder. Let them have it.

L. C. J. Indeed there is one Thing very conſiderable on your ſide, and 'tis fit there ſhould be an Account given of it. 'Tis very ſtrange, that a Thing of that Nature ſhould be writ ſo plain, I mean the Killing of the King, in a Letter that ſhould be ſent by the Common Poſt, what ſay you to that?

Mr. *Dugdale.* Mr. *Ewers* did it for no other End in the World, but that they intended, if it ſhould be diſcovered, all ſhould be flung upon me, and I was ſworn to deny it, and they were to go free.

L. C. J. What were the Words of the Letter?

Mr. *Dugdale.* In that of Mr. *Whitebread's*, it was contained downright plainly, *he ſhould chooſe ſuch as were hardy, for the Killing of the King.*

L. C. J. And how did that Letter come?

Mr. *Dugdale.* By the common Poſt.

Sir *George Wakeman.* No Man living can believe it.

Mr. Juſt. *Pemberton.* There was no mention of *Ewers*, on the Out-ſide, nor no Name to it, was there?

Mr. *Dugdale.* No, none at all, my Lord.

Mr. Juſt. *Pemberton.* No Name to the Letters?

Mr. *Dugdale.*

Mr. *Dugdale.* Only the two firſt Letters of their Names.

Marſhal. Would they, in ſuch Caſes, can any Man think, be ſo mad as to venture their Lives, and all for they knew not what? Would the Lords, whoſe Names, he ſays, were ſubſcribed to one of the Letters, engage their Lives and Fortunes in the Signing of a Letter, wherein both were ſo much endangered, and commit it to ſuch an Hazard?

Rumley. Would they ſet their Hands to ſuch a Letter, as they could not be certain into whoſe Hands it might come? and he ſays, he does not know who it came from.

Mr. Juſt. *Pemberton.* Mr. *Dugdale*, was that Letter by a common Poſt, that the Lords ſet their Hands to?

Mr. *Dugdale.* No, it was by a ſpecial Meſſenger.

L. C. J. Look you, Gentlemen, the Anſwer that he gives to your Objection is this; You ſay it is ſtrange, and indeed it is ſo, that ſuch a Deſign ſhould be writ ſo plain in *Engliſh*, in a Letter, but he ſays, there was no Body in Danger by it, but himſelf, for there was no Body could tell from whence it came, becauſe only two Letters of the Name were ſubſcribed; and, ſays he, it was directed to me only, and ſo I might have Suffered, but *Ewers* Name was not mentioned, to whom it was intended to go.

Rumley. Yet he ſays he does not certainly know who it came from.

Mr. Recorder. Gentlemen, you have your proper Time for that, if you will make any Remarks.

Mr. Juſt. *Pemberton.* Will you ask him any more Queſtions? As for your Arguments, you muſt not uſe them now.

L. C. J. North. But they have deſired Pen, Ink, and Paper, is it given to them?

Mr. Recorder. You muſt allow the Priſoners Pen, Ink, and Paper, if they deſire it.

L. C. J. Ay, all of them, if they would have it. *Which was done.*

L. C. J. Mr. *Dugdale*, this Letter that came from *Whitebread*, it came with others, did it not?

Mr. *Dugdale.* Yes, my Lord, it did.

L. C. J. The Cover was directed to you, was it not?

Mr. *Dugdale.* Yes, my Lord, it was.

L. C. J. Had the other Letters particular Directions, to particular Perſons?

Mr. *Dugdale.* Every Letter was directed to me.

L. C. J. What, beſides the Cover?

Mr. *Dugdale.* Yes, beſides the Cover.

L. C. J. Who were you to communicate them to?

Mr. *Dugdale.* They had a particular Mark that they were known by, there was always a black Croſs upon them, I was to give them to Mr. *Ewers*, and he was to communicate them to others concerned.

L. C. J. What was upon the other Letters?

Mr. *Dugdale.* I had no Letters but what I delivered to *Ewers*.

L. C. J. Was he the only Man that they were delivered to?

Mr. *Dugdale.* Yes, my Lord.

L. C. J. And he diſtributed them as he pleaſed, did he?

Mr. *Dugdale.* Yes.

L. C. J. Had you more Marks than one?

Mr. *Dugdale.* No, my Lord, no more Marks than one.

L. C. J. So you were only Agent between Mr. *Ewers* and them, and none elſe?

Mr. Juſt. *Wyndham.* They were all directed to you, how did he know who they were to go to?

Mr. Dugdale. I was to deliver them to him, and he diſperſed them to the ſeveral Perſons, and he rid conſtantly abroad about it.

L. C. J. Were there ſeveral Marks to know who they were to?

Mr. Dugdale. My Lord, he knew, by converſing with them, their ſeveral Hands, and ſo could tell, by what was written, what was intended, and what the Buſineſs was, and for whom.

Corker. There muſt have been ſeveral Tranſactions, and a Man muſt have received ſeveral Letters, before he knows another's Hand.

Mr. Juſt. *Pemberton.* Will you ask him any Queſtions? you muſt not argue upon it yet.

Rumley. How many Letters came to you, pray, from beyond Sea?

Mr. Dugdale. An Hundred, I believe, in two Years Time.

Rumley. From how many ſeveral Perſons? Methinks you ſhould produce ſome of thoſe Letters.

Mr. Dugdale. There were Letters from Sir *John Warner* very often. I cannot remember all.

Rumley. Methinks you might be more ready in your Evidence, than upon every Turn to ſay, You can't remember. Have you none of thoſe Letters?

Mr. Dugdale. I burnt thoſe Letters which I kept, before I intended to diſcover the Plot; but in a multitude of Letters, 'tis hard to tell Particulars, I tell you what I remember of them.

Corker. You make mention of killing the King, and raiſing an Army, and theſe were ſpecified in two Letters. In thoſe Matters which concerned the raiſing of an Army, Were there only Letters, no Commiſſions ſent, for the raiſing of Forces? Did you never ſee any of the Officers? Did you never communicate with any of them?

L. C. J. Did you ſee any Commiſſions firſt?

Mr. Dugdale. No, I never did ſee any of them.

L. C. J. Did you ever talk with any that were intended to be Officers?

Mr. Dugdale. Yes, I have.

L. C. J. Name them.

Mr. Dugdale. There was Sir *James Symons*, and Mr. *Howard*, I have talked with them.

L. C. J. With them two?

Mr. Dugdale. And with one Captain *Adderley*, that is dead.

Corker. Why, there are three Officers towards the raiſing of ſeveral Thouſands of Men.

Mr. Juſt. *Pemberton.* Look you, Mr. *Corker*, you muſt direct your ſelf to the Court, and propoſe your Queſtions here.

Corker. Mr. *Dugdale* tells us, that for the promoting of this Deſign, that he gave 400 *l.* and with the ſame Breath ſays, He was to receive 500 *l.* Methinks this is to do and undo.

Mr. Juſt. *Dolben.* Pray keep this arguing of yours till the laſt.

L. C. J. North. The Court hath told you already, this is not proper for you. 'Tis true, you muſt have Liberty to ask Queſtions, becauſe there are ſome Queſtions that elſe may be forgotten, and the Opportunity will be loſt: But when you have asked thoſe Queſtions, make your own Obſervations upon them in private to your ſelves, and afterwards it will be time for you to argue upon it to the Jury, when the King's Council ſhall have done

their Evidence: But now to make these Inferences will do you little Service, and can't be permitted.

Mr. *Dugdale.* My Lord, I desire to answer it now. It was my Lord *Stafford* that promised me the Money, and I went presently to know of Mr. *Ewers* what it meant, because I had given my Money before, and my Lord *Stafford* did not, I suppose, know any thing of it.

L. C. J. How long was it before that you gave the Money?

Mr. *Dugdale.* It was two or three Years before; at the Beginning, when the Plot was first discovered to me, for the introducing of their Religion.

Mr. Just. *Atkins.* He was a great Zealot, but my Lord *Stafford* did suppose the Money might quicken him.

Mr. *Dugdale.* It was for my Encouragement, and I should have a greater Reward after.

Corker. He received the Money, I suppose, when he was in Prison for Debt, rather than for any thing else.

L. C. J. North. You may observe that by and by.

L. C. J. Look you, this is what he hath said, it is all but in general, and he does not name any of you Four: But here was a general Contrivance, he says, to bring in Popery; I am afraid that is too true; and as the best way to effect that, they resolved to kill the King; and I am afraid that is too true too, for it was indeed the likeliest way.

Then stood up Mr. Prance.

Mr. *Ward.* Mr. *Prance*, pray will you give the Court an Account, only in general, of what you know of any Design that was at this time?

Mr. *Prance.* It was a Fortnight or Three Weeks before *Michaelmas*, I went to one Mr. *Ireland*'s Chamber, in *Russel-street*, where was Mr. *Fenwick* and Mr. *Grove*, and there they were discoursing of 50000 Men that were to be raised, for the settling of the *Roman* Catholick Religion; and I asked Mr. *Fenwick*, How that could be done? And he said, Very easily, in a short time. Then I asked him, What poor Tradesmen should do? And he said, I need not fear, for I should have Church-Work enough, to make Crucifixes, Basons and Candlesticks.

Mr. Just. *Atkins.* You are a Working-Goldsmith.

Mr. *Prance.* Yes. Then I asked, Who should Govern them? And he said, My Lord *Powis*, my Lord *Stafford*, my Lord *Arundel*, my Lord *Bellasis*, and my Lord *Petre*. Two or three Days after that, *Grove* came to my Shop to buy some Spoons for a Christning; and then I did ask him, What Office he was to have? He said, He did not know, but he said, that my Lord *Bellasis*, my Lord *Powis*, and my Lord *Petre*, had Commissions to Govern the Army. And after that, there was one Mr. *Paston* in *Duke-street*, I went to him, to know how I could direct a Letter; and after a little Time, we fell into Discourse concerning the Affairs of the Times. He told me, The Lords had given out Commissions, one was to Sir *Henry Bennyfield* in *Norfolk*, another was to Mr. *Stoner* in *Oxfordshire*, and another was to Mr. *Talbot* of *Longford*. He said, that they had given Commissions for to raise an Army.

Mr. *Ward.* What was that Army to do?

Mr. *Prance.* It was to settle the Catholick Religion,

Mr. *Ward.* Did you hear any thing mentioned of killing the King?

Mr. *Prance.* Yes, I did.

L. C. J. Who told you this that you speak of about the Commissions?

Mr. *Prance.* Mr. *Paston*, my Lord, in *Duke-street*.

L. C. J. Was he a Priest?

Mr. *Prance.* No, but he kept some in his House, and they said Mass every Morning.

L. C. J. Is he of any Profession?

Mr. *Prance.* He was a Counsellor, but doth not practice now, he hath an Estate of 5 or 600 a Year.

L. C. J. Now go on, and say what he told you.

Mr. Prance. He said, there were Commissions given out to Sir *Henry Bennyfield*, and one *Talbot* of *Longford*.

L. C. J. When was it he told you this?

Mr. Prance. It was in *August* last.

L. C. J. And did he say they had Commissions sent to them?

Mr. Prance. Yes, they had them in the Country, where they were to raise their Troops: I heard of more, but I only remembred those Three.

Mr. Ward. Do you know one *Messenger*?

Mr. Prance. Yes.

Mr. Ward. What Discourse had you with him?

Mr. Prance. My Lord's Butler told me ——

L. C. J. Who told you?

Mr. Prance. My Lord's Butler.

L. C. J. What Lord?

Mr. Prance. My Lord *Arundel*. He waited then on one *Sheldon*, that was Almoner to the Dutchess of *York*. He told me, That Mr. *Messenger* was to kill the King, and he was to have a good Reward for the same. Soon after, I was going over *Lincolns-Inn-Fields*, and met with Mr. *Messenger*, and asked him, Why he would kill the King? He seemed to be surprized, and starting back said, Who told you that? Said I, Your Butler told me. Oh, said he, we are quite off of that now: But then I was going away, and he called me back, and asked me, If I would go and drink with him? No, said I, I cannot stay at this Time. However, pray, said he, keep Counsel, for we are off of that now.

Mr. Ward. Will you ask the Witness any Questions?

Corker. Yes, my Lord. Those Commissions you speak of, when were they sent? in *August*?

Mr. Prance. No, I do not say so; but that Mr. *Paston* told me of them in *August*. I cannot tell the Day.

Sir *Rob. Sawyer.* If you observe it, Gentlemen, he only tells you what some of the Priests, and Persons of your Religion, acquainted him with; not any thing particularly against you.

Mr. Ward. Then next we call Mr. *Fennison*.

Who stood up.

Sir *Rob. Sawyer.* Mr. *Fennison*, pray give the Court an Account of what you know of any Design in Hand, or what Discourse you had with any Person about such a Thing.

Mr. Fennison. Sir, in the Month of *June* 1678, I was at Mr. *Ireland*'s Chamber.

Sir *Rob. Sawyer.* Where, Sir?

Mr. Fennison. In *Russel-street*, next the *White-Hart*. And there arose a Discourse about Religion,

gion, and ſome hopes there were, he ſaid, that the Romiſh Religion ſhould be publickly owned again in *England*; and when I came in, I remember Mr. *Ireland* did ſay, There was only One in the Way, that ſtop'd the Gap, and hindred the Catholick Religion from flouriſhiug in *England* again; and ſaid, It was an eaſie matter to poyſon the King.

L. C. J. Who was by pray when he ſaid ſo?

Mr. *Jenniſon.* His Siſter was by.

L. C. J. Name her, Sir.

Mr. *Jenniſon.* Mrs. *Anne Ireland.*

L. C. J. Who elſe?

Mr. *Jenniſon.* None elſe.

L. C. J. Then there was only you, and *Ireland*, and his Siſter. And you ſay, That they were diſcourſing concerning their Hopes of bringing in Religion, and *Ireland* ſaid, There was but one in the Way, and that it was not an hard Matter to poyſon the King.

Mr. *Jenniſon.* Yes, my Lord; and ſo I not knowing any thing at all of the Plot, or imagining the Deſign, did anſwer, Perhaps it may be done, but it would be a very horrid thing if it ſhould. Then Mrs. *Ireland* did rebuke her Brother, and asked him, Why he talk'd ſo? And then he anſwered with ſome *Salvo* or other, That he did not think it ought to be done. Then I purſued the Diſcourſe about Religion, and told him, I thought it would never come in by Violence, and that it was a great ſcandal to Religion for the Profeſſors of it to propagate and promote it by any ſuch Ways: And then I put him in mind of the Gunpowder Treaſon, of the ill Succeſs it had, and the great Injury it did to the Cauſe. He anſwered, That was only a State Trick, and an Invention of my Lord *Cecil's.*

L. C. J. Ay, they do ſay ſo, I know; Were you a Papiſt then?

Mr. *Jenniſon.* Yes, my Lord, I was.

L. C. J. Are you one ſtill?

Mr. *Jenniſon.* No, my Lord.

Mr. *Ward.* Mr. *Jenniſon*, Were you with him again at any time? And what time was it that you met him, as you remember?

Mr. *Jenniſon.* The 19th of *Auguſt* after I came from *Windſor.*

L. C. J. Where did you ſee him?

Mr. *Jenniſon.* At his own Chamber in *Ruſſel-Street.*

L. C. J. How do you ſo preciſely remember the Day, that it was the 19th of *Auguſt?*

Mr. *Jenniſon.* I remember it by this, the beginning of *Auguſt* I went to *Tunbridge* with Mr. *Tonſtall* and another Gentleman, and there I ſtaid till the 14th, when I came to Town, and ſtaid two or three Days, and on *Saturday* in the Afternoon I went to *Windſor* to take my leave of Mr. *Bowes*, being to go down into the *North*; and there I ſtaid all *Sunday*, and came back again on *Monday* Morning, and came to Town about Twelve a Clock the 19th Day, as I have conſidered it ſince it was, and a *Monday.*

L. C. J. And then you went to *Ireland's* Chamber, did you?

Mr. *Jenniſon.* Yes, then I went to Mr. *Ireland's* Chamber.

L. C. J. By the Oath you have taken, becauſe it is very material, not to your Cauſe, but it ſhews how fit it is that the World ſhould know with what Truth or Falſhood theſe Men dare die, and this Man did in particular. It was affirmed by him to the very laſt of his Breath, that he was never here in *London* after the third of *Auguſt*, till ſome time in *September*, but was all the while in *Stafford-ſhire*; and they did at the laſt Trial produce Sir *John Southcot*, and his Coach-Man, and his Lady, and I know not how many other Witneſſes, to give an Account where he was from the third of *Auguſt*, all along till the middle of *September*; and they teſtified that they kept Sixteen Days together in his Company; and then they produced People in *Cheſhire* to ſay, that they ſaw him there. Therefore I do now ask you upon your Oath, Are you ſure that you ſaw *Ireland* here the 19th of *Auguſt?*

Mr. *Jenniſon.* Yes, my Lord.

L. C. J. Do you ſwear that poſitively?

Mr. *Jenniſon.* Yes, my Lord, I do.

Sir *Rob. Sawyer.* He will tell you the Diſcourſe he had with him then.

Mr. *Jenniſon.* After that I came to Mr. *Ireland's* Chamber, I underſtood he was newly come out of *Staffordſhire.* And he pull'd off his Boots while I was there upon the Frame of a Table, or elſe upon a Jack, I cannot poſitively tell which, but I believe it was on a Frame of a Table. I asked him, How all our Friends did in *Staffordſhire?* He told me, Very well, and that they would be glad to ſee me there. Then he asked me, Whence I came, and where I had been? I told him, I had been at *Windſor.* He asked me, What News? How the Court diverted themſelves? I told him, I underſtood his Majeſty took great Delight in Hawking, and Fiſhing, and chiefly in Fiſhing, and uſed to go out very early in the Morning, accompanied only with three or four Perſons of Quality.

L. C. J. Did he ask you what Company he had? Or did you tell him of your own accord?

Mr. *Jenniſon.* No, I think I told him of my own accord, that the King went out very early, and had but little Company with him. Lord, ſaid he, I wonder the King ſhould go ſo thinly Guarded, he were eaſily taken off, I wonder he ſhould go ſo open. Said I, God forbid, ſure no body would be ſo wicked; and then he qualified it by ſome Expreſſion; ſo that at that time I made no ill Reflection upon it, till after the Plot broke out, and then diſcourſing of it to my Father and my Siſters, I ſaid, I wiſh it be not true, pray God there be nothing in this Plot, becauſe of the Diſcourſe that happened between Mr. *Ireland* and me. 'Tis very ſuſpicious, ſaid I.

Sir *Rob. Sawyer.* At that time had you any Diſcourſe whence he came, and about his wearineſs?

Mr. *Jenniſon.* He ſaid, he came out of *Staffordſhire*, and came Poſt. I underſtood he came very early that Morning. I told him that Scholars, ſuch as he, would rather chooſe to come upon an Ambling Horſe, and that I was weary my ſelf.

Sir *Rob. Sawyer.* Were you very well acquainted with Mr. *Ireland* that ſuffered?

Mr. *Jenniſon.* Yes, very well.

Sir *Rob. Sawyer.* Are you ſure he was in *London* the Nineteenth of *Auguſt?*

Mr. *Jenniſon.* Yes, and I talked with him then.

L. C. J. How long had you known him before?

Mr. *Jenniſon.* A Year and a half.

Sir *Rob. Sawyer.* Pray when did you go out of *London* to the North? What time did you go away?

Mr. *Jenniſon.* I went the fourth of *September*, as the Coach Book will make it appear.

L. C. J.

L. C. J. The Evidence they gave was, that he did not come to Town till the 13th of *September*, but he was gone the 4th it ſeems to the North, and that is before that time. Well, will you ask him any Queſtions?

Corker. Mr. *Ireland* had been in *Staffordſhire*? Had not he? for the 19th you ſay he came to Town, I do not well remember, but the Deſign of the Ruffians of killing the King, about which *Oates* ſpeaks, was before the 19th, at the Conſult of which *Ireland* was ſo grand an Inſtrument.

L. C. J. That was in *May*, was it not?

Corker. No, that of the Ruffians was in *Auguſt*, as he ſays.

Sir *Rob. Sawyer.* Will you ask him any Queſtions? Look upon him; you ſee how creditable a Witneſs he is.

Corker. Did you, pray Sir, leave your Religion, and make this Diſcovery before the pretended Plot came out? When did you leave your Religion?

Mr. *Jenniſon.* About three Months ago.

L. C. J. He told you that as ſoon as the Plot broke out, ſaid he, I told my Siſters and my Father of it, and ſaid, I pray God this Plot have not more in it than we are aware of, for I had ſome Diſcourſe with Mr. *Ireland*, which I took no notice of then, becauſe he qualified it at that time, and ſaid it was not lawful, and I did make nothing of it then, but now it runs much in my Mind.

Corker. This, he ſays, but this Man did not leave his Religion, nor make this Diſcovery till it appeared advantageous to him ſo to do.

Mr. *Recorder.* It is an Obſervation you make, but it had been well if you, and all of that Perſwaſion would have left it when you ſaw what it led to.

L. C. J. I know not what Advantage you mean, nor do I ſee any colour you have to ſay ſo, for they ſay this Gentleman's Father is one of a 1000 a Year, and he is his eldeſt Son.

Corker. Are you your Father's Eldeſt Son?

Mr. *Recorder.* There is an Elder Brother, my Lord, but he is a Prieſt.

L. C. J. Is your Elder Brother a Prieſt?

Mr. *Jenniſon.* My Lord, I don't know that, he is in *Newgate* about it.

L. C. J. It is reported that he is ſo?

Mr. *Jenniſon.* My Lord, I don't know it of my own knowledge.

Corker. He does not know it, and therefore he is not the Heir, and therefore the Advantage of his Eſtate is not ſuch, but that he might lay hold of this Diſcovery.

Sir *Rob. Sawyer.* I hope by and by, Gentlemen, you will make a better Defence than this.

Mr. Juſt. *Pemberton.* What you ſay ſhould be by Way of Queſtion propoſed to the Court.

Mr. *Recorder.* But you take it upon your Oath that you ſaw *Ireland* the 19th of *Auguſt*? Was that after you met with Mr. *Bowes*?

Mr. *Jenniſon.* I did not meet with Mr. *Bowes*.

Mr. *Recorder.* How long after you had left him was it?

Mr. *Jenniſon.* I did not ſee him there, I went to ſee him, but he was not there.

L. C. J. But he ſays preciſely that the 19th of *Auguſt* he went to Mr. *Ireland*'s Chamber, where he ſaw him pluck off his Boots, and talking, as if he had come out of *Staffordſhire*, Poſt, ſo that indeed he was in *Staffordſhire*, but not all that time he ſaid he was.

Mr. *Ward.* Then pray call Mr. *Bowes*. *Who was ſworn.*

Sir *Rob. Sawyer.* Pray, Sir, will you give the Court an Account, when you ſaw this Gentleman, and about what time he went out of Town.

Mr. *Bowes.* My Lord, I ſaw him in *Auguſt*, the beginning, or about the middle of *Auguſt*, in *Tunbridge*, before my coming to Town.

Sir *Rob. Sawyer.* Pray when did he leave this Town? when did he go out of Town?

Mr. *Bowes.* I cannot point blank tell the time, but I could recollect my ſelf, I believe, in a little time.

Sir *Rob. Sawyer.* Do you know of his going to *Windſor*?

Mr. *Bowes.* I did not ſee him there, but he writ a Letter to me that he went thither to meet me there, but I ſaw him not till he came to Town again.

L. C. J. Who is 't you ſpeak of?

Mr. *Bowes.* Mr. *Jenniſon*.

Sir *Rob. Sawyer.* What did he write you in that Letter?

Mr. *Bowes.* Sir, the Letter is here in Court, I don't remember the particulars.

Sir *Rob. Sawyer.* Is it here in Court?

Mr. *Bowes.* Yes, it is, I think.

Mr. *Recorder.* Shew it him, for it may refreſh his Memory about the time. [*Which was done.*]

L. C. J. Is that the Letter?

Mr. *Bowes.* This is the Letter.

Sir *Robert Sawyer.* Pray, when did you receive it?

Mr. *Bowes.* It was in *December* before *Chriſtmas*, here is a Gentleman that then ſaw it.

Sir *Robert Sawyer.* Pray, Sir, will you pleaſe to look upon it, and then acquaint the Court with ſome of the Contents.

L. C. J. *North.* You are ſure, Mr. *Bowes*, that Mr. *Jenniſon* was in Town in *Auguſt*?

Mr. *Bowes.* He came then from *Tunbridge*.

L. C. J. That is all, we can make no more of it: Did he meet you at *Windſor*?

Mr. *Bowes.* No, my Lord, I was gone to *Windſor* before, and when he came I was gone out of the Town.

L. C. J. What time went you to *Windſor*?

Mr. *Bowes.* The twelfth or thirteenth of *Auguſt*; it was on a *Monday* or a *Tueſday* after I came from *Tunbridge*.

Sir *Robert Sawyer.* Then we ſhall call one Witneſs more, and we ſhall prove by him (that is one Mr. *Burnet*) that the ſeventeenth of *Auguſt* he did meet Mr. *Jenniſon* going to *Windſor*. Pray call Mr. *Burnet*. [*Who was ſworn.*]

L. C. J. Pray, Sir, do you know Mr. *Jenniſon*?

Mr. Burnet. I met him as I was coming from *Windſor* that Day *Dotchet*'s Horſe Race was.

L. C. J. What Day was that?

Mr. Burnet. I cannot exactly remember the Day.

L. C. J. What Month was it?

Mr. Burnet. In *Auguſt*.

L. C. J. Was it the middle of *Auguſt*, or the latter end?

Mr. Burnet. It was about the middle of *Auguſt*.

L. C. J. This does not ſo much relate to you, but it is to give ſatisfaction to all the World, that what was aſſerted by Mr. *Ireland* all along, and at his Death, and ſeems to be juſtified by ſo many Wit-

Witneſſes as were produced on that account, to prove that he was not here in *Auguſt*, is utterly untrue, for this Gentleman, Mr. *Fenniſon*, ſwears he ſaw him here in Town the 19th of *Auguſt*; and to prove that Mr. *Fenniſon* was here, here is Mr. *Bowes*, and this other Gentleman that come to fortifie his Teſtimony, who ſwears preciſely, that the 19th of *Auguſt* he was at Mr. *Ireland*'s Chamber, where he ſaw him pluck off his Boots, and talk'd as if he came Poſt then from *Staffordſhire*.

Corker. I ſuppoſe it will not be permitted us to make any Argument upon this neither as yet.

L. C. J. No, no.

Sir *Robert Sawyer*. But, now, Gentlemen, it will behove you to take Notes, for we ſhall come home to you, and we begin with Dr. *Oates*. [*Who ſtood up*]

Mr. Ward. Pray, Sir, will you tell your whole knowledge of this matter, and apply your ſelf as near as you can to every one of the Priſoners at the Bar.

Dr. *Oates*. My Lord, in the Month of *July* Mr. *Aſhby* came to Town ſick, and being ſick, and one of the Society, the Priſoner at the Bar, Sir *George Wakeman* was his Phyſician, and being his Phyſician he did write him ſome Inſtructions how he ſhould order himſelf before he went, and at the *Bath*; That he ſhould, in the firſt place, take a Pint of Milk in the Morning, and a Pint of Milk at Night, and ſhould drink no Morning's Draughts but Milk, and that he ſhould have one hundred Strokes at the *Bath*, at the Pump; I do not ſo well underſtand what that means, but I ſuppoſe the Court doth; but theſe were the words of the Inſtructions: In this Letter Sir *George Wakeman* did write, that the Queen would aſſiſt him to poiſon the King, and this Letter was brought by a Meſſenger to Mr. *Aſhby*. Within a Day or two after I ſaw Mr. *Aſhby* and Sir *George Wakeman*, the Priſoner at the Bar (he was ſo called) but I had no acquaintance with him, but juſt the ſight of him) I ſaw him ſit in a writing Poſture, I ſaw him lay by his Pen, riſe up and go away, and the ſame Hand that he left behind him in a Paper where the Ink was not dry, was the ſame Hand that writ the Letter to Mr. *Aſhby*. And, my Lord, in that time of converſe, while he was writing, this Mr. *Aſhby* did give him ſome Inſtructions concerning the Commiſſion he had received of being Phyſician to the Army. Now, my Lord, in ſome few Days after there came a Gentleman for ſome of the Fathers from *Wild-Houſe*, that had the Title either of Sir *Richard* or Sir *Robert*, but he was a middle-ſtatured Man, and a briſk Man, about the Age of four or five and Forty, and he came with Commands from the Queen for the Fathers to wait upon her at *Somerſet-Houſe*, and I did wait upon theſe Fathers, there was Father *Harconrt*, Father *Kaines*, Father *Langworth*, and Father *Fenwick*, and another Father, I cannot remember his Name. And, may it pleaſe your Lordſhip, we did attend at *Somerſet-Houſe*, and the Fathers went in to the Queen, into a Chamber where ſhe was, and I waited in an Anti-Chamber, and I did hear a Woman's Voice which did ſay, that ſhe would aſſiſt them in the propagation of the Catholick Religion with her Eſtate, and that ſhe would not endure theſe Violations of her Bed any longer, and that ſhe would aſſiſt Sir *Geo. Wakeman* in the poiſoning of the King. Now, my Lord, when they came out I deſired that I might ſee the Queen, and ſo when I came in I had, as I believe, from her a gracious Smile. Now, if it pleaſe your Lordſhip, while that I was within I heard the ſame Voice ſpeak thus to Father *Harcourt*, and asked him, whether he had received the laſt 1000*l.* and it was the ſame Tongue, as I can poſſibly gueſs, the ſame Voice which I heard when I was without; and I ſaw no other Woman there but the Queen, and there were theſe Fathers. My Lord, in that very Month of *July* Sir *George Wakeman* was propoſed 10000 *l.* in the preſence of Father *Harcourt*, and Father *Fenwick*, I think was there, and Father *Ireland*.

L. C. J. Were you there?

Dr. *Oates*. I was there.

L. C. J. Was this Propoſal made to Sir *George Wakeman* after this Diſcourſe you heard at *Somerſet-Houſe*?

Dr. *Oates*. My Lord, I will not be poſitive whether it was before or after, but it was near that time, this 10000 *l.* he did refuſe.

L. C. J. But you ſay you heard the 10000 *l.* was proffered him; pray, who did propoſe it to him?

Dr. *Oates*. *Aſhby* was to do it.

L. C. J. But who did it?

Dr. *Oates*. It was *Aſhby* in the name of the Provincial, from whom he had received Inſtructions ſo to do.

L. C. J. But you ſay, in your hearing 10000 *l.* was offered him by *Aſhby*.

Dr. *Oates*. Yes, my Lord.

L. C. J. What ſaid he?

Dr. *Oates*. He refuſed it.

L. C. J. What words did he uſe?

Dr. *Oates*. He ſaid it was too little.

L. C. J. What was the 10000 *l.* to be given for?

Dr. *Oates*. To poiſon the King.

L. C. J. Were thoſe the words?

Dr. *Oates*. Yes, they were.

L. C. J. How did the Diſcourſe begin?

Dr. *Oates*. I will tell your Lordſhip how: There was a Meeting of the Fathers for this very Purpoſe to treat with Sir *Geo. Wakeman* before *Aſhby* went to the *Bath*, and there being a Meeting they did break this buſineſs to him; but what preamble they made to it I cannot remember. My Lord, as for the other Priſoners at the Bar, Mr. *Corker*——

L. C. J. But before you go from this Matter, you ſay you know not how they brought it in, but they brought it in ſome Way, he was to meet them to that Purpoſe, and there *Aſhby* did tell him he ſhould have 10000 *l.* What Anſwer made he to it?

Dr. *Oates*. He ſaid it was too little for ſo great a Work.

L. C. J. Is that all?

Dr. *Oates*. That is all that I remember.

L. C. J. Did he ſay what he would have?

Dr. *Oates*. I can't remember that, but he ſaid that was too little.

L. C. J. Did he ſay he would have five more, or any other Sum?

Dr. *Oates*. No, that was not then mentioned; but there were Letters preſently diſpatched to *Whitebread* to tell him, that Sir *Geo. Wakeman* had refuſed 10000 *l.* and then this ſame *Whitebread* did order the Fathers in *London* to propoſe five more, which

which propoſal was made to Sir *Geo. Wakeman.* This I ſpeak but by hear-ſay, and it was accepted, and 5000 *l.* of it received in Part, and Sir *George Wakeman*'s Name was ſubſcribed to the Entry-Book.

L. C. J. Did you ſee his Name ſubſcribed?

Dr. *Oates.* Yes, my Lord, I did.

L. C. J. Where?

Dr. *Oates.* To the Entry-Book.

L. C. J. Where was that Book kept?

Dr. *Oates.* It was the Book that the Jeſuits kept: it was then in our Cuſtody.

L. C. J. Whoſe Cuſtody?

Dr. *Oates.* The Fathers Cuſtody.

L. C. J. Whoſe particularly? And at whoſe Chamber was it kept?

Dr. *Oates.* At *Wild*-Houſe.

Sir *Rob. Sawyer.* Do you know who was the Keeper of it?

Dr. *Oates.* I cannot poſitively ſay that, I ſuppoſe the Secretary and the Fathers.

Sir. *Rob. Sawyer.* And what did you ſee writ in that Book?

Dr. *Oates.* That ſuch a Day (which Day I cannot remember) but ſuch a Day in *Auguſt* ſo much was propoſed to Sir *Geo. Wakeman* and he accepted it, and received it: thoſe were the Words, or to that Purpoſe.

L. C. J. Were thoſe the words writ in the Book?

Dr. *Oates.* Yes, or to that Purpoſe.

L. C. J. Do you know whoſe Hand writ that?

Dr. *Oates.* Yes, my Lord, I can tell whoſe Hand, it was Father *Harcourt* writ thoſe Words.

L. C. J. Sir *Geo. Wakeman*'s Hand was not to it, was it?

Dr. *Oates.* Yes, it was juſt underneath: Received ſo much Money of Father *Harcourt* by the Order of *Edward Coleman:* now there was the Goldſmiths Name to it, I cannot undertake to ſay who it was, but in my Conſcience I think it was *Staley.*

L. C. J. How much was the Money?

Dr. *Oates.* Five Thouſand Pounds.

L. C. J. Was Sir *Geo. Wakeman*'s Hand ſubſcribed to that Receipt?

Dr. *Oates.* Yes, it was.

L. C. J. Once more, what were the Words in the Book?

Dr. *Oates. Memorandum.* Such a Day 15000 *l.* was propoſed to Sir *Geo. Wakeman* which he accepted. I tell you the Purport, and the Words as near as I can.

L. C. J. Was it ſaid for what the Money was propoſed?

Dr. *Oates.* I will not be poſitive in that, I ſuppoſe it was.

L. C. J. But you ſay it was written ſuch a Day 15000 *l.* was propoſed to Sir *Geo. Wakeman,* and by him accepted?

Dr. *Oates.* Yes, my Lord, and then underneath it the Receipt was written, and this Receipt was written thus, *Received in Part of this* 15000 *l.* 5000 *l. of Father Harcourt by Order of* Edward Coleman. *Geo. Wakeman.*

L. C. J. Was the Receipt, which is ſaid ſuch a Day, the ſame Day that the other?

Dr. *Oates.* There was no other date to it?

L. C. J. Had the firſt a date to it?

Dr. *Oates.* Yes, my Lord, it had.

L. C. J. What Day was it?

Dr. *Oates.* It was in *Auguſt.*

Corker. What Day in *Auguſt?*

Dr. *Oates.* I cannot tell.

Corker. About what time in *Auguſt?*

Dr. *Oates.* It might be betwixt the beginning and the middle.

L. C. J. But we will ſuppoſe for the preſent Queſtion a Day: ſuppoſe it was written the 10th of *Auguſt, There was propoſed* 15000 *l. to Sir G. W. and by him accepted*; and then comes afterwards this Note, *Received then* 5000 *l. in Part of this* 15000 *l.* with his Name to it. Was there any other date to that?

Dr. *Oates.* No, that was ſet down as the ſame Day, *Received* 5000 *l. in Part by the Order of* Edward Coleman.

L. C. J. And then Sir *Geo. Wakeman*'s Name was ſet to it at length, was it?

Dr. *Oates.* Yes, it was.

Sir *Geo. Wakeman.* Where was that Received? In whoſe Chamber?

Dr. *Oates.* I cannot ſay that.

L. C. J. Was there any Place mentioned in the Note where it ſhould be Received?

Dr. *Oates.* No, my Lord, I was then ſick of the Stone, and was not at the Payment of the Money.

L. C. J. But did the Note mention any Name? Received of any body?

Dr. *Oates.* It was by Order of Mr. *Edward Coleman* 5000 *l.* in Part of this 15000 *l.*

Sir *Geo. Wakeman.* Does he ſay this was in the Entry-Book?

Dr. Oates. Yes, it was.

Sir *Geo. Wakeman.* Where was that kept?

Dr. *Oates.* Sometimes at *Wild-Houſe,* ſometimes Mr. *Langhorn* had the Cuſtody of it.

Sir *Geo. Wakeman.* I humbly beg of the Court that Mr. *Staley* may be ſent for.

L. C. J. He only ſays he believes Mr. *Staley* paid it.

Sir *Geo. Wakeman.* Does he mention no Place where it was Received?

L. C. J. No.

Sir *Geo. Wakeman.* Nor no Perſon it was paid to?

L. C. J. No, he ſays, All I ſaw is this, that in the Entry-Book ſometimes kept at *Wild-Houſe,* ſometimes by Mr. *Langhorn,* there was written, *This Day* (which was ſome Day in *Auguſt*) *was propoſed to Sir* G. W. 15000 *l.* and by him accepted, and under that a line or two more which contained, *Then Received* 5000 *l. by Order of* Edward Coleman, *being Part of this* 15000 *l.* *Geo. Wakeman.*

Sir *George Wakeman.* Will your Lordſhip pleaſe to give me leave to ſpeak ſomething now, I may forget it hereafter.

Mr. *Ward.* We have not done yet.

Mr. Juſtice *Pemberton.* Sir *George,* they have not yet done with this Witneſs for the King.

L. C. J. *North.* Take a *Memorandum* of it in your Paper.

Sir *Robert Sawyer.* Pray, what do you know more of the Priſoner at the Bar, Sir *George Wakeman?*

Dr. *Oates.* This is all I can recollect at preſent.

Sir *Robert Sawyer.* Do you know any thing of any Commiſſion that he had?

Dr. *Oates.* I did urge that he received a Commiſſion to be Phyſician-General of the Army.

L. C. J. Did you ſee that Commiſſion?

Dr. *Oates.* Yes, I ſaw it in Sir *George Wakeman*'s Hands.

L. C. J. Had you ſeen it before?

Dr. *Oates.*

Dr. *Oates.* Yes, I had.

L. C. J. Where did you ſee it in his Hand?

Dr. *Oates.* When he was writing at Mr. *Aſhby*'s.

L. C. J. What Note was that he left behind him there?

Dr. *Oates.* It was an Apothecaries Bill, as I ſuppoſe.

L. C. J. What Month was it that you ſaw the Commiſſion?

Dr. *Oates.* It was in *July.*

Mr. *Ward.* What do you know of his being privy to the Conſult in *April?*

Dr. *Oates.* I cannot ſpeak any thing to that.

L. C. J. Did he write his Name to that Bill?

Dr. *Oates.* I cannot ſay that, my Lord, it was finiſhed, but I cannot be poſitive about the Name.

L. C. J. But you ſay, that you believe that the Name of *George Wakeman* was the ſame Hand with that you ſaw when he writ the Apothecaries Bill?

Dr. *Oates.* It was, as near as I can gueſs, the ſame with that Letter that was writ to *Aſhby*, wherein he does direct him to take a Pint of Milk in the Morning, and a Pint of Milk in the Evening, and that he ſhould have an hundred Strokes at the *Bath:* And this Hand was the ſame with that of the Apothecaries Bill.

L. C. J. You never ſaw Sir *George Wakeman* write in your life, did you?

Dr. *Oates.* I ſaw him in a writing poſture, and I ſaw him lay by the Pen.

L. C. J. But you did not ſee him write?

Dr. *Oates.* No, my Lord, but the Gentleman that ſate by him was lame of both his Hands and could not write: And I ſaw him lay by the Pen, and when he was gone away the Ink was not dry.

L. C. J. You ſpeak of that only to ſhew the likeneſs of the Hand.

Sir *Geo. Wakeman.* Have you not ſaid that you do not know my Hand?

Dr. *Oates.* I have told the Court before how far I have known your Hand. I ſaw a Letter, that I ſay was ſigned and ſubſcribed *George Wakeman*, and that was the ſame Hand that was to the Receipt, and to the Apothecaries Bill.

Sir *Geo. Wakeman.* Have you not ſaid poſitively that you do not know it, and is not that matter on Record?

Dr. *Oates.* I did ſee a Letter ſubſcribed *George Wakeman*, 'tis a fine genteel Hand, and after I ſaw him in a writing Poſture, I ſaw him lay by the Pen, the Ink and Paper was wet; I did not indeed ſee him write, but there was no body in the Room that could write, or in a writing Poſture but he, for the other Gentleman was lame of both Hands.

Sir *Geo. Wakeman.* But I pray give a poſitive Anſwer to what I ask you; have you not ſaid you do not know my Hand?

Dr. *Oates.* I do not remember I have ſaid ſo.

Mr. Juſt. *Pemberton.* But he ſays now he believes that the Hand that writ the Letter to *Aſhby*, and the Bill that he ſaw green, when no Body was by that could write but you, were the ſame.

Sir *George Wakeman.* Have not you ſaid, before the King and Council, that you never ſaw me in all your life, and that you did not know me?

Dr. Oates. My Lord, you may be pleaſed to know, when I ſaw Sir *George Wakeman* at the Council I had been up two Nights together, and the King was willing once to excuſe me from ſtaying any further Examination, and being ſo ill and indiſpoſed for want of Reſt, in reſpect both of my Intellectuals, and every thing elſe, I might not charge him ſo home; but now I have a proper Light whereby I may ſee a Man's Face, I can ſay more to him.

Sir *George Wakeman.* This is juſt *Coleman*'s Caſe, the Light was in your Eyes.

Dr. Oates. This is the ſame Gentleman: I deſire he may propoſe his Queſtions to the Court.

L. C. J. This is his Queſtion, whether you did ſay before the King and Council, you did not know Sir *George Wakeman?*

Dr. Oates. I do not remember whether I did or did not. I ſaw one called Sir *George Wakeman*, and this is that Man; but I will not ſay, this was the Man that was before the Council when I was there.

Mr. Juſtice *Pemberton.* Did you ſee the Commiſſion in this Man's Hand?

Dr. Oates. Yes, I did.

L. C. J. Did you know this Gentleman before he was at the Council?

Dr. Oates. I ſaw this Gentleman with Mr. *Aſhby*, and he can't deny it.

Sir *George Wakeman.* Can't deny it! Yes. I hope you will be able to prove it. You ſaid you never ſaw me in your life before you ſaw me at the Council.

L. C. J. Did you ever ſee him more than once?

Dr. Oates. Yes, twice in Mr. *Aſhby*'s Chamber.

L. C. J. What, two ſeveral Days?

Dr. Oates. Yes, two ſeveral Days.

Mr. Juſtice *Pemberton.* Where was it that you ſaw him when the Writing you ſay was green that he left behind him?

Dr. Oates. It was at Mr. *Aſhby*'s Chamber.

L. C. J. You never ſaw him before that, did you?

Dr. Oates. No.

L. C. J. How often after?

Dr. Oates. But once after that.

L. C. J. Was that at the Council?

Dr Oates. No.

L. C. J. Look you what he ſays, he never ſaw you but twice before he ſaw you at the Council.

Dr. *Oates.* I ſaw you when the 10000 *l.* was propoſed to you.

Sir *Geo. Wakeman.* Where was that?

Dr. *Oates.* At *Wild-Houſe.*

Sir *Geo. Wakeman.* Did Mr. *Aſhby* lie there?

Dr. *Oates.* He did lie there, becauſe the Provincial was beyond Sea, and he came up to *London* in order to go to the *Bath.*

Sir *George Wakeman.* What Day was that Propoſal made to me?

Dr. Oates. It was before Mr. *Aſhby* went to the *Bath.*

Sir *George Wakeman.* In what Month?

Dr. Oates. In the Month of *July.*

Sir *George Wakeman.* By whom? By Mr. *Aſhby?*

Dr. Oates. Yes.

Sir *George Wakeman.* In the preſence of whom?

Dr. Oates. Father *Harcourt*, Father *Ireland*, and Father *Fenwick.*

Sir *George Wakeman.* You will be ſure to name thoſe that can be neither Witneſſes for me nor againſt me.

L. C. J. Who can help that?

Dr. Oates. I reckon up ſuch as you did keep Company with.

L. C. J. Do you know when Mr. *Aſhby* went to the *Bath?*

Dr. Oates. The latter end of *July* or the beginning of *Auguſt*, as I remember. And this was before he went: he ſtayed but fourteen or ſixteen Days, as I remember, in Town.

L. C. J. He ſays he ſaw you but twice, once when you writ that Note, and the ſecond time when the propoſal was made to you.

Sir *George Wakeman.* And you knew all theſe Things, at that Time when I was examined before the King and Council? Turn this way and anſwer me.

Dr. *Oates.* I am not bound to anſwer that Queſtion.

L. C. J. But you muſt anſwer his Queſtions, if they be lawful.

Sir *George Wakeman.* I ſay, I ask him, Whether he knew all theſe Things before that Time I was examined before the King and Council?

L. C. J. That muſt needs be, for all theſe Things were done before.

Sir *George Wakeman.* Then I ask him this Queſtion, Why did you ſay before the King and Council, that you knew nothing of me, but concerning one Letter that was writ from Mr. *Aſhby* to Mr. *Fenwick*? I ſhall prove this upon you; but, my Lord, let me obſerve this, Can any one believe, that if ſuch Evidence had been given in to the King and Council, againſt me, as he now ſpeaks of, that I ſhould not have been immediately taken into Cuſtody, but that I ſhould have my Liberty ſo long as I had?

L. C. J. I will tell you, Sir *George*, you will do very well and properly to call up your Witneſſes by and by, when you come to make your Defence, and to prove what he ſaid at the Council-Table. Pray, Dr. *Oates*, what was the reaſon you did not give the ſame Evidence then you do now?

Dr. *Oates.* I can, by and by, give an Anſwer to it, when it is proved by him what I did ſay. As to Mr. *Corker*, I ſay this, He had a Patent from the See of *Rome*, to be Biſhop of *London*, and Mr. *Corker* was privy and conſented to a Propoſal that was made by *Langhorn* to the *Benedictine* Monks, whereof he is one. And theſe *Benedictine* Monks did contribute 6000 *l.* to the Society of the Jeſuits, in order to the carrying on of this Deſign. And Mr. *Corker*, tho' he did deny before ſome Juſtices of the Peace, that he did go out of the Kingdom, yet he did go over to *Lampſpring* in *Germany*, and ſtaid there ſome ſhort Time, and he did write a Letter, but whether it was dated from *Lampſpring* in *Germany*, or no, I cannot tell, becauſe there was only the Date of the Month, but not of the Place from whence it came, but the latter end of *Auguſt* it was, and therein he wrote, that he did conſent to the Propoſal, for the raiſing of the ſaid 6000 *l.* for he is Preſident of the *Benedictine* Monks, and therefore it was neceſſary that he ſhould give the Suffrage, and he had been with Father *Le Cheeſe* and the *Engliſh* Monks in *Paris*, and had given an Account what Proſpect of Affairs he had in *England*, and how the Deſign went on.

L. C. J. Was this in a Letter?

Dr. *Oates.* Yes, it was.

L. C. J. To whom was that Letter directed?

Dr. *Oates.* It was directed either to Father *Hitchcot*, or to Father *Howard*, then in *London*.

L. C. J. You ſaw the Letter?

Dr. *Oates.* Yes, I ſaw the Letter.

L. C. J. Were you acquainted with his Hand-writing?

Dr. *Oates.* I will ſhew you how far I might be acquainted with his Hand. My Lord, this Gentleman, as I think, went away in *July*, as near as I can remember, I won't be poſitive in the Time he went over, but in the Month of *June* I ſaw this Gentleman with Mr. *Fenwick*, and he had given him an account either of ſome Friend or Kinſman of his, at St. *Omers*, that had not had his Penſion paid, and Mr. *Corker* did give a Note under his Hand, to Mr. *Fenwick*, where to take up ſo much Money, and the Money was to be received of Mr. *Langhorn*.

L. C. J. How much was that Money?

Dr. Oates. It was about 20 or 25 *l.* and he ſubſcribed his Name to it, *James Corker*; for that is his Name, tho' he is Indicted, I know not how, by the Name of *Anthony*: And I have a Summons to give Evidence againſt *Anthony Corker*.

L. C. J. He is Indicted by the Name of *James*.

Dr. Oates. And then I ſaw his Name to an Examination that was taken by Sir *Charles Harbord*, and ſome other Juſtices that were of the Houſe of Commons that took the Examination of this *Corker*, and it was the very ſame Hand he uſually writ, only it was not ſo fair, nor ſo well, in his Examination. This is that I ſay againſt Mr. *Corker*.

Sir *Rob. Sawyer.* Shew him that Hand there: Pray, Sir, look upon it.

[*Then a Paper was ſhewn to him.*]

Dr. *Oates.* This is the ſame Hand.

Corker. Is that a Copy of my Examination before the Juſtices?

L. C. J. It is the Original.

Corker. I am glad it is there.

L. C. J. Shew it the Priſoner.

Dr. *Oates.* Mr. *Corker* did uſe to beſtow the Queen's Charity ——

L. C. J. Is that your Hand?

Corker. Yes, my Lord.

L. C. J. Shew him the other.

Corker. Theſe are both my Hand, as far as I can ſee.

Dr. *Oates.* That Note he gave to *Fenwick*, for the receiving this Money, was the ſame Hand with this, and ſo was the Letter that came, as we ſuppoſe, from *Lampſpring* in *Germany*; but I cannot ſay it did ſo, wherein he did give Conſent to the raiſing and giving this 6000 *l.* for the carrying on of the Deſign.

Sir *Rob. Sawyer.* What was that you had more recollected?

Dr. *Oates.* He did diſpoſe of the Queen's Charity (as it was ſo called) but Mr. *Corker* did ſay, it was to carry on the Deſign; and this he did ſay in the Month of *June*, when he was with Mr. *Fenwick*. Now, what he meant by that Deſign, I leave to the Jury to judge, only ſome Parcels he had diſtributed, Two or Three Shillings to ſome, and Forty Shillings to another, to ſome more, to others leſs: But a great Part of it he did uſe for the carrying on of this Deſign, and he ſaid the Queen had given him Orders ſo to do.

Sir *Rob. Sawyer.* What do you know of his being privy to the Conſult of the 24th of *April*?

Dr. *Oates.* He did know of it, and I will tell your Lordſhip how I know he knew of it. He did except againſt *Pickering* being choſen.

L. C. J. To do what?

Dr. *Oates.* To do that wicked Thing to kill the King, for ſaid he, *Pickering* is commonly attendant upon the Altar, and he thought it not ſo convenient, that he ſhould be employed about that Buſineſs becauſe he might miſs an Opportunity, by being at High Maſs, whereas another, a Lay-man, might do it.

Sir *Rob. Sawyer.* Were you preſent when the Exception was made?

Dr. *Oates.* Yes, it was when the Order was given about the Money, to *Fenwick*.

L. C. J. At whoſe Houſe was it?

Dr. *Oates.* At the *Benedictine* Convent in the *Savoy*.

Sir *Rob. Sawyer.* Was it expreſſed at that Time what *Pickering* was to do?

Dr. *Oates.* His being privy to the Conſult in *April*, I had it only from his own Mouth, for he wondered

wondered that the Jeſuits ſhould employ *Pickering* in that Buſineſs, when they might have a Lay-man who was more fit; he being a Religious-man, and attending upon the Altar, it was not ſo convenient.

L. C. J. Where was that 6000 *l.* to be raiſed?

Dr. *Oates.* Out of the *Benedictines* Eſtates.

L. C. J. Was he their Preſident?

Dr. *Oates.* Yes, he was.

Mr. Juſt. *Ellys.* Dr. *Oates*, was he againſt the Thing, the doing of it at all, or againſt *Pickering*'s doing of it only?

Dr. *Oates.* He was only againſt *Pickering*'s doing of it. He would have had a Lay-man employed in it.

Mr. Juſt. *Pemberton.* That is plain, for he did give Conſent that the 6000 *l.* ſhould be raiſed for the carrying on the whole Deſign.

Sir *Rob. Sawyer.* Do you know any thing beſides that Letter you have mentioned, which he writ to give his Conſent?

Dr. *Oates.* Nothing, but that becauſe he had given his Conſent, the Money was paid.

L. C. J. Do you know it was afterwards paid?

Dr. *Oates.* I believe that the Money was paid, for our Fathers ſaid that they had received it.

Mr. Recorder. What ſay you to the reſt of the Priſoners?

Dr. *Oates.* Mr. *Marſhal* I do charge with the ſame, that is, that he was actually preſent at the *Benedictine* Convent, when the 6000 *l.* was agreed to be contributed, but it was not to be paid till they had an Anſwer from Mr. *Corker.*

Sir *Rob. Sawyer.* That Letter you ſpeak of, was an Anſwer to it, I ſuppoſe?

Dr. *Oates.* Yes, my Lord, it was ſo.

Sir *Rob. Sawyer.* What do you know of the Conſult, was he privy to that?

Dr. *Oates.* I will not be poſitive as to Mr. *Marſhal*'s being privy to the Conſult, I know that he was privy to *Pickering*'s undertaking to kill the King.

Sir *Rob. Sawyer.* How do you know that?

Dr. *Oates.* Becauſe he was of *Corker*'s Opinion, that they had better take a Lay-man.

Mr. Recorder. What ſay you to *Rumley?*

Dr. *Oates.* He is a *Benedictine* Monk, or at leaſtwiſe a Lay-Brother. And he was privy to this Conſult, in which the 6000 *l.* was agreed to be paid and given, and I do judge he did conſent to it, for he did pray God that it might have good Succeſs, and that the Catholick Cauſe might once again flouriſh in *England.*

L. C. J. North. He was there then, was he not?

Dr. *Oates.* Yes, He was there, but only as a Servant, a Lay-Brother of that Order.

L. C. J. North. Why, is he profeſſed?

Dr. *Oates.* Yes, I think he is.

L. C. J. North. What Time was this, Mr. *Oates?*

Dr. *Oates.* In *Auguſt.*

L. C. J. North. Was it the former part of *Auguſt?*

Dr. *Oates.* I cannot be poſitive, but I think it was.

Sir *Robert Sawyer.* Can you ſay any thing more, againſt the reſt of the Priſoners?

Dr. *Oates.* I do not recollect any thing more, at preſent.

Mr. *Ward.* Now, Gentlemen, if you pleaſe to ask him any Queſtions, you may.

Rumley. Were you there preſent?

Dr. *Oates.* Yes, I was.

Rumley. Was it in the Month of *Auguſt?*

Dr. *Oates.* Yes, it was.

Sir *Robert Sawyer.* Will any of you ask him any more Queſtions?

Corker. He ſays I went in *June* to *Lampſpring*, now I would ask Mr. *Oates* where *Lampſpring* is?

Dr. *Oates.* We ſuppoſe it to be in *Germany.*

Corker. 'Tis almoſt at the furtheſt end of *Weſtphalia*, and he ſays, that being there, I had Diſcourſe with *Le Cheeſe*, and the *Engliſh* Monks at *Paris*, about this Deſign, I would fain make Senſe of this, if I could.

Dr. *Oates.* To ſatisfy Mr. *Corker*, I cannot ſay that he went to *Lampſpring*, but only as he ſaid himſelf; and they uſed to ſay they go to one Place, when they go to another: As *Ireland* ſaid he went to St. *Omers*, when he went into *Staffordſhire.*

Corker. Where, and when, did I give my Conſent to the Deſign about murdering of the King, for you named the 24th of *April?*

Dr. *Oates.* This is that I ſay to the Court, that the Privity that Mr. *Corker* had of the Conſult of the 24th of *April*, was that I had out of his own Mouth, in which he did declare, that he did think the Jeſuits had not done well to make Choice of one of their Order to do that Buſineſs, ſince he was to attend upon the Altar, but it would have been well if they had made Choice of ſome other Lay-man to match *Grove.*

Corker. You tell me, I had a Patent to be Biſhop of *London.*

Dr. Oates. I ſaw it in your own Hand.

Corker. Who gave me that Patent?

Dr. Oates. I did not enquire into that.

Corker. Did you hear me ſay, I accepted of it, and ſhould be Biſhop of *London?*

Dr. Oates. I heard you ſay this, you hoped it would not be long e're you ſhould exerciſe your Epiſcopal Function.

[*At which the People laughed.*]

Dr. *Oates.* I now recollect ſomething more. I remember Mr. *Marſhal* was preſent when Father *Hitchcot* and Father *Howard*, and *Conyers* the *Benedictine* Monk, were there preſent, about the laying of a Wager, whether, or no, the King ſhould eat any more *Chriſtmas*-Pies, and this *Benedictine* Monk, *Conyers*, did lay he ſhould not, and another Gentleman lay'd that he would, and this Gentleman, *Marſhal*, did go halves with *Conyers*, that he would not.

Marſhal. I deſire you would tell my Lords the Judges how long you have known me, and where you have ſeen me?

Dr. *Oates.* I have ſeen this Gentleman ſeveral times, but had never any Familiarity with him, but I have ſeen him officiate at the Altar.

Marſhal. How long have you known me?

Dr. *Oates.* Firſt and laſt, two Years, but the firſt time that I knew you, to hear you ſpeak, was when Father *Hitchcot* and the reſt were there.

Marſhal. He ſays he hath known me theſe two Years, and yet never ſpake to me.

Dr. *Oates.* I knew him by ſight.

Marſhal. He looked upon me as a Prieſt, it ſeems, he knew me to be engaged in this Buſineſs, as he ſays, I wonder he ſhould never converſe with me.

Dr. *Oates.* There are a great many that I know by ſight, whom I never did converſe with.

L. C. J. What do you infer from that? It may be, you know ſome of the Bench by ſight, that you never ſpake to before, nor they to you.

Marſhal. What Day of the Month was this Conſult?

Dr. *Oates.* It was in *Auguſt.*

Marſhal. But what Day of *Auguſt?*

Dr. *Oates.* 'Tis a great Privilege that I tell you the Month. It was between the firſt and the middle of *Auguſt.*

L. C. J. He tells you it was the former part, but it lies in his Breaſt, whether he will or no, to tell you the exact Day.

Marſhal. My Lord, 'tis impoſſible to make a Defence, if Circumſtances of Time and Place be not mentioned.

L. C. J. 'Tis fit he ſhould anſwer, if he can tell the Time, but if he cannot, we can't help it.

Marſhal. But if he does not name the very Day he may name the Place.

L. C. J. He does name the Place, it was at the *Benedictine* Convent.

Marſhal. Why can't he as well remember the Day?

Dr. Oates. If they will tell me when the Feaſt of the Aſſumption is, which is a Feaſt of their making, then I will give them a pretty near Account when it was.

Marſhal. The Feaſt of the Aſſumption is the 15th of *Auguſt.*

Dr. Oates. My Lord, it was either the Day before, or the Day after.

Marſhal. Now he hath avouched this poſitively.

Dr. Oates. Nay, I will not be poſitive.

Marſhal. But you were ſo, that it was the Day before, or the Day after.

Dr. Oates I appeal to the Judges of the Court.

L. C. J. If he will ſay it, let him, but People are not to be ſnap'd up thus. Mr. *Oates,* you are upon your Oath, and pray anſwer the Queſtion that is asked by the Priſoner as poſitively as you can. If you can, ſay ſo, if you cannot, ſay ſo.

Dr. Oates. My Lord, I do believe verily it was either the Day before, or the Day after.

L. C. J. Are you ſure it was?

Dr. Oates. My Lord, I do verily believe it.

Marſhal. But what Accuſation is it of a Thief or a Murderer upon the High-way, unleſs you tell the Time exactly?

L. C. J. You ſee he will not anſwer poſitively.

Marſhal. Mr. *Oates,* was I at any other Conſult beſides this one?

Dr. Oates. Yes, you were, upon the 21ſt day of *Auguſt,* if it fell upon a *Wedneſday.*

Marſhal. What matter is it what Day it fell on?

Dr. Oates. If it were a *Wedneſday,* then the 21ſt of *Auguſt* you were at a Conſult, when we had Letters from Archbiſhop *Talbot,* wherein we had an Account of the State of *Ireland,* how the *Iriſh* Affairs did ſtand, but it did not pay an *Iriſh* Letter's Price, and therefore I ſuppoſe it came from this ſide of the Water, tho' it was directed as if it came from *Dublin.* And this was read there, and there was in it a Prayer, that a Commiſſion might be ſent down, and there were ſome Jeſuits and ſome *Benedictines,* amongſt whom *Marſhal* was one, and he did give his Conſent that the Commiſſion ſhould be ſent down.

L. C. J. What Commiſſions were they?

Dr. Oates. For Officers in the Army that was to be raiſed there.

Marſhal. Where was that Letter read?

Dr. Oates. At the *Benedictine* Convent.

Marſhal. And this, you ſay, was the 21ſt of *Auguſt?*

L. C. J. And that was on a *Wedneſday,* as the Almanack ſays.

Dr. Oates. There he agreed to ſend the Commiſſions into *Ireland* for the appointing of Officers, and did conſent to the poiſoning of the Duke of *Ormond.*

Rumley. When was *Pickering* taken?

Dr. Oates. He was taken the Night before, or *Michaelmas*-day in the Morning.

Rumley. Were not you there, Mr. *Oates?*

Dr. Oates. Yes, I was.

L. C. J. Were you at all the Conſults?

Dr. Oates. No, I was ſick, when Sir *George Wakeman* was offered the 15000 *l.* and receiv'd the Five.

L. C. J. What Conſults were you at?

Dr. Oates. I will anſwer to thoſe Conſults that theſe Perſons are affected in; there was one Conſult about the beginning or middle of *Auguſt,* there was another the 21ſt of *Auguſt,* and then there was another Conſult wherein the 5000 *l.* was paid, or ordered to be paid, to *Wakeman,* and I was not there.

Rumley. Who was the Meſſenger that took *Pickering?*

Dr. Oates. I do not know him.

L. C. J. Was the Conſult of Sir *George Wakeman* after the 21ſt of *Auguſt?*

Dr. Oates. No, my Lord.

Mr. *Ward.* Will you ask him any more Queſtions?

Dr. Oates. My Lord, I deſire I may have leave to retire, becauſe I am not well.

L. C. J. You muſt ſtay, Dr. *Oates,* till after their Defence be over.

Mr. Recorder. If you deſire to have any Refreſhment, you ſhall have it got for you.

Sir *Rob. Sawyer.* Then we call Mr. *Bedlow* next. (*Who ſtood up.*) Pray, Sir, ſpeak your Knowledge concerning the Priſoners at the Bar.

Mr. *Bedlow.* My Lord, before I ſpeak any thing to the Priſoners, I deſire there may be a Difference between the Clerks of the Council and me decided, they have miſtaken a Word in my Evidence, and put in *New-market,* for *Windſor.*

L. C. J. What does that ſignify to the preſent Buſineſs?

Mr. *Bedlow.* I deſire it may not be brought againſt me in my Evidence.

L. C. J. Then 'tis only for a Caution beforehand.

Mr. *Bedlow.* The latter part of the laſt Summer, it was, I think, about the beginning of *Auguſt,* Sir *George Wakeman* was at *Harcourt*'s Chamber, I my ſelf was there firſt, and when he came in, he fetch'd a Turn or two about the Room, ſeeming angry and diſcontented, and asked *Harcourt* if he had any thing for him? Then *Harcourt* asked him, How he did proceed? Said he, I don't know whether I ſhall or no; for what Reaſon am I drill'd on in ſuch a Concern as this? Says Mr. *Harcourt,* Stay, Sir *George,* you need not be ſo haſty to blame us, for we are better provided for you than you think for. With that *Harcourt* went to his Cabinet, and

took

took out five or six Papers, and brought a small Bill, and asked Sir *George Wakeman*; said he, Sir *George*, how are you provided? Said Sir *George*, I have been ready long since, but you have not been so punctual with me: But what have you there? Said *Harcourt*, I have a Bill of 2000*l.* From whom? said Sir *George Wakeman*. Then he named a Gentleman, but I don't know him, nor can't remember him. And said he, I came now from *Whitehal*, and receiv'd it from such an one, which he said was by the Queen's Order, and that he had it from Her. This Bill is charged upon such a Goldsmith, and named him, he dwelt some where about St. *Dunstan's* Church, but I can't remember his Name, I'll tell you by and by why I think he dwelt there. As soon as Sir *George* had read it, 'tis well, said he, if it be accepted, I find more Encouragement from my good Lady and Mistress, than from any of you all. They had some little more Discourse, and Sir *George* asked of *Harcourt*, who I was? Said he, 'tis a Friend that hath been long engaged in our Business, and is to do the next great Work to yours. Well, said Sir *George*, I will go and see if the Bill be accepted, and you shall hear of me to Night; and accordingly he did go. I did not stay but a very little time after him, and therefore I collect he could not go far to get the Bill accepted; for I did cross *Lincolns-Inn-Fields*, and came down a Lane by *Temple-Bar*, and between the *Queen's-Head* and *Chancery-Lane* end, I met with Sir *George Wakeman:* Said I, Have you been with your Bill already, and is it accepted? Yes, said he, 'tis accepted. And when is it to be paid? I am to go, said he, in the Afternoon, to receive it.

L. C. J. Who said so?

Mr. *Bedlow.* Sir *George Wakeman.*

L. C. J. To whom?

Mr. *Bedlow.* To me. And seeing of him return from the City-ward again, I concluded it was not far off, and spoke to him as I tell you. Sir *George* and I were not very well acquainted, but I had known him five Years, and upon that Character Mr. *Harcourt* had given of me, I thought I might make bold with him, and when I asked him and accosted him with that short Question, Is your Bill accepted? he made me Answer, it was, and he was to receive it in the Afternoon, and thought it not fit to dispute any thing with me.

L. C. J. You don't know what Goldsmith it was upon?

Mr. *Bedlow.* It must be one that lives about St. *Dunstan's*-Church, or *Fleet-street*, for he could not go far in that time.

L. C. J. Where was *Harcourt's* Chamber?

Mr. *Bedlow.* In *Duke-street*, next the Arch. Now I asked *Harcourt* afterwards, whether this was part of the 15000*l.*? Said he, We have not adjusted that Matter yet, but he receiv'd this only as a present Supply. And he did in a short Time after receive as much as made it up 5000*l.* But I asked, whether it were for the old Business? Yes, said he, 'tis for the same Design, if we should fail of it by other Means. (And so was the Discourse to Sir *George Wakeman.*) If we should fail of it at *Windsor*, then this Way is to be taken; and if this fail too, we will make sure of it at *New-Market.*

L. C. J. What do you know of the other Prisoners?

Mr. *Bedlow.* Mr. *Corker* I have seen with *Kaines* and *Le Fevre*, but never in their Company but once, where being in the great Court at *Somerset-house*, we walked out of the Court into the Piazza, and there we were speaking of our Business. *Kaines* was saying to me, You brought such a Letter, such a Time, for me, and I have lost it: I do not know what to do for it. Said I, Do you remember the Contents of it? Yes, said he, I do. Said I, You should take such Letters in such a Character as none could read but your self, and then burn the Letters themselves. Said he, I hope it will not come to Light, for none will meddle with my Papers, that can do me any Hurt. I heard nothing from Mr. *Corker*, that did relate positively to the Murder of the King, but *Corker* and *Le Fevre* were speaking in general, about the Business, what Letters they had receiv'd from beyond Sea how to manage their Affairs.

L. C. J. About what Matter?

Mr. *Bedlow.* About the Plot, what Letters they had receiv'd from beyond Sea, and how forward they were in their Proceedings here.

Corker. What did we talk about?

L. C. J. What was it about still?

Mr. *Bedlow.* It was about raising the Army, and what Interest he had with the People. It was in general, I come not to Particulars.

Corker. Did *Kaines*, or I, or any of us, name any such thing as Plot, Design, or the like?

Mr. *Bedlow.* We were discoursing of the Business in general, I don't take upon me to speak to Particulars.

L. C. J. What was it about, say you?

Mr. *Bedlow.* About raising an Army, what Interest he had in the People, who had been sent into the Country, what they had done, and the like.

Corker. Did you hear any Word of Killing, Army, or Design?

Mr. *Bedlow.* Yes, every one of those Words were used. I don't take upon me to tell how the Words were placed.

Mr. Ward. What say you to the rest?

L. C. J. When was this Discourse?

Mr. *Bedlow. July* was Twelvemonth.

Mr. *Ward.* What say you to Mr. *Marshal.*

Mr. *Bedlow.* Mr. *Marshal* hath reason to know me, and I suppose will not pretend to the contrary, for he cannot but remember that I knew him when I went to the *Gatehouse.* He hath carried several Letters that have been brought from beyond Sea, and others that have been writ in *England* into the Country, and I have been with him in *Latham's* Chamber in the *Savoy*, and *Somerset-house*, so long since as *Latham* was one of the Queen's Monks. He hath carried the same Letters that I have brought from beyond the Sea, three or four, or more at a time, to communicate to the Country Gentlemen of the Catholick Party, that were Assistants to us, particularly to Sir *Francis Radcliff* and others, I am sure he hath carried, and he knew what was the effect of those Letters, and what were the Answers to them; he read them as well as any of them, for I think he is of the same Order, to the best of my knowledge, tho' I never saw him in his Habit.

L. C. J. What was the import of the Letters?

Mr. *Bedlow.* I never brought any one Letter to the Religious Fathers, and I have brought a great many, but what did import what I have now given in Evidence, and did relate to the full substance of what I say now.

Sir *Robert Sawyer.* Can you mention the particulars of any one Letter that he knew the Contents of?

Mr. *Bedlow.*

Mr. *Bedlow*. I do mention one which I very well remember, and that was to Sir *Francis Radcliff*, and I remember it tho' it be long ſince, becauſe I was well acquainted with Sir *Francis Radcliff*'s Son, and I brought Commendations from his Son to *England*.

Sir *Robert Sawyer*. Well, Sir, What was the Contents of that Letter?

Mr. *Bedlow*. It was a Copy of the Letter from *Le Cheeſe* in *Paris* to the Monks and Jeſuits in *England*, in Anſwer to the firſt Letters that I brought over to them relating to the management of the Deſign.

L. C. J. Was it mentioned in that Letter what the Deſign was?

Mr. *Bedlow*. In that which I carried over to *Le Cheeſe*, it was, that all things were in readineſs and the time now drawing near, for they did hope in a Year or two, or in a little time they ſhould be in a Capacity to put this in Practiſe, and they did not queſtion but to ſubvert the Oppreſſion and Tyranny the Catholicks were under in *England*.

Sir *Rob. Sawyer*. Was Mr. *Marſhal* acquainted with the Contents?

Mr. *Bedlow*. He was one of them that uſed to examine the Anſwers. It was written to him partly, for if he were not a Member of their Order, as I think he is, he was one of the Club and Conſult that ſaw the Contents of all Letters. I have not ſeen him ſo often as I have done the others, but I believe he hath been there as often, but he hath received to my remembrance twice Letters to communicate into the Country concerning the Subverſion of the Government, and the Introducing of Popery.

Mr. *Ward*. What ſay you to Mr. *Rumley*?

Mr. *Bedlow*. I cannot be poſitive as to my own knowledge, but what Mr. *Harcourt* has ſaid.

L. C. J. Do you know any thing of your own knowledge by him?

Mr. *Bedlow*. I have been told he hath communicated Letters of this buſineſs into the Country. And that he was one employed when any Secret Letters were ſent.

L. C. J. So you cannot declare upon your Oath, that you know that Mr. *Rumley* knew the Contents of any Letters relating to the Plot?

Mr. *Bedlow*. No, my Lord, I do not. I have a good remembrance of Faces, but I do not remember his.

Sir *Geo. Wakeman*. What Day was it that I had the Diſcourſe with *Harcourt*, and received the Bill from him as you ſay?

Mr. *Bedlow*. You ask me a Queſtion as if I were in the ſtate I was formerly in, when I might have an Indulgence for telling a Lye. No I have no Delight to Damn my Soul, to make you a Martyr; but to ſatisfie you as well as I can, I ſay, it was the beginning of *Auguſt*, or part of the beginning. I do not ſpeak to a Day.

Sir *Geo. Wakeman*. How do you know it was a Bill of Exchange for this Money?

Mr. *Bedlow*. You did read it aloud.

Sir *Geo. Wakeman*. Had I any Acquaintance with you?

Mr. *Bedlow*. No, but Mr. *Harcourt* told you who I was.

Sir *Geo. Wakeman*. And would I upon the firſt ſight of a Man diſcover to him what would endanger my Life?

Mr. *Bedlow*. Ay, and a hundred times more, if Mr. *Harcourt* did but tell you I was his Confident.

L. C. J. What were the Contents of that Note?

Mr. *Bedlow*. It was directed to a Goldſmith, whoſe Name I tell you I cannot remember.

Sir *Geo. Wakeman*. You are good at remembring ſome Sir-Names, why can't you remember this Name as well?

Mr. *Bedlow*. I can remember Names that do relate to any buſineſs, but only hearing this Name by the by, I cannot remember it, for I did not then think it of ſuch Conſequence.

Sir *Geo. Wakeman*. You do not know me?

Mr. *Bedlow*. Yes, I do.

Sir *Geo. Wakeman*. I call God to Witneſs I never ſaw you before in my Life that I know of. You have a very remarkable Face, and if a Man had once ſeen you he muſt know you again.

L. C. J. Who ſubſcribed that Note?

Mr. *Bedlow*. I don't know, it was one of the Queens Gentlemen that *Harcourt* had it from. And whereas Sir *Geo. Wakeman* ſays he does not know me, I did take Phyſick of him at the *Bath*?

Sir *Geo. Wakeman*. When was I at the *Bath*?

Mr. *Bedlow*. It was ſome Years ſince.

Sir *Geo. Wakeman*. I never was there but once, and that was a Year and a half ago.

Mr. *Bedlow*. No, Sir, it is more than that, for you were there when the Queen was there.

L. C. J. How long is it ago that you were there Sir *George*?

Sir *Geo. Wakeman*. It was about two Years ago.

Mr. *Bedlow*. It is three Years this Summer.

L. C. J. Then that is well enough; for that is ſome Years ſince.

Mr. *Bedlow*. I had acquaintance enough with him while he was there.

Sir *Geo. Wakeman*. I ſay this, my Lord, if I had been acquainted with Mr. *Bedlow*, I ſhould have known him to be a great Rogue, which is but what he hath ſaid of himſelf; and then I ſhould not have thought it fit to have truſted ſuch an one with ſuch a great Secret as this.

L. C. J. It may be he calls himſelf great Rogue for that which you would have applauded him for, and canonized him too. It may be he thinks he was a Rogue for going ſo far as he did; but perhaps you are of another Opinion.

Mr. *Bedlow*. My Lord, I could not count my ſelf an Honeſt Man, that had conſented to the Death of the King and Sir *Edmund-bury Godfrey*.

Sir *Geo. Wakeman*. But tho' he gives you an Account of ſuch a Bill delivered to me, yet neither he tells you the time, nor mentions the Man upon whom it was drawn: Here are all the marks of Falſhood that can poſſibly be.

L. C. J. No, he does not mention the Man upon whom it was drawn, nor from whom; nor can he ſay that ever you received it; but you were to receive it.

Sir *Geo. Wakeman*. How came he to omit that? but becauſe I ſhould have no Plea for my ſelf when I came to be accuſed of it.

Mr. *Bedlow*. Pray Sir *George* don't preſs me to ſay more than I know. I do tell you all that I can ſay of my ſelf.

Mr. *Recorder*. Have you any more Queſtions to ask him?

Marſhal. I ask you this Queſtion; Firſt, Why will you Damn your Soul to ſend me to Heaven? Lay your Hand upon your Heart, and in the Preſence

ſence of God declare whether ever you ſaw me in your Life, before you came to the *Gatehouſe*? Whether ever you ſaw me in any Part of the World whatſoever? And whereas you ſay now that I owned that I knew you there; it was ſo far from it, that all the Company that were there, will ſay that you did not know me, and declared your ſelf a Sranger to me.

Mr. *Bedlow*. No, Sir, pardon me; you did not deny but that you had ſeen my Face.

Marſhal. No, all the Company that were there will ſay that you owned your ſelf a Stranger to me; you told me, *Mr.* Marſhal, *be not afraid, I will do you no hurt.* But Mr. *Bedlow*, Where have you ſeen me?

Mr. *Bedlow*. At the *Benedictine* Convent in the *Savoy*. And, my Lord, the firſt Word that I ſaid, when I ſaw him, was, that this Man's Name is *Marſhal*, and he carried ſuch and ſuch Letters into the Country, and Sir *William Waller* can teſtifie the ſame. [*Who ſtanding upon the Bench, was ſworn.*]

Mr. *Recorder*. Mr. *Marſhal*, you had beſt to hearken to what Sir *William Waller* ſays.

Sir *William Waller*. My Lord, I went to the Priſon to ſee Mr. *Marſhal*, and Mr. *Bedlow* was there with me, Mr. *Bedlow* asked him if he he did not know him, and called him by his Name; he declared he had ſeen him before, but ſaid he did not know him.

L. C. J. Did he call him by his Name as if he knew him?

Sir *William Waller*. Yes, my Lord, he did.

L. C. J. Look you, Mr. *Marſhal*, he ſays that you your ſelf owned that you had ſeen him before, tho' you were not of his Acquaintance.

Marſhal. What Sir *William Waller* ſays, I muſt oppoſe, tho' I am extreamly ſorry ſo to do. Sir *William*, you may pleaſe to remember that you came to me after Mr. *Bedlow* was gone.

Sir *William Waller*. No, I was there with you before he came in.

Marſhal. I believe thoſe of the *Gatehouſe* do remember that I ſpoke with Mr. *Bedlow* in private in an interior Room; what you ſpoke was in the open Hall there. You asked me whether Mr. *Bedlow* had not been there? I told you, Yes, that was in the publick place; whereas Mr. *Bedlow* talked with me only in a private Room.

Sir *William Waller*. My Lord, what I have ſaid is upon my Oath, and 'tis nothing but the Truth.

Marſhal. And I am upon my Life, therefore I am very ſorry I muſt for the Truth ſake, and Defence of my Life, contradict what you ſay. What your Worſhip and I ſpoke was in the publick Room; but what Diſcourſe Mr. *Bedlow* and I had, was in another private Room.

L. C. J. Look you, Sir *William Waller*, was you there when Mr. *Bedlow* was with him?

Sir *William Waller*. I was, my Lord.

L. C. J. Where?

Sir *William Waller*. In the common Room.

L. C. J. What did he ſay concerning Mr. *Bedlow* in the common Room?

Sir *William Waller*. Mr. *Bedlow* called him by his Name, and asked if he knew him? he ſaid he had ſeen his Face, but did not know him.

L. C. J. Do you hear that, Mr. *Marſhal*?

Marſhal. Truly, my Lord, it goes againſt my Heart to ſpeak any thing in oppoſition to what Sir *William Waller* ſays, for I would not for all the World reflect or ſay any thing that ſhould glance upon Sir *William Waller*, as if he had taken a falſe Oath; but all in the *Gatehouſe*, nay, Mr. *Bedlow* himſelf knows, that he had diſcourſe with me in a private Room before Sir *William Waller* came.

L. C. J. Mr. *Bedlow*, ſpeak your ſelf; was Sir *William Waller* there when you came to the *Gatehouſe*?

Mr. *Bedlow*. My Lord, I had an Order from the Council-Board to go and ſee the Priſoner, there was no Body that told me his Name, nor that I knew, knew it; but I would not do it, I was ſo cautious, but in the hearing and company of a Juſtice of the Peace, and therefore I went away before they had called him down, and I went to ſee if the Houſe of Commons were ſitting; and when I came back, Sir *William Waller* was juſt coming thither, and ſo I went in with him, for I met him at the bottom of the Stairs. We came into the common Room, and there was Mr. *Marſhal* with the Keeper, and I was in no other Room, but the common Room. And Sir *William Waller* withdrew to the end of the Room while I asked him ſome Queſtions; and pray, will you pleaſe to ask Sir *William Waller* whether I did not call him by his Name as ſoon as I ſaw him?

Sir *William Waller*. Yes, my Lord, he did: He asked him if his Name was not *Marſhal*: and whether he did not know him: And he ſaid he had ſeen his Face, but had no Acquaintance with him.

Marſhal. Were not you with me firſt in that Room which turns in on the right-hand from the common Room?

Mr. *Bedlow*. I do not know any ſuch Room in the *Gatehouſe*.

Marſhal. There were your Guards, Mr. *Bedlow*, and there were ſeveral others in the *Gatehouſe*; they cannot but remember what Room I was brought into: They cannot poſſibly but remember, that when Sir *William Waller* came to me, he asked me whether Mr. *Bedlow* had been with me.

L. C. J. Look you, Gentlemen, they have done, call what Witneſſes you will, and make your Defence as well as you can.

Marſhal. My Lord, I did not think or imagine any ſuch thing would be ſpoke of; or that there would need any Atteſtation for it.

L. C. J. Look you, they have done; we will hear what your Witneſſes will ſay as long as you will.

Marſhal. My Lord, Mr. *Bedlow* ſeem'd a perfect Stranger to me when he came to the *Gatehouſe*; and to encourage me, told me, *Mr.* Marſhal (ſays he) *do not fear, I will do you no hurt at all: Did not you ſend* (ſaid he) *to ſuch an one, to have Mr.* Bedlow *queſtioned about ſuch and ſuch things?* Which I denied, and he did not ſeem by any word that he ſpoke, to have ſeen me before in his life.

L. C. J. He told Sir *William Waller* your Name was *Marſhal*, tho' you went by a wrong Name, the Name of *Marſh*.

Marſhal. He might eaſily know my Name, by thoſe that took me.

L. C. J. But I tell you, you went by a wrong Name then, *Marſh*.

Marſhal. My Lord, I am called promiſcuouſly *Marſh* and *Marſhal*. But *Marſhal* is the Name I own.

L. C. J.

L. C. J. And that is the Name he knew you by.

Marſhal. I did not call my ſelf *Marſh* when I was taken, but told my true Name.

Mr. *Bedlow.* My Lord, I did not hear of any Name at all, but I ſaid, This is *Marſhal*, one of the *Benedictine* Monks, as ſoon as I came in.

Marſhal. Mr. *Bedlow* ſeem'd to encourage me to hope, and bid me not fear; ſaid he, You will have an honourable Bench, and a good Jury. And this, they that were there can teſtify.

L. C. J. Call them: Call your Witneſſes.

Marſhal. But, my Lord, I did not know any thing of this. And Sir *William Waller*'s Queſtion that he asked me was, if Mr. *Bedlow* was with me?

L. C. J. You hear what he ſays.

Marſhal. I am infinitely loth to ſay it, becauſe he ſwears it; and you well know, Mr. *Bedlow*, you talked with your Guards a while, and then turned at laſt to me.

Mr. *Bedlow.* Yes, I did talk with my Guards, but Sir *William Waller* was in the Room as well as I.

L. C. J. By what Name were you committed?

Marſhal. I had Letters about me, writ to me by that Name; and I thought it my Duty to anſwer to that Name that the Letters did call me by.

L. C. J. Well, have you any Witneſſes?

Marſhal. This is a Surprize, I did not know of any ſuch thing.

L. C. J. Have you any Witneſſes, Sir *George VVakeman*?

Sir *George VVakeman.* Yes, my Lord, I have ſeveral.

Marſhal. But, Mr. *Bedlow*, can you ſay you have ſeen me any where before you ſaw me at the *Gatehouſe*.

Mr. *Bedlow.* Yes.

Marſhal. Where?

Mr. *Bedlow.* At the *Savoy*.

Marſhal. And any where elſe?

Mr. *Bedlow.* Yes, and at other Places.

Marſhal. Name one other Place in the whole World, and I will be contented to die.

Mr. *Bedlow.* I will tell you why I cannot name any other Place poſitively. I did carry the Letters thither, there were the Conſults about them, and there I uſed to converſe with you moſt.

Marſhal. Can you prove that ever you were in the *Savoy* in your Life? and I will be hang'd without any more to do. If you can prove it either by Man, Woman, or Child, I will go to the Gallows, and will not ſay one Word more.

Mr. *Bedlow.* My Lord, I have other Witneſſes, but at preſent I cannot produce them: there are ſome in *Kent*, they are ſome of them in one Country, and ſome in another, I reſerve them for another time, but there is Oath made of it before the ſecret Committees of the Lords and Commons.

L. C. J. How can he imagine that this ſhould be put upon him? therefore you may well believe that he hath never a Witneſs preſent. It may be he hath none can prove he ever was at *Weſtminſter-Hall* in his Life, for who could imagine ſuch a Queſtion ſhould be put to him?

Marſhal. Having been there ſeveral times, I ſuppoſe he did not uſe to go alone; 'tis impoſſible, but if they had been with him often there, he might prove it; if he ſay true, ſure ſome ſhould atteſt it.

L. C. J. 'Tis likely it ſhould be ſo, but he hath them not here.

Mr. Juſt. *Pemberton.* Why, do you think he can bring Witneſſes for every Act that he did in his Life?

Marſhal. If he have them not here, let him have time to produce them.

L. C. J. He hath a Witneſs in *Kent*, would you have us keep up the Jury till he ſends for his Witneſs out of *Kent*?

Mr. *Bedlow.* There is my Landlord, at whoſe Houſe I lay ſo long, can teſtifie it.

Marſhal. Who is that?

Mr. *Bedlow.* Mr. *Cott* a Belt-maker in the *New Exchange*. He hath gone often with me when I have gone into the Convent, and he hath gone round about, and his Maid that uſed to carry the Portmantle, wherein I brought over the Letters from beyond Sea.

L. C. J. Can you name any one body that ever ſee you in the *Savoy*?

Mr. *Bedlow.* I do name one; and beſides, my Lord, I lay in the *Savoy* half a Year at one *Woodroff*'s.

Marſhal. Was that the Place you ſaw me in?

Mr. *Bedlow.* No, no body came there but Monks and Meſſengers.

Marſhal. Was you there at the time when the *Savoy* was ſearched?

Mr. *Bedlow.* No, but I gave Sir *William Waller* directions to ſearch in the moſt material places of it.

Mr. *Recorder.* He ſays a material thing, if he be in the right, that he did give directions to Sir *William Waller* to ſearch in the moſt material Places of the *Savoy*. We will ask that Queſtion of Sir *William* whether he did or no?

Sir *VVilliam VValler.* Both Mr. *Oates* and Mr. *Bedlow* did give me Directions to ſearch in the *Savoy*; they told me of ſuch a particular Room where *Pickering* lay, and where ſuch a Cloſet was, and many other things; and it was by their Directions that I made the ſearch.

L. C. J. Look you what Sir *William Waller* ſays; he ſays that both Mr. *Oates* and Mr. *Bedlow* did deſcribe ſeveral Rooms to him in the *Savoy*, which it was impoſſible for them to make ſuch a deſcription, if they had not been there before.

Marſhal. I deſire to know when that deſcription was given?

Sir *William Waller.* Two or three Days before I took Mr. *Marſhal.*

Marſhal. Mr. *Oates* made ſearches there before.

L. C. J. But we ſpeak of *Bedlow* now.

Marſhal. But Mr. *Bedlow* might have knowledge from him and others that were there.

L. C. J. Do you think he muſt needs go officiouſly to inform *Bedlow* of what he found, upon an imagination that ſuch a Queſtion ſhould fall out hereon? And if he receiv'd no information, how then could he deſcribe the Rooms without he knew them?

Marſhal. May there not be ſeveral Houſes that I may give a deſcription of, upon the hearſay of others, tho' I were never in them my ſelf?

L. C. J. No, I know not very well how; and there is no reaſon you ſhould imagine he receiv'd information from *Oates*.

Marſhal. My Lord, there is reaſon enough, becauſe both do combine in the ſame Accuſation.

Mr. *Bedlow.* My Lord, I gave Sir *William Waller* Directions to ſearch in ſuch a Place, under ſuch a Bench

a Bench in *Pickering's* Apartment, where he found the Gun that was to kill the King.

L. C. J. Well, call your Witneſſes, Sir *George.*

Sir *George Wakeman.* Call Mr. *Chapman.*

L. C. J. But before they begin, Sir *Robert Sawyer*, we muſt do all the right to every one we can; I do not find, by the ſtricteſt Obſervation that I have made, that Mr. *Bedlow*, who is the ſecond Witneſs, does ſay any great thing, any material thing againſt any one of them; but as for *Rumney* he ſays nothing at all. He ſays, in effect, againſt Sir *George Wakeman*, no more than this, That he ſaw *Harcourt* give him a Note for 2000 *l.* which he ſaid was from the Queen; upon which Sir *George* ſaid he was more beholden to his good Lady and Miſtreſs, than to any of them all. The Note he does not know who drew it, nor upon whom it was drawn; nor does he ſay what it was for, more than what *Harcourt* told him, which was in doubtful words, That it was about the old buſineſs; but *Harcourt* did not tell him this in the preſence of Sir *George Wakeman*, but he ſpoke to *Harcourt* about it. It is no more, than Sir *George Wakeman* receiv'd from *Harcourt* the Bill of Exchange, he does not know upon whom, nor for what.

Sir *Robert Sawyer.* My Lord, he ſays more, with ſubmiſſion; for he ſays this further, That there was a diſcourſe about the buſineſs; and he did tell you, That Sir *George Wakeman* ſhould complain, that they had not done well with him, and asked why he was drill'd on; but when the Note was produced, he ſaid, My Matters are already prepared, but you are not ſo ready to perform your Promiſes. Then ſaid *Harcourt*, *If you are ready for us, we are ready for you:* and told him, *If he did not do it, they would do it at New-market.*

L. C. J. What is all this? Pray Mr. *Bedlow* ſtand up again: We are now in the Caſe of Mens Lives, and pray have a care that you ſay no more than what is true upon any Man whatever. I would be loth to keep out *Popery* by that way they would bring it in, that is by Blood or Violence: I would have all things go very fair; Pray what, upon your Oath, was the firſt part of Sir *George Wakeman's* Diſcourſe with *Harcourt* when they met?

L. C. J. *North.* Relate again your whole knowledge concerning Sir *George Wakeman*, and the Bill of Exchange, and the Diſcourſe after it, becauſe we are now upon the conſideration of it, what effect it will have upon him.

Mr. *Bedlow.* My Lord, I was with *Harcourt* in the Chamber, and Sir *George Wakeman* came in, and walked a turn or two about the Room, and ſeem'd to be diſcontented. *How do you, Sir* George? ſaid *Harcourt.* Says Sir *George*, *For what am I drill'd on thus in a concern of this Importance? What is the matter with you, Sir* George? ſaid *Harcourt. Why, is this a buſineſs to be ſlighted,* ſaid Sir *George, as I am? for I have no performance of your Promiſes. Why,* ſaid Harcourt, *what would you have? we are ready for you. Then,* ſaid he, *I am ready for you.* And then *Harcourt* ſpoke merrily to him, *Why are you ſo angry, Sir* George? And upon that he goes to his Cabinet, and ſearching among his Bags he found a little Note among them, and gave it to Sir *George*; ſaith he, *There is a Bill for you: I have been to day at* Whitehall, *and receiv'd it by the Queen's Order, from* ſuch a Gentleman: [whoſe Name I cannot now remember]; *and 'tis upon* ſuch a Man *for* 2000 *l.* [but I cannot remember the Goldſmith's Name neither.] *Well,* ſaid Sir *George, 'tis well ſomebody gives me encouragement; I have more encouragement from my good Lady and Miſtreſs, than from any of you. Nay,* ſaid Harcourt, *for Encouragement, that you ſhall not want; for the reſt ſhall be paid in due time.*

Sir *George Wakeman.* If the Queen had given me 2000 *l.* for the Service I had done her, was that any harm? I have deſerved it, I am ſure, for nine Years Service.

Sir *Robert Sawyer.* What other Diſcourſe had they then?

Mr. *Bedlow.* Said *Harcourt, But, Sir* George, *this muſt be well followed, and cloſely obſerved, becauſe ſo much depends upon it;* For if we ſhould miſs to kill him at Windſor, or you miſs in your way, we will do it at New-Market.

L. C. J. Who ſaid ſo?

Mr. *Bedlow. Harcourt.*

L. C. J. Did *Harcourt* ſay, before Sir *George's* Face, *If we miſs killing him at* Windſor, *and you miſs your way, we will do it at* New-market?

Mr. *Bedlow.* Yes, he did ſay, *If we miſs killing him at* Windſor, *and you miſs in your way (which we hope you will not) we will do it at* New-market.

L. C. J. He ſays now quite another thing than he ſaid before.

L. C. J. *North.* }
Mr. Recorder. } No, he ſaid the ſame before.
Sir *Rob. Sawyer.* }

L. C. J. What Anſwer made Sir *George Wakeman?*

Mr. *Bedlow.* Sir *George Wakeman* ſaid, If I find you ready, I will be ready in all things.

L. C. J. Was the Word ſpoke of *Poyſoning?*

Mr. *Bedlow.* I have ſpoken that already. *If we miſs at* Windſor, *and you miſs in your Way*; I do not remember whether the Word *Poyſon* was uſed; but I knew by what Mr. *Harcourt* and others had told me, that *Poyſon* was meant by it.

L. C. J. Was all this one intire Diſcourſe?

Mr. *Bedlow.* Yes, my Lord.

Then Sir George *ſaid privately to his fellow Priſoners,*

There is my buſineſs done.

Sir *Rob. Sawyer.* Here is a poſitive Proof of the Receipt of Money, which coupled with what *Oates* ſays, and the Diſcourſe that Mr. *Bedlow* tells you of, makes it out what it was for. This was paid in Part, was it not, Sir?

Mr. *Bedlow.* The Anſwer that Mr. *Harcourt* gave to Sir *George*, was, That he ſhould have the reſt in due time.

L. C. J. But what ſay you to *Marſhal*, but that he carried Letters?

Sir *Geo. Wakeman.* Was there no body preſent but you?

Mr. *Bedlow.* There was only *Harcourt*, You, and I.

L. C. J. But what ſay you to *Corker?*

Mr. *Bedlow. Corker* hath been in the Company with *Le Faire*, talking of News, what Encouragement they had by Letters from beyond Sea, as thoſe they had from *France*; ſuch and ſuch Letters ſpeak that they are in readineſs of Money, Men and Arms; and if we are ready here, they are ready for us. This was uſually the Diſcourſe, and all upon the ſame Deſign. Now when we talked of this buſineſs, we did not ſay the Word *Plot*, but we all know what was intended by it, that is the Plot.

L. C. J. And what ſaid *Corker*?

Mr. *Bedlow*. He ſaid it was well. He did know what readineſs ſuch and ſuch Perſons were in when the Deſign was likely to take Effect. I know not their Names; we were talking of ſeveral Perſons ſeveral Times, ſome in *England*, and ſome *beyond Sea*.

L. C. J. What can you ſay to *Marſhal*?

Mr. *Bedlow*. I do ſay, that he hath been to conſult of the return of Letters which were the Anſwers to thoſe I brought from beyond Sea.

L. C. J. Did he know the Contents of thoſe Letters?

Mr. *Bedlow*. Yes, my Lord, he hath been in Conſultation what Anſwer to make again.

L. C. J. And was all this about the Plot?

Mr. *Bedlow*. Yes, for the ſubverting the Proteſtant Religion, and bringing in Popery, and raiſing of an Army.

Marſhal. Can you prove I knew any of thoſe Gentlemen the Letters were carried to?

Mr. *Bedlow*. I name one, that was to Sir *Francis Radcliff*.

Marſhal. How does he know that I know Sir *Francis Radcliff*?

L. C. J. Well, Sir *George*, will you call your Witneſſes?

Sir *Geo. Wakeman*. Call Mr. *Chapman* [*Which was done.*] My Lord, there was a Letter or Note of directions from me to Mr. *Aſhby*, and 'tis affirmed by Mr. *Oates*, that in that Letter I ſhould let Mr. *Aſhby* know I did approve well of the Propoſals that were made to me to poyſon the King, and that the Queen would aſſiſt me in it; and that in the ſame Letter there were directions given what he ſhould take, and how many Strokes of the Pump he ſhould make uſe of, and ſeveral other things fit for a Phyſician to direct his Patient in. Now, my Lord, I will prove by this Gentleman Mr. *Chapman*, who is Mayor of *Bath*, that he received this very Note from Mr. *Aſhby*, that he read it from the beginning to the end of it; that there was no Word in it, or mention of the King or Queen in the whole Letter, unleſs it be of the King or Queen's *Bath*. And, my Lord, I think he hath a piece of this Letter ſtill, that Part that was the Phyſical Part he tore off, and kept himſelf: Now 'tis none of my Hand, I never writ a Letter to *Aſhby* upon any occaſion whatſoever; and I will tell your Lordſhip how it came to paſs, I did not write that Letter, I hope by a providence, for I never but uſed to write my Phyſical Directions with my own Hand. It happened that I came home late, and I was very ill; *Aſhby* ſent to me for his Note, becauſe he was to go out of Town the next Morning, being weary and indiſpoſed, I laid me down on the Couch, and ſent for my Man, who is an Apothecary now, and is better able to write ſuch a Letter; I dictated the Letter to him, all my Family, and all that were by, can teſtifie the ſame; he knows very well my Hand, and hath Part of it to produce; for when the Queen was there, I made uſe of him for my Apothecary, and thoſe Phyſical Directions I ſent down for the *Bath*, I ſent always to him. He is a very good Witneſs as to my Hand.

L. C. J. But you may ſpeak of one Letter, and Mr. *Oates* of another.

Sir *Geo. Wakeman*. Why, did I write two Letters of Directions? what need that? He ſays he ſaw a Letter with my Name ſubſcribed to it.

L. C. J. Yes, it was ſo, and that you ſhould be aſſiſted by the Queen to poyſon the King; and being asked how he did know that was your Hand? he ſaid, I did not ſee him write, but I ſaw him in the Poſture of writing; and when he went away, there was left on the Table, and the Ink was not dry, a Phyſical Bill, which was the ſame Hand with that the Letter was.

Sir *Geo. Wakeman*. Ay, my Lord, but he does not call that a Letter, but it was a Phyſical Bill, and not a Letter; ſo that there was but one Letter.

L. C. J. But there was a Note of Phyſical directions in the Letter.

Dr. *Oates*. That Letter was at leaſt half a Sheet of a ſide, cloſe written, wherein were thoſe paſſages that I mentioned; but I cannot give an account of all contained in it; but this, my Lord, I remember, that he ſhould take a Pint of Milk in the Morning, and a Pint of Milk in the Evening, and ſhould have ſo many Strokes at the *Bath*; but this was ſeveral Days before *Aſhby* went to the *Bath*, I believe at leaſt ten. Preſently after, he came to Town. And I ſay, that this Letter that the Court asks me how I prove it to be his Hand, I prove it thus: I ſaw him write a Bill to an Apothecary for Mr. *Aſhby* to take ſomething when he was in Town.

L. C. J. But was that buſineſs of being aſſiſted to kill the King in the ſame Letter that the Phyſical Directions were in?

Dr. *Oates*. Yes, my Lord.

Sir *George Wakeman*. Then 'tis the ſame Letter.

L. C. J. How does that follow? might there not be two?

Sir *George Wakeman*. There is only that part of it which is the Phyſical Preſcriptions, he hath torn off the other part.

Then Mr. Chapman *was Examined.*

Mr. *Chapman*. My Lord, the 17th of *July* laſt Mr. *Thimbleby* came to the *Bath*.

L. C. J. Who?

Mr. *Chapman*. Mr. *Thimbleby*; a Man of about Fourſcore Years of Age, a very feeble and infirm Man. Aſſoon as he came to me, he told me that Sir *George Wakeman* recommended me to him, and deſired me that I would provide a Lodging for him as near the King and Queen's Bath as I could: I did ſo; and then he ſhewed me a Letter from Sir *George*, whereof this was the lower part of half a Sheet of Paper; there was full Directions how to take the Phyſick, and after the taking the Bolus to drink the Waters ſo many Days, and then to uſe the Bath, and after that the Pump, and after that he was to take a Doſe of Pills after his Bathing. I took off this *Latin* Bill that concerns me, my Lord, and gave him the Engliſh Part.

L. C. J. Did you read the *Engliſh* part?

Mr. *Chapman*. My Lord, my Son read it, as well as I, who ſhould have come up, and teſtified the ſame, but that it is impoſſible for both my Son and me to leave the Shop and come together, becauſe of my Employment.

L. C. J. But in that Letter there was nothing mentioned of killing the King, was there? nor of the Queen?

Mr. *Chapman*. No, my Lord, not upon the Word of a Chriſtian, except it were the King and Queen's Bath.

Then the Paper was ſhewn him.

L. C. J. Whoſe Hand is that? do you believe it is Sir *George*'s Hand?

Mr. *Chapman.* No, my Lord: I have brought ſome of Sir *George Wakeman*'s Bills here

L. C. J. Do you know whoſe Hand it is?

Mr. *Chapman.* No, my Lord.

Mr. Juſt. *Atkins.* What Name was ſubſcribed to that Letter?

Mr. *Chapman.* There is none ſubſcribed to this Paper.

L. C. J. Was there no Name to it?

Mr. *Chapman.* I did not take notice of that.

L. C. J. But look you, this cannot be that Letter, becauſe that Letter Mr. *Oates* ſpeaks of was of Sir *George*'s own Hand, as he thinks by Compariſon, and his Name ſubſcribed to it.

Sir *George Wakeman.* I never writ any other Letter, but what was dictated to my Man, and ſent by *Aſhby* to the *Bath*. My Lord, he hath owned it himſelf before the Houſe of Lords, that I writ but one Letter, and I had my Liberty before. Now it was told him there, that if he had mentioned that Letter when I was Examined before the Council, I had been certainly taken into Cuſtody then, and ſhould never have had my Liberty ſo long. I had my Liberty from the laſt of *September*, and could have gone to *Conſtantinople* in the Time I had my Liberty, and certainly I ſhould have provided for my ſelf, if I had known my ſelf guilty, ſeeing ſo many caſt into Priſon upon that Account.

Mr. Recorder. 'Tis not probable that Mr. *Aſhby* would communicate ſuch a Letter to this Gentleman, that had ſuch a Deſign in it.

Sir *George Wakeman.* But if any one can, let him prove that I had any other Buſineſs with him, than meerly the Buſineſs of a Phyſician with his Patient. My Lord, I have a Phyſician in Town, that will teſtify, that I was to meet him in Conſultations about *Aſhby*.

L. C. J. The Anſwer is no more than this, That you did write a Letter, or there was a Letter writ by your Directions, to *Aſhby*, which hath not any ſuch Matter in it as *Oates* ſpeaks of; but this anſwers not Mr. *Oates*'s Teſtimony; 'tis true, the Queſtion will be upon Mr. *Oates*'s Credit, how far the Jury will believe him: If Mr. *Oates* ſwear true, then you did write another Letter, and this is not the Letter, and there is no Contradiction in your Anſwer, to what he ſays, but Mr. *Oates* ſtands with the Jury how far they will believe him.

Sir *George Wakeman.* Gentlemen of the Jury, take notice, I never writ any Letter but that.

L. C. J. How does that appear? if Mr. *Oates* ſwears true, you did write another Letter.

Mr. Juſt. *Atkins.* Mr. *Chapman*, was there any mention of Milk in that Letter?

Mr. *Chapman.* No, my Lord. It is ridiculous to to drink Milk with the Waters, it will make it curdle.

Dr. *Oates.* That is not the Hand the Letter I ſaw was in.

L. C. J. He ſays 'tis not the ſame Hand.

Dr. *Oates.* It was another, a genteel Hand.

Mr. Juſt. *Pemberton.* And there was no mention made of Milk, in it, the Contents are not the ſame.

Sir *George Wakeman.* The Contents were the ſame: But as for the Milk, it is ſo ridiculous a Thing, that never a Phyſician in *England*, but will ſay 'tis perfect Poiſon. I appeal to Mr. *Chapman*, who hath ſo long known the Way there uſed, if any one preſcribed Milk, to any one that took the Waters.

L. C. J. Mr. *Oates*, was there, in the Letter you ſaw, where mention is made of the Strokes that were to be received from the Pump, any mention of the Milk to be taken?

Dr. *Oates.* The Direction of the Milk was for the Time he ſtaid in Town.

Mr. Juſt. *Atkins.* The Milk was to be uſed while he ſtayed here, was it?

Dr. *Oates.* Yes, my Lord.

L. C. J. Look you, there were two Things that he ſhould do, the one of them was to be done while he was here, that was the Milk; the other was to be done when at the *Bath*, and that was the Strokes.

Sir *George Wakeman.* No, 'tis no ſuch Thing; for he went away two Days after that Letter was written.

Mr. Juſt. *Pemberton.* Mr. *Chapman*, is this part of the Body of the Letter?

Mr. *Chapman.* Yes, my Lord, upon the Word of a Chriſtian; I tore it off my ſelf.

Mr. Juſt. *Ellys.* If Dr. *Oates* ſwears true, it cannot be the ſame Letter.

L. C. J. Your Anſwer to it, which ſhould make it improbable, is, That it is ridiculous to preſcribe Milk. Now he ſays thoſe were Directions what he was to do before he went to the *Bath*.

Sir *George Wakeman.* Why ſhould I repeat the Number of the Strokes twice, and write two Letters, about one Thing?

Mr. Juſt. *Pemberton.* Is there any Date upon that Letter?

Mr. *Chapman.* No.

Mr. Juſt. *Pemberton.* Off of what part of the Letter did you tear it?

Mr. *Chapman.* Off the bottom of it.

L. C. J. North. What, it was writ croſs, was it?

Mr. *Chapman.* Yes, I believe ſo.

Mr. Juſt. *Atkins.* The Truth of it is, This is no Evidence, and ought not to be offered as ſuch, for 'tis but Part of a Thing, which we do not know what it was in the Whole.

Mr. *Chapman.* I can give it upon my Oath that there was nothing in it of the King or Queen, except the King or Queen's Bath.

L. C. J. Mr. *Oates*, if I remember right, you ſay the Directions that you ſaw were at the beginning of the Letter.

Dr. *Oates.* He was very weak when he came to Town, and his Directions to him then were, That he ſhould take a Pint of Milk in the Morning, and that when he went to the *Bath* he ſhould have a Hundred Strokes, or thereabouts.

L. C. J. Was this in the beginning of the Letter?

Dr. *Oates.* It was after a Line or two that was Complements.

L. C. J. Was there any Receipt for Phyſick, in *Latin*, in it?

Dr. *Oates.* No, my Lord, there was not: No, my Lord, it was half a Sheet of Paper; it was full of it ſelf to the Bottom; this is not the Letter, my Lord.

Mr. Juſt. *Pemberton.* He ſays, this is neither the Hand, nor the Name ſubſcribed, nor the Contents of the Letter, all theſe differ.

Sir *George Wakeman.* I'll tell you the reaſon why my Name was not ſubſcribed, I was ſick, my Man is here to witneſs, that he carried it himſelf, and delivered it to *Aſhby*.

Mr. Juſt. *Pemberton.* But, Sir *George*, you do not obſerve, that to the Letter which he ſaw, your Name was ſubſcribed.

Sir *George VVakeman.* This then is that I deſire may be taken notice of; 'tis not probable that I ſhould write two Letters for the ſame Thing, and I never writ any other Letter in my Life.

L. C. J. This is that you ſay, and let it be taken notice of, That it is not probable that you ſhould write two Letters for the ſame Directions how he might uſe the *Bath.*

Mr. Juſt. *Pemberton.* This might be writ to ſerve a Turn very well.

Sir *George VVakeman.* Then I'll tell you the Reaſon why my Name is not to it, and ſo I ſatisfy you about it as much as I can; I was very ill after I had dictated that Letter to him, and went immediately to Bed. It was not writ very fair, or ſomething was left out, which he interlined, and ſo he tranſcribed it again in his own Chamber, and I was then aſleep, and ſo did not put my Name to it, and he went away two Hours in the Morning before I awoke.

Mr. Juſt. *Atkins.* Who wrote the Letter? Was the Letter you tore off in the Man's Name, or in Sir *George*'s Name?

Mr. *Chapman.* I know not who wrote it.

Mr. Juſt. *Atkins.* Was it ſaid to be, By my Maſter's Directions? What were the Contents of the Letter?

Mr. *Chapman.* It was only thus, *As ſoon as you come to the* Bath, *after reſting a Day, in the firſt place take your* Bolus, *and after drink the VVaters.* Which he did, for ſix Days together.

Dr. Oates. My Lord, I would anſwer to this: This was not the Letter, for therein he only told him what he ſhould do before he went to the *Bath*, and how many Strokes he ſhould receive: Beſides, my Lord, there was not one Syllable of the *Bolus* in the Letter, or what *Bath* he was to go into; but when he came there, he was to receive ſo many Strokes of the Pump.

Sir *George VVakeman.* Nor one Syllable of the Milk in it neither?

Dr. Oates. Yes, there was; he did take Milk, Night and Morning, for I attended upon him.

Sir *George VVakeman.* My Lord, you ſee this Witneſs is a Proteſtant.

Mr. Juſt. *Pemberton.* Mr. *Oates*, you ſay that the Letter that you ſaw was written ten days before he went to the *Bath*?

Dr. Oates. Yes, if not more.

Sir *George Wakeman.* Why ſhould I tell him of an Hundred Strokes ſo long before he went to the *Bath?*

L. C. J. You might mention it to give him Satisfaction. Well, have you any more?

Sir *George Wakeman.* Yes, my Lord. Call *Hunt. Who ſtood up.*

L. C. J. What do you call him to, Sir *George?*

Sir *George Wakeman.* This is my Man. What do you know concerning a Letter of Directions, that was ſent to Mr. *Aſhby?* Give an Account of it.

Hunt. If it pleaſe your Honour, my Maſter was out late, and coming home, I told him, Mr. *Aſhby* had ſent for ſome Directions for the *Bath*; and being weary and indiſpoſed, (for it was late, and he was not well) ſaid he, *I cannot write my ſelf, do you take my Pen and Ink and write.* I did take the Pen and Ink and write; and when I had written, ſomething was falſe in it; *Pray*, ſaid he, *correct that*: I did ſo, and interlined it, and when my Maſter was in Bed I writ it over again, and the next Morning, before he was awake, I carried it to Mr. *Aſhby* my ſelf, and there were only Directions in it what to do at the *Bath.*

L. C. J. When was Mr. *Aſhby* to go to the *Bath?* How ſoon after?

Hunt. He was to go the next Morning.

L. C. J. If what Mr. *Oates* ſwears, be true, this Letter that he ſaw was ten Days before, ſo what he ſpeaks is quite another Thing.

Sir *George VVakeman.* I never writ any ſuch Letter in my Life, and I hope the Jury will take notice of it.

Mr. Juſt. *Atkins.* Do you know any thing of Mr. *Aſhby*'s drinking Milk while he was here?

Hunt. No, but he was ſaying he was adviſed by a Friend of his to drink Milk.

L. C. J. When, at the *Bath?*

Hunt. No, when he was in Town.

L. C. J. When he was in Town? that is conſiſtent with Mr. *Oates*'s Teſtimony.

Sir *George VVakeman.* My Lord, there is a Phyſician that was in Conſultation with me about Mr. *Aſhby*, I think it of great Conſequence to ſhew that I came to him about no Treaſonable Affair, I vow to Almighty God I did not.

L. C. J. If you have any more Witneſſes, call them.

Sir *George VVakeman.* Call *Elizabeth Henningham.* Who ſtood up.

L. C. J. Sir *George*, What do you ask her?

Henningham. I was preſent, my Lord, at the writing of the Letter. His Servant writ, and he dictated to him, every Word of the Letter I ſaw, but there was no ſuch Thing in it.

L. C. J. I am very confident that this is true that you ſay, but it is not to the thing that Mr. *Oates* ſpeaks of, and charges you withal: that you did write ſuch a Letter as theſe People mention, and there was nothing in it, but like a Phyſician's Directions to his Patient, I do believe, and this was juſt when he was going to the Bath, but Mr. *Oates* tells you (if he ſays true) that this Letter he ſpeaks of, to which Sir *George Wakeman* was ſubſcribed, was ten Days before he went to the Bath; and that there was no mention of any *Bolus* in that, but the Direction was in the firſt part how he was to uſe himſelf, while he ſtaid in Town to drink Milk, and when he came to the *Bath*, to uſe the Pump; ſo that this your Witneſſes ſay, and you urge, is true, but not pertinent.

Sir *George VVakeman.* I ſay, my Lord, it is not probable that I ſhould write Directions ſo long before he went.

Henningham. My Lord, he ſaid himſelf he wanted Directions to go to the *Bath*, in my own Hearing.

Mr. Juſt. *Pemberton.* Yes, he might, and indeed he did ſo, for the firſt contained none, but how he ſhould behave himſelf while he was here.

L. C. J. Have you any more Witneſſes? Pray call them.

Sir *George VVakeman.* My Lord, I have this to ſay, as I told you before, that I had my Liberty for Twenty-four Days after my Examination before the Council. Mr. *Oates* call'd at the Bar of the Houſe of Commons, and there gave an Account of this very Letter that he mentions now, I ſay it was at the Bar of the Houſe of Commons. And thereupon the Commons ſent an Addreſs to the Houſe of Lords, with Aſtoniſhment that I was not under Confinement; and thereupon Mr. *Oates* was

called

called to the Bar of the Houſe of Lords, and was commanded to give an Account what it was he knew concerning me, that ſhould create ſuch an Aſtoniſhment in the Houſe of Commons: He told them of this Letter, and my Lord Chancellor ſaid to him, *Do you know it was Sir* George Wakeman's *Hand? No,* ſaid he: *How do you know it was his Letter then? I know it only by this,* ſaid he, *it was ſubſcribed,* George Wakeman. If he had ſuch Proof as he ſays he hath now, if he had ſeen me writing, and came into the Room where the Paper I writ was yet wet, whether he would not have mentioned it there when he was Examined about the Knowledge of my Hand.

L. C. J. Call your Witneſſes: But what ſay you, Mr. *Oates*, your ſelf to it?

Dr. *Oates.* My Lord, Sir *George Wakeman* had his Liberty becauſe I was ſo Weak, by reaſon of being up two Nights together, one whereof was ſo very wet, and being hot, wet, and cold, all in a few Hours time, ſo that I thought it would have coſt me my Life; not being uſed to ſuch hard Services, I did not charge Sir *George* ſo fully: Tho' it may be objected to this Court, that I was bound to ſpeak the whole Truth; and ſo I did, as Opportunity and Health would give me leave. And as to the Letter, and what I ſaid about it in the Lords Houſe, Sir *George* is miſtaken. He ſays here that I ſaid I knew his Hand no otherwiſe, but by ſeeing Sir *George Wakeman* ſubſcribed to it.

Sir *George Wakeman.* I will prove it by the Record.

Dr. *Oates.* Now, my Lord, I humbly deſire that he may propoſe his Queſtions to the Court: And I deſire to know, whether I did ſay, I did not know it any other ways but by its being ſigned *George Wakeman.*

Sir *George Wakeman.* Pray, my Lord, be pleaſed to give me leave———

L. C. J. Mr. *Oates*, did you mention in the Houſe of Lords, whether you knew his Hand or no?

Dr. *Oates.* My Lord, I cannot call to mind what I then ſaid. I did ſay, I ſaw ſuch a Letter, ſigned *George Wakeman*; but if he will bring the Record, and one that ſhall ſwear thoſe were the Words, I will leave it to the Jury. But this, my Lord, I would add, if you will give me leave; the Words I did ſay, as near as I can remember, were theſe, when they asked me, how I knew Sir *George Wakeman's* Hand? I ſaid, I ſaw ſuch a Letter ſigned *George Wakeman.* Now, my Lord, upon this Information, they did think fit to take Sir *George Wakeman* up and ſecure him; and now I come Face to Face, and am not only to ſatisfy Judges, but a Jury, I ſhew you what Reaſons I have to believe it, and what they may have, that it was his Hand: For I ſay, I ſaw him in a Writing-Poſture, I ſaw him lay by the Pen, I ſaw him withdraw from the Paper, I ſaw none but another Gentleman there, that was lame of both his Hands, and the Ink was not dry, and it was the ſame Hand with the Letter.

Sir *George Wakeman.* Was my Name to that Note?

Dr. *Oates.* No, I will not ſwear that; but the Character of the Hand was the ſame, if I may judge of Writing.

L. C. J. North. Look you, Sir *George*, you ſpoke of Witneſſes you would call to prove what he ſwore in the Houſe of Lords; if you can call any Witneſſes for that, do.

Sir *George Wakeman.* Call Sir *Philip Lloyd:* I hope your Lordſhip will pleaſe to allow me, at leaſt, this Advantage (I know not whether it be an Advantage) that the Record of the Houſe of Lords may be made uſe of as a Record here. If I prove it by the Record, it will be a good Evidence.

L. C. J. Have you that Record here?

Sir *George Wakeman.* I have a Copy of that Record, and a Witneſs that will ſwear it.

Then Sir Philip Lloyd *appeared, and ſtood up.*

L. C. J. What do you ask Sir *Philip Lloyd?*

Sir *George Wakeman.* I deſire to know of Sir *Philip Lloyd*, what Mr. *Oates* ſaid of me before His Majeſty and the Council, the laſt Day of *September*; Sir, you were there preſent, and ſent by the King to me, and commanded to bring me in to the Council.

Sir *Philip Lloyd.* I will, my Lord, as well as I can, recollect and tell you, as near as I can, what Mr. *Oates* did then accuſe him of. It was upon the One and Thirtieth Day of *September*, Mr. *Oates* did then ſay he had ſeen a Letter, to the beſt of his Remembrance, from Mr. *White* to Mr. *Fenwick* at St. *Omers*, in which Letter he writ word, that Sir *George Wakeman* had undertaken the poyſoning of the King, and was to have 15000 *l.* for it; of which, 5000 *l.* had been paid him by the Hands of *Coleman.* Sir *George Wakeman*, upon this, was called in, and told of this Accuſation, he utterly denied all, and did indeed carry himſelf as if he were not concerned at the Accuſation, but did tell the King and Council, he hoped he ſhould have Reparation and Satisfaction, for the Injury done to his Honour. His Carriage was not well liked of by the King and Council, and being a Matter of ſuch Conſequence as this was, they were willing to know further of it; and becauſe they thought this Evidence was not Proof enough to give them occaſion to commit him, being only out of the Letter of a third Perſon, thereupon they called in Mr. *Oates* again, and my Lord Chancellor deſired Mr. *Oates* to tell him, if he knew nothing perſonally of Sir *George Wakeman*, becauſe they were in a Matter of Moment, and deſired ſufficient Proof, whereupon to ground a Commitment; Mr. *Oates*, when he did come in again, and was asked the Queſtion, did lift up his Hands (for I muſt tell the Truth, let it be what it will) and ſaid, No, God forbid that I ſhould ſay any thing againſt Sir *George Wakeman*, for I know nothing more againſt him. And I refer my ſelf to the whole Council, whether it was not ſo.

Dr. *Oates.* I remember not one Word of all this.

Sir *George Wakeman.* My Lord, this is a Proteſtant Witneſs too.

Dr. *Oates.* My Lord, give me leave to make an Anſwer: When I did report this Letter, the Council did ask me whether or no Sir *George* was any ways concerned in this Letter? I replied, I had it by Report, that Sir *George* had received 5000 *l.* of this Money. My Lord, the Council did not preſs me to my Knowledge; I will not be poſitive, but if the Council did preſs me, and I did make that Anſwer, I do appeal to the whole Board, whether or no I was in a Condition to make any Anſwer at all, when, by reaſon of my being hurried up and down, and ſitting up, I was ſcarce *Compos mentis.*

L. C. J.

L. C. J. What, muſt we be amuſed with I know not what, for being up but two Nights? You were not able to give an Anſwer; that when they call and ſend for Mr. *Oates* again to give a poſitive Charge, and then you tell us a Story ſo remote: What was Mr. *Oates* juſt ſo ſpent, that he could not ſay, *I have ſeen a Letter under Sir* George Wakeman's *own Hand.*

Dr. *Oates.* My Lord, I did to the beſt of my remembrance make mention of that Letter, that Sir *George Wakeman* writ, before the Board. I ſay, to the beſt of my Skill and Knowledge; but I will not be poſitive in it.

L. C. J. You have heard what Sir *Philip Lloyd* ſays.

Mr. Juſtice *Dolben.* What ſay you, did Mr. *Oates* make any mention of this Letter?

Sir *Philip Lloyd.* Truly, my Lord, I can't remember that there was any ſuch Letter mentioned. I tell you what I do remember; and afterwards becauſe he came and gave this Depoſition before the Lords and Commons, that he found ſuch a Letter upon the Table from Sir *George* to *Aſhby*, indeed I did very much wonder at it, and it made me reflect upon that other Paſſage at the Council, of his denying to accuſe Sir *George* further, and it hath been in my Mind ever ſince.

L. C. J. And you do declare, that when the Lords of the Council asked him, whether he knew any thing more particularly againſt Sir *George Wakeman*, he did lift up his Hands and ſaid, *No, God forbid I ſhould charge him any further, I know no more againſt him.*

Sir *Philip Lloyd.* Yes, my Lord, ſo it was.

Dr. *Oates.* My Lord, I believe Sir *Philip Lloyd* is miſtaken; but however I was ſo weak, and the King and Council were ſo ſenſible of it, that the King himſelf had like to have ſent me away once or twice before, becauſe he found I was ſo weak.

L. C. J. It did not require ſuch a deal of ſtrength to ſay, *I ſaw a Letter under Sir* George's *own Hand.*

L. C. J. North. Well, it muſt be left to the Jury: if you have any more Witneſſes call them.

L. C. J. Mr. *Oates*, Sir *George Wakeman* urged it right, that he ſhould not have been permitted to have his liberty ſo long, if you had charged him home then.

Sir *George Wakeman.* Call Mr. *Lydcot.*

Dr. *Oates.* To ſpeak the truth, they were ſuch a Council as would commit no Body.

Mr. Recorder. That was not well ſaid.

Sir *George Wakeman.* He reflects on the King, and all the Council.

L. C. J. You have taken a great Confidence, I know not by what Authority, to ſay any thing of any Body. But this is naturally true, That when the Council were offended at the Carriage of Sir *George Wakeman* at the Board, and therefore ſent for Mr. *Oates* again, doubing in themſelves whether what they had would be ſufficient to commit him; for indeed it was not only a wild thing, of what was mentioned in a Letter of a third Perſon's, that Sir *George* had accepted of Fifteen-thouſand Pounds, and received the Five; therefore, ſaid they, we will know of Mr. *Oates* ſome more Particulars, and ſent for him in again, and asked him, *Do you know any thing of your own knowledge?* If he had come in then and ſaid, *Yes, I have ſeen a Letter ſubſcribed under Sir* George Wakeman's *Hand*, would not they have committed him? ſurely they would. And now the Council's not committing him, is an Argument that they had not ſufficient Evidence, and *Oates* did omit at that time to charge him with this Letter.

Then Mr. Lydcot *ſtood up.*

Sir *George Wakeman.* Mr. *Lydcot*, have you a Copy of the Lords Records?

Mr. Lydcot. Yes it is.

Sir *George Wakeman.* Pray, what did Mr. *Oates* ſay to my Lord Chancellor in the Houſe of Lords?

L. C. J. You muſt have that which is proper Evidence: You ſhall have all the fair dealing that can be, and all that can be admitted for your defence ſhall be.

Sir *George Wakeman.* My Lord, I humbly thank you, I find it.

L. C. J Ay, but this is now what the Clerk writes down a Minutes. 'Tis an hard Conſtruction to make this Evidence. Were you preſent when Mr. *Oates* was there and ſaid this?

Lydcot. No, my Lord, all I ſay, is this, This is a Copy of the Record in the Lord's Houſe.

L. C. J. Did Mr. *Oates* ſet his Hand to that Record?

Lydcot. Yes, in ſome Places. 'Tis *Titus Oates* ſet in diverſe Places as his Hand to Examinations.

L. C. J. But is Mr. *Oates*'s own Hand ſet to the Record?

Lydcot. I know nothing of that?

L. C. J. This is the Objection, It will be hard, that if a Clerk takes the Depoſitions of *Oates* or any one elſe, and takes them as near as he can, but he never ſubſcribes it, and you prove only 'tis a Copy of what the Clerk wrote, That cannot be allowed as Evidence.

Lydcot. 'Tis a Copy in moſt Places of what is under Mr. *Relf*'s own Hand.

L. C. J. But you can't Swear the Clerk writ true?

Lydcot. No, that I can't.

L. C. J. It may be an Entry of what the Houſe of Lords did upon the Examination; That is not Evidence here.

Mr. Juſt. *Pemberton.* If you can produce any one that heard Mr. *Oates* give in his Information, you ſay well.

Sir *Geo. Wakeman.* I believe there is a difference between the Entry-Book, and the Book of Records; and I hope you will look upon the Book of the Houſe of Lords as the higheſt Evidence, beyond any verbal Averment. My Life is in your Hands, I ask you whether it be not ſo, or no;

L. C. J. *North.* If there be a Record in any Court of Record, that ſuch a Man appear'd in Court, 'tis an Evidence that he was in Court, and a Record for it; but when there is an Examination in a Court of Reeord, theſe not paſſing the Examination of that Court, but being taken by the Clerks, we always in Evidence expect there ſhould be ſome body to prove, that ſuch an Examination was ſworn, and Subſcribed to.

L. C. J. Have you any Witneſſes here, that were by, and heard what Mr. *Oates* did then depoſe, and can teſtifie what Mr. *Oates* ſaid when he was called in, and particularly what Anſwer he made to that ſingle Queſtion of my Lord Chancellors, how he came to know it was your Hand?

Sir *Geo. Wakeman.* I can bring none but theſe Records, or the Lords themſelves, and I can't expect

pect it from them. And that which they call a Record, I am not able to judge whether it be a Record or no.

L. C. J. Were there not others called with him into the Lords Houſe?

Sir *Geo. Wakeman.* No, there were none but the Lords themſelves.

L. C. J. You ſhould have had the Clerks here that made the Entry, or ſaw him ſet his Hand to the Examination.

L. C. J. North. This is nothing, but as he ſays, a Tranſcript out of the Journal.

Lydcot. I believe it is written moſt under Mr. *Relf*'s own Hand. There is a great deal of it that contains the whole Narrative that *Oates* gave in.

L. C. J. *North.* You deſire to give in Evidence what Mr. *Oates* ſaid at the Bar of the Houſe of Lords to what my Lord Chancellor asked him, if you have any Witneſſes that can prove it, they ſhall be heard.

Sir *Geo. Wakeman.* My Lord, I have no Witneſſes only the Record.

L. C. J. That is only a Copy of a Narrative.

Sir *Geo. Wakeman.* If you will not allow it to be a Record, I can't help it.

Mr. *Recorder.* This is no Part of the Record of the Houſe of Lords, it can't be allow'd.

L. C. J. Well, have you any other Witneſſes to any thing elſe?

Sir *Geo. Wakeman.* I deſire you would Examine Sir *Phylip Lloyd* once more. *Who was called, but Anſwered not.*

Mr. *Recorder.* He is gone out of the Court.

L. C. J. Well, what ſay the reſt? Mr. *Corker*, have you any Witneſſes in the firſt Place?

Corker. No, my Lord.

L. C. J. Mr. *Marſhal*, have you any Witneſſes, Anſwer that firſt; before you enter upon your Defence, you ſhall be heard afterwards.

Then Sir Philip Lloyd *came into Court again.*

Mr. *Recorder.* Sir *George*, here is Sir *Philip Lloyd*, here now, what would you ask him?

Sir *George Wakeman.* Sir *Philip Lloyd*, I deſire to know concerning the laſt Examination of Mr. *Oates*, and Mr. *Bedlow* before the Council; (you were there preſent, as I am informed) pray will you tell what you know.

Sir *Piblip Lloyd.* To what Point Sir?

Sir *George Wakeman.* To their whole Evidence.

Sir *Philip Lloyd.* I ſuppoſe what they have given in lately, they have acquainted the Bench with already. It was ſome Day this very *Month*, but I would know what it is Sir *George* would have me ſpeak to?

L. C. J. What was there relating to Sir *George Wakeman?*

L. C. J. *North.* But pray conſider, whether it be a Queſtion fit to be asked of the Clerk of the Council, what was done in Council without leave of the Board. I don't think he is bound to Anſwer the Queſtion.

Mr. Juſt. *Pemberton.* Sir *George*, if you would ask him to any one particular Queſtion, it were ſomething.

Sir *George Wakeman.* I have done with him; I hope he will excuſe me, I have put him to this Trouble.

L. C. J. Then Mr. *Marſhal*, have you any Witneſſes?

Marſhal. I cannot ſay I have any direct poſitive Witneſſes.

L. C. J. Think not that you ſhall be concluded, we are not in haſte, you ſhall have time to ſay what you will; but if you would uſe any Witneſſes, call them.

Marſhal. For the preſent I ſhall have no uſe of any.

L. C. J. Well Mr. *Rumley*, have you any Witneſſes?

Rumley. I think I have.

L. C. J. I can't tell of any need you have of any, for there is but one Witneſs againſt you.

Corker. But he deſires that his Witneſſes may be heard, 'tis but ſhort.

Sir *Rob. Sawyer.* There is no need of it Mr. *Rumley* we can't inſiſt on it, againſt you, you muſt be acquitted.

Mr. *Recorder.* Will he have his Witneſſes called? If he will, he ſhall, tho' there is no need of it.

Rumley. No, my Lord.

L. C. J. Then Sir *Robert Sawyer*, would you ſay any thing more for the King, before the Priſoners make their Defence?

Sir *Rob. Sawyer.* My Lord, there is one thing which I would have anſwered, that is, the variance between what Mr. *Oates* ſaid before the Council and what he ſays now, upon the Teſtimony of Sir *Philip Lloyd*, who ſays, that he gave no Teſtimony of this Letter, under Sir *George Wakeman*'s Hand; but being asked, whether he knew any thing of his own knowledge, he ſaid, he had only met with a Letter from *White* to *Fenwick*, wherein it was ſaid, So much was propoſed to, and accepted by Sir *George Wakeman*: And that he ſhould then declare that he could ſay no more; and lifting up his Hands, affirm with a Proteſtation he knew no more. Gentlemen, We hope to give you ſatisfaction in this matter, for it was after a long and tedious Examination; and we ſhall prove to you, that he was in great Confuſion, being almoſt tired out with Examination, which is not impoſſible to happen to any Man tho' of the Strongeſt Conſtitution and Memory, after two Nights waking, and continual hurrying up and down. We ſhall call Sir *Thomas Doleman* to prove, that he was under great Confuſion, and that the King and Council were ſo ſenſible of it, that ſome of them would have had him gon away a great while before he did go away. Swear Sir *Thomas Doleman.* [*Which was done.*]

Sir *Rob. Sawyer.* You hear what hath been objected and ſaid by Sir *Philip Lloyd*, will you tell your Knowledge of this matter?

Sir *Tho. Doleman.* My Lord, Mr. *Oates* did appear before the King and Council, I think on the *Saturday*, before which was *Michaelmas Eve.* The Council ſat long that Morning, the Council ſat again in the Afternoon, and Mr. *Oates* was employed that Night I think to ſearch after ſome Jeſuits who were then taken, and that was the Work of that Night. The Council I think ſat again *Sunday* in the Afternoon, Mr. *Oates* was then examined, the Council ſat long, and at Night he was ſent abroad again to ſearch the Lodgings of ſeveral Prieſts, and to find out their Papers, which he did Seize upon, and one of the Nights in that Seaſon was a very wet Night; he went either with a Meſſenger or with a Guard upon him. On *Monday* Morning the Council ſat again, and he was further Examined, and went abroad; and *Monday* Night Mr. *Oates* was in as feeble and weak a Condition as ever I ſaw Man in my Life. And was very willing to have been diſmiſſed for that time; for

he

he ſeem'd to be in very great weakneſs, and diſorder; ſo that I believe he was ſcarce able to give a good Anſwer.

Sir *Rob. Sawyer.* Was that the time Sir *Philip Lloyd* ſpeaks of?

Sir *Tho. Doleman.* I think he was call'd in on *Monday* Night.

Sir *Geo. Wakeman.* I receiv'd the Summons on *Saturday* by a Letter from Sir *Rob. Southwell.*

Sir *Tho. Doleman.* You were call'd in on *Monday* Night, the Night before the King went to *New-Market.*

Sir *Geo Wakeman.* I appeared upon *Sunday*, and was diſmiſſed by Sir *Philip Lloyd*, who came out and let me know that the King ſaid, he would have the hearing of it himſelf the next Day.

Sir *Tho. Doleman.* Then, Sir, you were call'd in and you gave your Anſwer; and the whole Council was amazed at the manner of it: for you did not, in my Opinion, or in the Opinion of ſeveral others, deny it ſo poſitively as one that was Innocent could, but uſed many great expreſſions of your own great Fidelity and Loyalty to the King, and or your Family, and the Services they had pay'd the Crown, and did require Satisfaction, and Reparation for the Injury done to your Honour.

Sir *Geo. Wakeman.* My Lord I will give you a brief Account of it; I leave it to you, whether I behaved my ſelf ill or no; I confeſs, I think I might have behav'd my ſelf more ſubmiſſively; there was nothing of Duty wanting in my Mind, but I will give you an Account of what I ſaid *verbatim.* My Lord Chancellor told me, that I was accuſed of the blackeſt of Crimes; that I had undertaken to Poiſon the King. I asked him who was my Accuſer, he pointed to Mr. *Oates*, and told me Mr. *Oates* was my Accuſer. Says I, Mr. *Oates*, do you know me? Did you ever ſee me before? Mr. *Oates* ſaid, No. Why then ſaid I, how come you to be my Accuſer. Said he, I will tell you, I was at St. *Omers*, where there was a Conſult of the Jeſuits, at which Mr. *Aſhby* the Rector of the College at St. *Omers* did preſide; And in that Conſult it was debated who was the fitteſt Perſon for that horrid undertaking of Poiſoning the King, and unanimouſly it was agreed upon at that Conſult, that you were; Sir *George Wakeman* by Name: and now he ſays it was debated here in *England.* Then, my Lord, ſaid I to my Lord Chancellor, here is no Proof, therefore I hope there is no need of any Defence. Said he, there is no Smoak but there is ſome Fire. My Lord, ſaid I, if you underſtand by that, there can be no Accuſation without ſome Guilt, I ſhould be ſorry I ſhould not underſtand both Sacred and Prophane Hiſtory, better than to think ſo. Then he preſſed me to know what I could ſay for my ſelf. Said I, My Lord, I come of a Loyal Family, my Father had ſuffer'd very much to the Value of Eighteen Thouſand Pounds and more for the Royal Family. My Brother raiſed a Troop of Horſe for the King, and ſerved him from the beginning of the War to the end. He was Major to the Marquis of *Worceſter*, at *Worceſter* Fight, and loſt his Life by the Wounds he received in the King's Service. As for my own Part, ſaid I, I Travelled very young, and came over when *Ireton* was Lord Mayor, and both by my Religion and my Name, was ſuſpected to be a Favourer of the Royal Party, and therefore was impriſoned, and did not come out till I had given great Security: and the ſecond time I was Committed, was, when I entred into a Plot, the only Plot I was Guilty of, I Conſpired with Captain *Lucy*, and ſeveral others to attempt ſomething for His Majeſty's Reſtauration, when few durſt appear for him. I was ſeized on in my Bed; there were ſeveral Arms found in my Apothecary's Cellar, and we were both Committed to Priſon; and we ſhould both have ſuffered Death certainly if his Majeſty's happy Reſtoration had not prevented it. When my Lord preſt me ſtill to ſay what I could ſay for my ſelf, as to what was charged on me; I told him, my Lord, I am under the moſt foul and falſe Accuſation that ever Innocent Gentleman was, and I expect Reparation; and upon that they were offended, and I was bid to withdraw. And I added this beſide, my Lord, that there was not a Family in *England* that was ſo much inſtrumental in his Majeſty's Reſtoration as that Family was; that Colonel *Charles Gifford* was my near Kinſman, ſo was Colonel *Carlos*; and that the *Pendrels* were Menial Servants to the Family; and I hope they deſerve ſome Favour.

L. C. J. What have you to ſay Sir *George*, in your preſent Defence here. Make what Obſervations you will now, upon the Teſtimony hath been given againſt you.

Sir *Geo. Wakeman.* My Lord, I ſay this, if it had been allowed me, to make uſe of the Records of the Houſe of Lords, it would have made all things ſo evident and clear, as nothing can be more; for then, when he was called to that Bar, to give an Account what he had declared to the Houſe of Commons concerning me, he gave an account of this Letter.

Mr. Juſtice *Pemberton.* Sir *George*, you muſt not make mention any more of theſe things, that could not be given in Evidence.

Sir *George Wakeman.* Then, my Lord, I have no more to ſay.

L. C. J. What ſay you, Mr. *Corker?*

Corker. My Lord, I hope the Court will not require that I ſhould bring any particular Evidence in Confutation of what is here alledged againſt me; for, before I came to this Bar, I did not know any particular Accuſation that was againſt me; and therefore I could not be ready to anſwer it, and make my Defence, or bring particular Witneſſes to evidence and ſhew my Innocency. Beſides, my Lord, it is a known general Maxim, That a poſitive Aſſertion is as eaſie to be made, as to prove a Negative, is oft-times hard, if not impoſſible. Men may eaſily deviſe Crimes, and frame Accuſations againſt innocent Men in ſuch a manner, that the contrary cannot poſſibly be demonſtrated. No mortal Man can tell where he was, and what he did and ſaid every Day and Hour of his whole Life. Therefore, I think, 'tis not only Poſitive bear Swearing, but 'tis Probable Swearing, that muſt render a Man guilty of a Crime. Otherwiſe, my Lord, it would be lawful, and in the power of *Oates* and his Companions here, to hang, by turns, upon bare Oath, all the Innocent Men in the whole Nation, tho' never ſo Innocent, and that for Crimes never ſo ridiculous and abſurd. And I ſay this further, he that Swears againſt another, firſt, ought to be himſelf a Credible Witneſs; and then, ſecondly, ſtrengthned by Probable Circumſtances; Circumſtances that bring along with them ſome Probable Evidence diſtinct from the Witneſſes themſelves: Otherwiſe,

I think

I think, that the Party accuſed, without any Proof of his ſide, ought to remain in the Poſſeſſion of his own Innocency. Now, I think, my Lord, there will be never an one of theſe two neceſſary Conditions to be found in the Evidence againſt me; for, Firſt, the Witneſſes againſt me, are Perſons that are, or at leaſt formerly have been, of ſcandalous Lives.

L. C. J. You ſhould Prove it, before you Say it. You ſhall have all things allow'd you that are fit; but you muſt not heap up Contumelies upon Men unproved, or call Men Names, when you have proved nothing againſt them. If you can prove any thing, of God's Name do it; prove them as fully as you can.

Corker. I do only ſay this, They have been reported, and owned by themſelves, as Men that have been of ſcandalous Lives.

L. C. J. If the Jury know it of their own Knowledge, I leave it to them; but you have proved nothing.

Corker. Well, my Lord, but then, in the next place, neither will the poſitive Oaths of Men formerly Infamous, be any convincing Arguments of our Guilt: And then next, as to the other Circumſtances that ſhould render me Guilty, Mr. *Oates* does not here make me guilty alone of this Grand Conſpiracy; but he involves the Nobility, Gentry, and the whole Body of the Catholicks, in this Treaſon. Now, my Lord, I refer it to the Judgment of the Court, whether ſo many Perſons as he names, and thoſe of ſuch eminent Quality, and of ſuch conſiderable Eſtates in their Countries, Perſons ſettled under ſo good a King, in ſo peaceable a Kingdom; ſo Quiet in Condition; Men of Good and Vertuous Lives, and Unblemiſhed Converſations, before this Hour, ſhould hazard their Honours, their Lives, their Families, their Bodies, their Souls, their All in ſuch a Deſign!

L. C. J. What is this to your Caſe?

Corker. My Lord, if this be not probable, I hope I am free of the Plot.

L. C. J. But what is this to your Caſe? Pray hear, you are now making a Speech againſt Mr. *Oates* and Mr. *Bedlow*, That they do accuſe People of great Honour and Quality; he hath given no Accuſation againſt any as yet, that you are to take notice of. You ought to make uſe of nothing as an Argument to the Jury, but of the Evidence that hath been given to the Jury. If you can make uſe of any thing, that Mr. *Oates* or Mr. *Bedlow* hath ſaid here to contradict them, or invalidate their Teſtimony, you have ſaid well. But to talk of ſuch a Story, of accuſing Noblemen, and ſuch like, when there is nothing of that before you; you muſt firſt prove what you will infer from.

Corker. My Lord, this I take to be of very great Concern to my ſelf, that ſince the Truth of this Evidence does depend upon the Certainty of the Plot, and this pretended Conſpiracy againſt His Sacred Majeſty; if there be no ſuch Plot and Conſpiracy, and if, by Circumſtances, I can render it improbable, I hope the Jury will take it into Conſideration.

L. C. J. Ay, ay, I am of that Opinion, if thou canſt but ſatisfy Us and the Jury, that there is no Plot, thou ſhalt be quitted by my Conſent.

Corker. I will, my Lord, ſhew you the Improbability of it.

L. C. J. Ay, do but give us one probable Argument, (you being a Learned Man, and a Prieſt) why we ſhould believe, there is no Plot.

Corker. My Lord, I would have endeavoured to have ſhewn you the Improbability of it, but yet I would not urge it, becauſe it may not be ſo grateful to your Lordſhip. But to me, 'tis not probable, that ſo many Honourable and Vertuous Perſons ſhould be involved in a Plot ſo Dangerous, ſo Horrid and Deteſtable in it ſelf; wherein, my Lord, as he ſays, ſo many Thouſands of People, and even a whole Nation, were to be overwhelmed: of which, if a Diſcovery had been made by any Perſon, it would have prevented the utter Ruin of ſo many Millions. 'Tis not Rational or Probable, that ſuch vaſt whole Armies ſhould be raiſed, and Foreign Nations concerned in the Plot. All which, notwithſtanding all the Evidence that can be made out of this Plot, is but only their poſitive Swearing.

L. C. J. Juſt now you made your Objection, that it was a ſtrange thing that ſuch a Deſign ſhould be communicated to ſo many; now you make it a Wonder why ſo few ſhould know it, only *Oates* and *Bedlow*. Your Argument before was, that it was a wonderful thing, that ſo great a Concern ſhould be communicated to any one; and now you wonder more, that none ſhould know it but they two.

Corker. Therefore, my Lord, I from thence argue thus, that ſince there is no other Evidence, nor further Proof of it, than from Mr. *Oates*, and Mr. *Bedlow*, I infer there is no ſuch thing at all.

L. C. J. Yes, as for your Army, there is more than ſo; Do you remember what Mr. *Dugdale* and what Mr. *Prance* ſay?

Corker. Yes, my Lord, conſidering theſe Perſons, what they are, their vile Oaths, and the Encouragement they have met with, by ſuch Endearments and Careſſes, as they have found, their Credit is not much to be weighed. Now, my Lord, I apply to the Accuſation that is againſt my ſelf.

L. C. J. Ay, ay, that is your beſt way, for it would have been an hard Task for you to prove, that there was no Plot. We were in great Expectation what Arguments you would bring us for it.

Sir *George Wakeman.* My Lord, will you give me leave to obſerve one Thing more to your Lordſhip and the Court? Mr. *Oates* does mention in his Narrative, of at leaſt Thirty or Forty Pages, and all this upon Oath, (ſo he ſaith in the end of his Narrative) but I would obſerve, that there is not a Letter dated in *France*, or in the *Low-Countries*, or received here, but he ſwears poſitively as to the Date of it, and Reception of it; but now, when he comes to mention any Thing wherein a Man's Life is concern'd, he will not tie up himſelf to a Month.

L. C. J. Yes, he does, and to part of a Month. He tells you, it was the beginning, or middle, or latter end; and he ſpeaks punctually as to the Twenty firſt of *Auguſt*.

Sir *George Wakeman.* But in all his whole Narrative, he ſpeaks to a Day.

Mr. Recorder. As my Lord ſays, he ſpeaks punctually to the Twenty firſt of *Auguſt*. And as to the Letters, he took the Date of them in his Memorial.

Corker. My Lord, I would only take notice, that at the firſt, Mr. *Oates* thought to take Advantage of ſome Words of mine, at my Examination; he told you, that I had gone into *France*, but that I denied it when I was Examined before the Juſtice of Peace. My Lord, I deny all this; for the Juſtice of Peace Examined me where I had lived——

L. C. J. We have nothing of this Matter here before us.

Mr. Juſt. *Pemberton.* You are to anſwer what he ſays now.

Corker. 'Tis what Mr. *Oates* ſays now, for I knew nothing of it till now. Now my Lord, as to that, I ſay, I did not deny it before the Juſtice of Peace that Examined me; for I told him, I lived with a certain Lady Twelve Years, till ſhe died; and during that time, I never was beyond the Sea but once, which was five Years ſince, for the Cure of a Quartane Ague that I had, and I went over to *France*; otherwiſe, during all that Time that I was with my Lady, I did not go beyond Sea. Upon this, the Juſtice began to ask me other Queſtions; whereupon, my Lord, I recollected my ſelf, and ſaid, Sir, I told you I had not been beyond Sea during the Time I had been with my Lady, but that Time, five Years ſince; but my Lady being Dead, I went over laſt Summer in *Auguſt* to perfect the Cure of that Ague; for I had it ſeven Years, Spring and Fall. And this I told him of my ſelf, without asking. The laſt Summer I went over, and there I ſtaid till two Days before *September*; therefore I did commit no Miſtakes in what I ſaid, or uſed any Cloke to cover it. Now, my Lord, he ſays, I went to *Lampſpring*, which is in the farther End of *Germany*.

L. C. J. He ſays, you ſaid ſo.

Corker. Pray ask him how he knows it? he ſays, by my Letters: Sure if this Man were privy to thoſe great Conſpiracies which he charges me to be a Partner in, it is not probable but that I ſhould tell him where I went; and then, if I did tell him ſo, I muſt go thither and back again in ſix Weeks Time, which was morally impoſſible to do, to go thither, and to return; for I was but ſix Weeks out of Town.

L. C. J. How you Argue, Sir! He ſays, you told him, you went to *Lampſpring*: Say you, Certainly I would tell him true, becauſe he was engaged with me in Conſpiracies; but this can't be true, becauſe of the length of the Way. Is this a Way of Arguing? May not you tell him, you go to one Place, and indeed go to another?

Corker. What Reaſon or Motive had I to tell him a Lye?

L. C. J. It is a hard matter for us to give an Account of Jeſuits Anſwers, even one to another.

Corker. I am not a Jeſuit, I won't ſay the leaſt Untruth to ſave my Life. Then as to my being Preſident, as he calls it, of the Congregation; all the Congregation, and all that know us, know that *Stapleton* (formerly Chaplain to the Queen) is and hath been for Twelve Years, Preſident of that Order. And I am confident that all Catholicks, and moſt of the Court, do likewiſe know it to be true, and by Conſequence, it is likewiſe untrue, that there was an Agreement made by the Jeſuits and *Benedictine* Monks, when I was at *Paris*, to which I was not privy, but could not go on till I was acquainted with it, and conſented to it. Now, my Lord, if I be not Preſident of that Order, that muſt be a Flam and a Story.

L. C. J. You ſay that, Prove who is.

Corker. Mr. *Stapleton* was, as 'tis well known.

L. C. J. Call who you will to prove it, if you can.

Corker. Here is one of the Lay-Brothers of the Order.

L. C. J. Who is that?

Corker. Mr. *Rumley* here.

L. C. J. He cannot be a Witneſs for you, or againſt you, at this Trial.

Corker. My Lord, ſince I did not know of it before, I could not bring any Body.

L. C. J You put it upon your ſelves.

Corker. My Lord, I ſay then I never was at any Conſult where any ſuch Summ of Money was propoſed or agreed, nor was it requiſite or neceſſary that I ſhould be ſo much privy to it, for I was not Superior of the Order, nor Preſident of it, by reaſon of which my Conſent ſhould be neceſſary, or any ſuch Letter be writ to me, or any ſuch received from me. And then, my Lord, Secondly, I muſt take notice again, he accuſes me of being Biſhop of *London*, and that I did conſent to this Agreement of paying ſo many Thouſand Pounds; if I were guilty of this, and likewiſe of contriving the King's Death, and eſpecially conſenting to *Pickering*'s Murther of the King, when that *Pickering* was taken, I ſhould have been taken too, or I knowing my ſelf Guilty, ſhould have fled.

L. C. J. You excepted againſt *Pickering*, and thought him not a convenient Man, becauſe he was one of your Order.

Corker. I hope he does not poſitively ſay I conſented to the King's Death; he ſays indeed I knew ſomething of it, now I was near him when he was taken. All the Officers that came to take Mr. *Pickering*, came to my Chamber. Mr. *Oates* ſays he was there at the taking of *Pickering*; if I were guilty of all theſe Things, being Superior and Maſter to this *Pickering*, 'tis a ſtrange Thing that he ſhould neither know me, nor own me, nor accuſe me, nor take me, nor apprehend me, until almoſt a Month after; all which Time I had my Liberty; but then taking notice of my going down there, and having further Information of me that I had lodged there, he took me into his Catalogue of Biſhops, and he came to take me. But if I had been guilty of theſe heinous Things, there is no Reaſon but they ſhould have apprehended and taken me when *Pickering*, and *Grove*, and *Ireland*, and Sir *George Wakeman* were taken.

L. C. J. I will tell you what for that: If you were now arraigned for being a Prieſt, you might well make uſe of that Argument, That when they took *Pickering* and *Grove*, if they knew you to have been a Prieſt, they ſhould have taken you too, and yet for all that you were a Prieſt, you could not have denied it. But would it have been an Argument, becauſe you were not then taken, you were not ſo? So you might be in the Plot, and not be taken, and 'tis no Argument from your not being taken, that you were not.

Corker. I ſay, my Lord, if he came to diſcover the Plotters, it had been his Duty to have taken me before, if I had been one in the Plot.

L. C. J. So it had been his Duty to have taken you as a Prieſt.

Corker. But I was, as he ſays, equal in the ſame Crime with *Pickering*, and therefore he ſhould have taken me, when he took him.

L. C. J. Have you any thing more?

Corker. Beſides, my Lord, I find he undertook to tell the Names of all thoſe that were engaged in this Conſpiracy, but among them all, my Name is not, therefore 'tis a new Invention of his.

L. C. J. That is not ſaid here, you go off from what is ſaid here.

L. C. J. North. Can you prove that? then firſt do it, and then make your Obſervations upon it,

if

if you can prove what he ſaid before the Lords by Witneſſes; but otherwiſe you muſt not diſcourſe upon what you have not proved.

L. C. J. Here is nothing of that before this Jury.

Corker. I cannot prove it otherwiſe than by the Record. I deſire it may be looked upon, and I refer it to the Conſideration of the Jury, whether if he did ſay he did not know any thing elſe of any Man whatſoever, but what he had then declared, and I am not there accuſed; whether this Accuſation be now to be believed?

L. C. J. That hath been anſwered already.

Mr. Juſt. *Dolben.* But it is not proved by them.

Corker. I leave it to the Jury, whether they will believe it or no.

L. C. J. You ſay well, if you refer it to the Jury, let them conſider it.

Corker. I ſay, they ought to take it into their Conſideration, they are not raſhly to give a Verdict againſt me; and, Gentlemen, I believe I may refer it to your Conſciences, whether you do not know what I ſay to be true in this Buſineſs?

L. C. J. Mr. *Marſhal*, what ſay you to it?

Marſhal. Truly, my Lord, what I have to ſay for my ſelf is this. About a Month ago I was told the Time of my Trial was at Hand, and being then full of good Hope, I did endeavour to provide for it, and I had a great Confidence, my Lord, that it would ſucceed; but truly, upon the ill Succeſs of the late Trials, either my Hope or my Heart failed me, and I did reſolve to caſt my ſelf upon God and his Providence, and however my Silence might have been interpreted, I did reſolve, with Silence and Submiſſion, to reſign up my ſelf to whatſoever your Lordſhip and the worthy Jury ſhould be pleaſed to decree upon me. But, my Lord, ſince your Lordſhip is pleaſed to fling forth ſome Encouragement, and to hang out the White Flagg of Hope, for your Lordſhip hath been pleaſed to uſe many gracious Expreſſions, and ſo, my Lord, upon this, I ſhall, contrary to my former Determination, now endeavour to make Defence for my Life as well as I can: But, my Lord, not being ſo well able to do it, or of ſo quick Capacity as that Learned and Wiſe Council which we have here of Council for us, to wit, the Honourable Bench of Judges, for, upon Enquiry, why, by Law, we were allowed no Council? I was told, that the whole Bench of Judges were always of Council for the Priſoner; and indeed, they look upon it as an Obligation upon them, as far as Truth and Juſtice will permit them, to plead for us. Now, my Lord, with an humble Heart, I would ſuggeſt ſome Heads of Defence to this Learned, Wiſe, and Honourable Council, and leave it to them to manage my Cauſe for me, according to Truth and Juſtice, which they are better able to do for me than I for my ſelf. My Lord, I have, I thank God, no Spleen nor Hatred in my Heart againſt the worſt of my Enemies, nor ſhall be deſirous of Revenge, I leave them and their Proceedings to God; neither am I willing to charge Mr. *Oates* and Mr. *Bedlow* with worſe than the Neceſſity of my Defence will occaſion me to ſay of them. Now, my Lord, the beſt of Men may be miſtaken in a Perſon, and if I prove Mr. *Oates* is miſtaken in the Perſon in me, then I charge Mr. *Oates* with no great Crime, and yet make my own Defence. Now, my Lord, I offer theſe Things for that Defence, and I hope your Lordſhip will appear my great Advocate, and what I ſuggeſt in a few Heads, you will, I hope, put it into a Method, and manage it better than I can my ſelf. My Lord, when I was firſt brought before Mr. *Oates* (as truly all that were with me do know) I carried my ſelf with a great deal of Courage and Confidence, for I was certain that he did not know me, and I did believe it would be only my Trouble of going thither and coming back again.

L. C. J. To go whither?

Marſhal. To *Weſtminſter*. And pray take Notice of this: When I was firſt apprehended, I was never ſought for, nor named as a Traitor in this Buſineſs; but coming accidentally into an Houſe to ask for one, where they were actually Searching, tho' I ſaw the Conſtable at the Door, and Lights in the Houſe, yet I went in and asked, if ſuch an one was within? I think this Confidence will not rationally ſuppoſe me guilty, the Houſe being under Suſpicion.

L. C. J. Here is no Proof of all this.

Marſhal. All that were there know it: Sir *William Waller*, which took me, knows it.

L. C. J. Sir *William Waller*, is this ſo?

Sir *William Waller.* My Lord, when I came to ſearch the Houſe, I placed one at the Door, and him I ordered to let whoever would come in, but no Perſon whatſoever go out. When I was ſearching, this Perſon comes and knocks at the Door, but did not know, I ſuppoſe, of any Perſon ſearching in the Houſe; for when the Door was opened, and he let in, and underſtood it, he preſently endeavoured to get away again.

Marſhal. By your Favour, my Lord, I am very loth to contradict what Sir *William Waller* ſays in any thing, I would willingly believe him a juſt Perſon, that would ſay nothing but the Truth, but God Almighty is my Witneſs that I never knocked, the Door was open, and I came in of my own Accord, both in at the firſt and the ſecond Door. This the Conſtable will teſtify.

L. C. J. And you would not have gone away again if you could, would you?

Marſhal. I will give you better Proof of it: While they were ſearching in an interior Room (and this is well known by them all that were there) I was in an outward Room by my ſelf, this Sir *William Waller* knows, and when they came back and found me there, the Conſtable and the reſt wondered I was not gone. I was left alone by the Door, by my ſelf; the outward Door I found open, and there is another Door which leads out into an Alley, which any Man can open in three Minutes time, and I know how to do it. Now I could not learn it ſince I was taken, for I have not been permitted to go abroad, but been under cloſe Confinement. But if it be worth the while, and you will give me leave to go there, I can ſhew you how 'tis opened in leſs Time than I can ſpeak Three Words.

L. C. J. Would you have the Jury ſtay here while you go and ſhew us the Door? If you have any Witneſſes to prove it, call them. Come, to the Purpoſe, Man.

Marſhal. My Lord, I ſay, if it were worth the while, that it might be made appear, that if I would go away, I could, but I did not get away, but ſtayed with a great deal of Confidence, my Lord; therefore I urge this to the Point, that Mr. *Oates* is miſtaken. After I had been there a while before Mr. *Oates*, Sir *William Waller* wiſhed me to withdraw, and after I had been abſent a while and came back again, Sir *William Waller* wiſhed me

to pluck off my Perriwig, and turn my Back to him and Mr. *Oates*; I did not then well understand the Meaning of it. But afterwards Sir *William Waller*, out of his great Civility, came to see me at the *Gate-house*, and brought with him two very worthy Persons, Sir *Philip Matthews* and Sir *John Cutler*. Sir *Philip Matthews* upon Discourse hearing me declare that Mr. *Oates* was a Perfect Stranger to me, said, That Mr. *Oates*, in Testimony that he knew me, had given such a certain Mark behind in my Head. I told Sir *Philip Matthews*, if he pleased to pluck off my Perriwig, he should see whether there was any such Mark or no; but he being an extraordinary civil Person, told me, he would not give me the Trouble. I desire Mr. *Oates* to declare now beforehand, what that Mark was behind my Head, and if there be such a Mark, 'tis some Evidence that his Testimony is true; but if there be no such, then it will appear to this honourable Court and the Jury, that he did not know me, but was mistaken in the Man.

L. C. J. I suppose he does not know you so much by the Mark behind your Head, as by that in your Forehead.

Marshal. But why did he then speak of the Mark behind my Head?

Mr. Recorder. How does that appear, that he did give such a Mark?

Sir *William Waller.* I shall give your Lordship a short Account what was done: When I brought him to Mr. *Oates*, I did desire indeed to see his Perriwig off, to see if there were any Appearance of a shaven Crown. After that I had done that, I caused him to withdraw till I had taken Mr. *Oates*'s Examination upon Oath, and after I had taken that, I desired him to come in again, and I read it to him, and taxed him with it, to which he gave a general Denial to every Particular, and thereupon I committed him to the *Gate-house*.

L. C. J. What is this to the Business of the Mark?

Sir *William Waller.* I do not know of any Mark; but this I do know, that as soon as ever he came in, Mr. *Oates* called him by his Name.

Marshal. I desire Sir *Philip Matthews* may be called.

Mr. Recorder. He is not here: What would you have with him?

Marshal. To ask, if he did not know in particular, that the Mark was such a Spot behind my Head? Hath he not been here to Day?

Mr. Recorder. I can't tell that.

L. C. J. But he called you by your Name, before ever you plucked off your Perriwig; so saith Sir *William Waller*.

Marshal. That which I was to shew, if I could, and truly all my Defence lies upon it, is, that Mr. *Oates* is a perfect Stranger to me, and consequently hath nothing against me. Now if Mr. *Oates* did give a false Mark to know me by, and there is no such Mark, I think 'tis a Proof that he is mistaken.

L. C. J. Sir *William Waller* says the contrary, he called you by your Name, and there was no Mark mentioned; but if you will suppose what you please, you may conclude what you list.

Marshal. Sir *William Waller* plucked off my Perriwig, and bid me turn my Back to him.

L. C. J. That was to see whether you were shaven, or no.

Marshal. Sir *William Waller* had not so little Knowledge, as to think that the Priests go shaven here in *England*, where 'tis Death for them, if they be discovered. Besides, my Lord, it was put in the Common News-Books which were dispersed abroad in the Country, that it was a white Lock behind. Well, if there be any thing of Favour or Inclination to Mercy in the Court, I shall find it; but if there be none, it will not succeed, tho' I spoke ten thousand times over; nay, tho' it were spoken by the Tongue of Men or Angels it would do me no good; therefore I inforce it again to the Jury to take notice of, that there was a particular Mark given.

L. C. J. That you have not proved.

Marshal. My Lord, I would beseech you to take notice of what every Man knows, and 'tis against Reason to believe, that Sir *William Waller*, knowing the World so well as he is supposed to do, should think we went with shaven Crowns in *England*.

L. C. J. And therefore Dr. *Oates* must look for another Mark, must he, how does that appear?

Marshal. All *England* know, that those who go over to any Seminary or Cloister, never come over again to *England* till their Hair be grown out, that it may be no Mark or Testimony that they are such Persons.

L. C. J. Do you think all Mankind knows that?

Marshal. All that is rational does.

L. C. J. Well, you hear what Sir *William Waller* says.

Marshal. I always looked upon Sir *William Waller* as a very learned upright Person, and did rely upon what he should testify for my Defence, and he knows when Dr. *Oates* brought in his first Testimony against me, I did beg that what he said should be written down by him. Said Sir *William Waller*, it shall not be written down, but I will promise you to remember what he says. Now I hope Sir *William Waller*, as an honest and worthy Gentleman, will keep his Word, and I desire him to do it, as he will answer it before God at the Great Tribunal.

L. C. J. Ask him what you will. You adjure him, and yet you wont ask him.

Marshal. Now, my Lord, I'll tell you how Mr. *Oates* came to know my Name (which is another Proof that he is a Stranger to me.) When I came first in, I asked Mr. *Oates* if he knew me? and looking seriously upon me, he asked me what my Name was? Now we knowing no more of a Man's Thoughts but what his Words discover, it may seem by that very Question that Mr. *Oates* was a perfect Stranger to me. Now when I told him my Name was *Marshal*, he was pleased to answer, You are called *Marsh*. But my Lord, I should consider that which hath been before offered to your Lordship, but that I do not much insist upon, that if Mr. *Oates* had a Commission to search for Priests and Traitors, he was as well bound to tell you I was a Priest as a Traitor; that is an Argument for me, I say. If he had a Commission to apprehend Priests, I conceive, if he knew us to be Priests, he should by Force of such a Commission have seized upon us.

L. C. J. He needed no Commission to do that, he did search to find out Traitors.

Marshal. He heard us particularly named, looks upon us, goes away, denies that he knows us, gives us leave to sleep out our Sleep, and if we would to be gone. Therefore 'tis without any Likelihood or Probability that he had any thing to say against us.

L. C. J. You have not proved one Word of all this.

Marshal.

Marſhal. He owned it himſelf, that he had ſearched the *Savoy* for Traitors, and did not take us. I ſpeak this out of his own Mouth, therefore it is incredible, and I hope the Jury will take notice of it: He was ſearching for Traitors, and knowing me to be a Notorious Traitor, as he would have me to be, that he ſhould find me in Bed, have His Majeſty's Officers with me, and not ſeize upon me.

Mr. Juſtice *Pemberton.* It does not appear to us, you have not proved it.

L. C. J. Sir *William Waller*, did he ſay firſt, *Do you know me?* and then *Oates* ask his Name?

Sir *William Waller.* I ſpeak ſolemnly, as in the Preſence of God, there was not one Word of all this.

Corker. I beſeech you, may I ſpeak one Word?

L. C. J. Have you done, Mr. *Marſhal?*

Marſhal. Truly my Lord, I am aſtoniſhed, I proteſt and confeſs before God I am aſtoniſhed. There is Mr. *Gill* the Conſtable who owned this, and promiſed to be here to atteſt it, for there was a diſpute about it between Dr. *Oates* and me: for ſaid I preſently, if you took me in Bed and knew me to be a Traitor, why did you not ſeize me? he anſwered me again expreſly, before Sir *William Waller*, I had no Commiſſion then to ſeize you: but ſaid I, you acknowledge I was then a Conſpirator, and ſuch your Commiſſion was to ſeize. You might have declared to the Officers you knew me to be a Traitor, and have bid them take charge of me: 'tis impoſſible that you ſhould ſo well know it and not do it, ſure.

L. C. J. Was there any ſuch thing as this, Sir *William Waller.*

Sir *William Waller.* Really my Lord, I do not remember any thing of it.

L. C. J. Mr. *Marſhal* call your Witneſſes.

Marſhal. Is Mr. *Gill* the Conſtable here, he owned it. I think I had as good make an end, I may leave it here, for what I ſhall ſay I find will be to little Purpoſe.

L. C. J. You do not prove what you affirm.

Marſhal. My Lord, I do not go as Mr. *Oates* and Mr. *Bedlow* do, who bring no Circumſtance of Probability or Likelihood, they only ſay they were ſuch a time amongſt ſuch and ſuch Perſons, and ſuch and ſuch things were agreed, but ſhew no probability of it. But I inſtance in ſuch things as do carry a probability in themſelves, and I name thoſe that were by.

L. C. J. And have no Proof of it in the World. And what you call Sir *William Waller* for, he ſays the contrary, there was no ſuch thing.

Marſhal. I ſay, my Lord, what he ſays is to my great aſtoniſhment. Do you remember, Sir *William Waller*, this, that Mr. *Oates* ſaid there, when he was asked if he ſaw me laſt Summer. I ſaw you not only in *Auguſt*, but in *June* and *July*.

Sir *W. Waller.* I remember ſomething of that.

Marſhal. I humbly thank you, Sir, for acknowledging that.

L. C. J. What uſe do you make of that?

Marſhal. I ſhall make uſe of that. The Diſpute was ſo eminent betwixt us that it was impoſſible to forget it.

L. C. J. Well, have you done, Mr. *Marſhal?*

Marſhal. No, my Lord, tho' I had as good hold my Peace. I could not have Witneſſes to diſprove Mr. *Oates* in particulars of Time and Place, becauſe I could not forſee what Time or Place he would name. My Lord, I had Witneſſes here at the the time of my laſt Trial to prove and ſwear, if they might be admitted, that I was here neither in *June*, nor *July*, or *Auguſt*, but ſpent ſome Months at a Place called *Farnborough* in *Warwick-ſhire.*

L. C. J. Can you prove this?

Marſhal. I can prove that I had ſuch as would have proved it then. Now, my Lord, this is that I ſay, if the Court be inclined to any Favour or Mercy: Life being a thing of ſuch concern, I hope ſome little Stop may be allowed to have ſome time to bring ſuch People, but if there be no inclination to Mercy, it would be the ſame thing if the Proof were here.

L. C. J. The Court will do you all Juſtice here, and that is their Mercy.

Marſhal. I am confident I ſhall have great Juſtice done me, I would not have ſaid one Word in my Defence if I did not believe ſo, I took heart by what your Lordſhip had ſaid, and I have already done that which I thought moſt material for it. I have urged firſt the falſe Mark that he gave to know me by. And then his taking me in Bed and diſowning to know me, beſides Mr. *Oates* hath been poſitive in his Teſtimony about the 21th of *Auguſt*, I could not now have Witneſſes to diſprove that, becauſe I knew it not before, but I can have ſeveral Witneſſes to prove, that I had then Witneſſes to prove it, ſufficient Witneſſes from *Farnborough*, who were ſure and certain that I was that very Day there, and would inſtance in ſome particular Reaſons why I was there that Day. And then theſe Witneſſes will ſwear that I was never from thence for three Months at any diſtance, but twice at a Neighbours Houſe, and they can tell the Places where I was then.

L. C. J. You come and tell us what other Folks could tell, why have you not them here? Can the Jury take notice of this.

Marſhal. I hope you will not throw away my Life, when in three Days time I could bring Witneſſes to prove it.

L. C. J. Then we muſt throw away the Lives of the Jury, for they muſt be kept faſting all thoſe Days till they give in their Verdict; for they muſt be ſhut up till then.

Marſhal. My Lord, with your leave, there have been thoſe that have been upon their Trials, and ſent back to Priſon before the Jury have given a Verdict, and after tried again.

L. C. J. *North.* Ay, if they be diſcharged quite of you.

L. C. J. I tell you the Jury muſt be kept together cloſe, till they give their Verdict.

Marſhal. The Jury was not kept up when Mr. *Whitebread and* Mr. *Fenwick* were Tried, and they were afterwards Tried again.

L. C. J. The Jury were wholly diſcharged of them.

Marſhal. If you have any regard of my Life you may diſcharge them of me.

L. C. J. Truly this is as reaſonable as any thing you have offered.

Marſhal. If your Lordſhip believe what I ſay is true, you throw away my Life unleſs you grant me this time, I ſhould be a very infamous Man if I did not prove it then.

L. C. J. If the Jury believe it I am ſatisfied.

Marſhal. My Lord, I ſhould then come full of Shame, if I did not prove what I ſay, therefore I hope the Court will allow me time to prove what I affirm, that that particular Day, and the Day before, and the Day after I was in the Country,

try, and ſtirr'd not. And then as to the Day before the *Aſſumption* which he Charges upon me, and the Day after, I can bring Witneſſes to prove I was thoſe three Days at another Houſe almoſt 50 Miles off *London*, ſo there is nothing in all that is ſaid againſt me by Mr. *Oates* which comes to be determinative and poſitive in his Teſtimony, but I can diſprove it if time be allowed me, but if that cannot, I can bring ſuch Proof as can teſtifie, that I had before, thoſe that could Evidence it.

Corker. I told your Lordſhip, I think, that the Conſtables and other Perſons that came there to take *Pickering*, ſaid they knew nothing of me, and had nothing to ſay to me. Your Lordſhip tells me this I ought to prove. I muſt confeſs I could not expect that, when there were ſo many, an hundred People at leaſt, that all thoſe People coming in I ſhould be put to prove it. But here is a Servant that was in the Houſe then, that will tell you the ſame, that will atteſt they ſaid they had nothing to ſay to me.

Mr. Juſt. *Pemberton.* Call any of your Witneſſes that you have.

Mr. Juſt. *Dolben.* Mr. *Corker*, you remember that the laſt time you were here at the Bar, you deſired time becauſe you had not your Witneſſes, it is now above a Month ago, and therefore you have no Reaſon to ſay your Witneſſes are not ready. Let us ſee them, that we may ſee you did not abuſe us.

Mr. *Recorder.* Who were the Perſons that were then at *Tunbridge*?

Corker. I tell you ſincerely, my Lord, I did not know what they would ſay, but then I did take notice when my Accuſation was read againſt me, That there was a time mentioned of the 24th of *April*, that I conſpired the Killing of the King. Now I could prove the contrary of that I thought, for I did remember, and ſo my Friends know very well, that always in the Spring time I go once or twice, moſt commonly about Thirty Miles out of Town to take the Air. So my Lord, from that Obſervation I did really believe I was actually there at that time; and from this belief I did then tell your Lordſhip, that I thought I could bring Witneſſes that would prove I was at that Place then. According to your Lordſhip's Order I ſent for the Gentlewoman that kept the Houſe, and ſhe coming up I asked her, Miſtreſs, ſaid I, can you tell when I was at *Tunbridge*; ſaid ſhe, I believe you were there about or near *April*, but that is not the thing, ſaid I, I ask you, can you poſitively ſay that it was either before or after the 24th, can you give me any determinate Circumſtance of it. She could not ſwear, nor durſt, what Day I was there exactly; then, ſaid I, go back again, for I reſolved to die in my Innocency without Proof, rather then my Witneſſes ſhould ſpeak what was falſe or doubtful.

Marſhal. I deſire that one *Thomas Sumner* may be called. He was the Man that went down to fetch up the Witneſſes from *Farnborough*.

Mr. *Recorder.* What is your Witneſs, Mr. *Corker*.

Corker. My Witneſs's Name is *Ellen Rigby* [*Who ſtood up.*]

L. C. J. What is it you ask her?

Corker. I deſire ſhe may be asked, whether ſhe knows that I was in the Houſe when the Search was in the *Savoy*, when Mr. *Pickering* was taken? and whether then they charged me, or ſaid I was a Perſon that they had nothing at all to do with.

Marſhal. And me the ſame.

L. C. J. Do you hear the Queſtion?

Corker. Was not I in the *Savoy* when *Pickering* was taken?

Marſhal. And I?

Rigby. Yes, you were both in Bed then.

Corker. Are you ready to ſwear it, if my Lord will permit you?

Rigby. Yes. And the Company that came in never asked for you, but when they ſaw you, ſaid they had nothing to do with you.

L. C. J. Who ſaid ſo?

Rigby. The Company that came and ſearched the Houſe for *Pickering*.

L. C. J. Was Mr. *Oates* there?

Rigby. Yes, my Lord, Mr. *Oates* was there.

L. C. J. Did he ſay that he had nothing to ſay to them?

Rigby. Several of them did ſay ſo, and he among them. They asked me who were in the Houſe, I told them ſeveral. They ſaid they had nothing to do with any but with Mr. *Pickering*.

L. C. J. *North.* Who did you tell were in the Houſe?

Rigby. I told them there was *Pickering*, *Marſh*, *Heskett*, *Corker*, *Smaydon* the Porter and his Wife, two Children, *&c.*

Corker. Now 'tis incredible he ſhould ſearch for Traitors, and, as he ſays, knew us to be ſuch, and ſhould not ask for us: Nay, when he ſaw us, leave us there, and never bid the Officer ſecure us.

Mr. Juſtice *Pemberton.* Who did ask you the Queſtion?

Rigby. There were five or ſix, Mr. *Oates* and Mr. *Bedlow*.

Corker. I deſire to know this of you, Have you not heard all along that Mr. *Stapleton* is Preſident of the *Benedictines*, and how long he hath been ſo, for ſhe was Houſekeeper?

Marſhal. Who is Preſident of the *Benedictines*?

Rigby. Mr. *Stapleton*.

Corker. How long hath he been ſo?

Rigby. Four Years and a quarter, for any thing I know to the contrary.

L. C. J. In his abſence, who was?

Rigby. I know not who,

L. C. J. Did not *Corker* officiate?

Rigby. Never in his life.

L. C. J. Do you know who did?

Rigby. I can tell he did not.

Corker. Pray ask her if ſhe knows of any Conſult of the Jeſuits in the *Benedictine* Convent?

L. C. J. How ſhould ſhe know that? was ſhe one?

Corker. Becauſe there can none come to the Houſe but ſhe muſt entertain them; there was no other Servant at all but ſhe.

Marſhal. Now, my Lord, ſince ſhe is here, let her ſee Mr. *Oates* and Mr. *Bedlow*; ask her whether ever ſhe ſaw them in the Houſe in her life.

Rigby. I ſaw Mr. *Oates* in the Houſe; he came a begging to Mr. *Pickering* for Charity.

L. C. J. What was the time?

Rigby. This Summer was Twelvemonth: And Mr. *Pickering* bid me ſhut the Door, and never let that Man come in again.

Marſhal. That was in the very heat of the Plot, the very nick of time when he was employed to carry on the Conſpiracy, as he ſays; and that then we ſhould ſuffer him to be in ſuch Neceſſity; and ſent away with a Flea in his Ear, when he could gain ſuch Advantages by diſcovering us: Is it likely that we would truſt him with the whole

whole Plot, and yet ſuffer him to want? I appeal to your Lordſhip and the Jury whether that be probable?

Then Sumner *appeared and ſtood up.*

L. C. J. What ſay you to him?

Marſhal. I deſire he may be asked, whether he does not know that here were Witneſſes to teſtifie I was then at *Farnborough.*

L. C. J. That is not a Queſtion to be asked, what another Body can Swear.

Marſhal. He was ſent down, my Lord, to fetch the Witneſſes up.

L. C. J. Well, to ſatisfie you we will ask the Queſtion, tho' it be improper: Were you ſent down for Witneſſes?

Sumner. Yes, my Lord.

L. C. J. Why did not they come?

Sumner. They did come.

L. C. J. Why are they not here? The laſt Seſſions was adjourned particularly to a certain Day, and you knew when you were to be tried.

Mr. *Recorder.* For this very Reaſon, That all might take notice of it, it was adjourn'd to the 16th. Day at this place.

Marſhal. Your Lordſhip does ſuppoſe we have a better Purſe than we have: Would you have them leave their Employments, and come up, and be at great Charges? 'tis not in the Capacity of every one to endure it?

L. C. J. What would you have us do in this caſe?

Marſhal. What is but Reaſonable, Give me but three or four Days time, and I can have my Witneſſes up.

Mr. Juſt. *Dolben.* I pray ask them whether they were not told of the time of their Tryal?

L. C. J. Why did not you ſend for them before, when you knew what Day it was to be?

Mr. Juſt. *Dolben.* You knew as much before as you do now. If you did not, what did you ſend for them up for then, more than now?

Corker. There was no certainty at all of the time when we ſhould be Tried. We were told it was near, but not the very Day; ſome ſaid the 12th, ſome the 14th, ſome the 16th, ſome not at all.

Mr. *Recorder.* You muſt not ſay ſo; for notice was publickly given here that it ſhould not be till the 16th, and the Seſſions was adjourned till then.

Marſhal. I was told it would be two or three Days after laſt Term. I confeſs God Almighty hath been pleaſed to give me a long Impriſonment to prepare for my laſt Cloſe. I do not fear Death tho' it ſhould appear in far more frightful Shapes, than that we may be like to ſuffer. So, my Lord, it is not ſo much a Concernedneſs for my own Life, as for the Honour and Juſtice of the Court, that I plead for a Reſpite to have Witneſſes that may poſitively and particularly diſprove the Teſtimony of Mr. *Oates.* And all the World will think it an hard Caſe when I do atteſt and call to Witneſs ſuch as have a great Probability to prove what I ſay to be true; when I can have ſuch a numerous Train of Witneſſes to prove that I was that particular Day threeſcore Miles out of *London,* and would poſitively ſwear it, if permitted. It will be hard, and will, I fear, draw an heavy cenſure upon this Honourable Court, if ſome time be not allowed.

L. C. J. It cannot be allow'd you, for then we muſt tie up the Jury, and make them faſt all the time.

Marſhal. You may diſcharge them of me.

L. C. J. We cannot do it now.

Mr. Juſt. *Pemberton.* There is no reaſon for it now, for you had time for your Witneſſes before. What, do you come here to make a great Harangue about Witneſſes which you had, and did not bring them?

L. C. J. Did you know they would come to prove, to any Day?

Marſhal. I know they could prove ſuch a Day.

L. C. J. Why then were they not here?

Marſhal. Pray, my Lord, give me leave. I hope I ſhall not ſpeak more than is reaſonable and juſt, and then I care not how it ſucceeds. Every Judge is as much obliged to follow his Conſcience, as any Formality in Law.

L. C. J. Pray teach your own Diſciples, don't teach us: You come and talk here what regard we are to have to our own Conſciences, as if we did not know that better than any Papiſt or Prieſt in the World.

Marſhal. I ſuppoſe that, and 'tis rational too. And I do ſuppoſe that this Bench is infinitely juſt and merciful, and upon that ſuppoſition I plead. Then if there be great reaſon to believe that I can diſprove Mr. *Oates* in his poſitive Teſtimony, then there is great reaſon to believe that I can ſave my Life. And if there be reaſon to believe that I can ſave my Life, I ſuppoſe there will be more regard to this than to any Formality of Law Be pleaſed to ask him, whether he were not to fetch Witneſſes that could atteſt this.

L. C. J. What can you ſay?

Sumner. I went down into the Country for Witneſſes.

L. C. J. Why did you not bring them up againſt this time?

Sumner. I had no Order for this time.

Marſhal. We did not know when we ſhould be tried.

Cl. of the Peace. My Lord, I did tell the Meſſenger when the Seſſions was.

L. C. J. Did the Officers here acquaint you when the Seſſions was.

Sumner. I had order from Captain *Richardſon* at firſt, I did ask leave to go down to fetch his Witneſſes; ſays Captain *Richardſon,* you have order to do what he ſhall direct, to provide him his Witneſſes; that was for the laſt, not for this.

L. C. J. How far were the Witneſſes off?

Sumner. Threeſcore Miles.

L. C. J. Why, you have had notice long enough of your Trials, to get up Witneſſes threeſcore Miles.

Mr. *Recorder.* Capt. *Richardſon,* Did not you tell the Priſoners when their Trials would be?

Mr. Juſt. *Dolben.* They had all notice of the Seſſions by the Adjournment, and ſhould have provided for it.

Capt. *Richardſon.* Ever ſince the laſt Seſſions they have all of them had the Permiſſion of any People to come to them in order to the preparing for their Trials.

L. C. J. As when?

Capt. *Richardſon.* As for this Seſſions.

L. C. J. Firſt you did know that the Seſſions did begin on *Wedneſday*; if you had prepared your ſelves againſt *Wedneſday,* you had been delayed but for two Days.

Marſhal. But how could I prepare Witneſſes for that which I did not know would be teſtified againſt me?

L. C. J. Why did you prepare them for the laſt Trial? why had you not the ſame Witneſſes you had then?

Marſhal. Becauſe it was upon ſomewhat he had ſaid upon my taking, that he ſaw me in *June* and *July,* I did provide Witneſſes for it.

Mr. J. *Pemb.* He holds to the very Day he ſaid firſt, and this is but plain trifling.

L. C. J. Truly, if the merit of your Cauſe be no better than ſuch weak Aſſertions, your Defence is but very poor.

Marſhal. But that I humbly offer, is this, whether you will believe I can have ſuch Witneſſes, and therefore ſtay till they be ſent for.

Mr J. *Dolb.* We have no Reaſon to believe you.

Mr. J. *Wyndham.* We have no Reaſon to believe you, when you have had time to prove it, and have not got them.

L. C. J. Why were they not here now?

Marſhal. My Lord, I do give you a double Reaſon. Then, my Lord, I offer this, that my Name is in no Liſt, Paper, nor Narrative that ever was put forth; and if I had been Guilty, as he ſays, would not he have named me amongſt the other Conſpirators?

L. C. J. No, I think he ſhould not, it would have given you Notice, and too much Opportunity to have gone away.

Marſhal. He gave me leave, when he left me in my Bed.

L. C. J. But yet for all that it does not prove your Innocency. All People that are Guilty, don't run away for it, for you have abundance of Prieſt-holes, and hiding-holes. Well, have you any more Witneſſes? if you have, Call them.

Corker. Call *Alice Broadhead* [*but She did not preſently appear*;] then I deſire Mrs. *Eliz. Sheldon* may be called; [*Who being in the Gallery, anſwered and came down.*]

Marſhal. I do deſire to know whether ſhe knows who is Preſident of the *Benedictine Monks?*

L. C. J. Who is Preſident of the *Benedictines*, Miſtreſs? *Sheldon.* Mr. *Stapleton.*

L. C. J. How many Years hath he been?

Sheldon. A great many Years, my Lord, to my Knowledge. *L. C. J.* How many?

Sheldon. Four or five Years.

Mr. *Recorder.* Where is Dr. *Oates?* call him.

L. C. J. But if he were abſent did not Mr. *Corker* officiate in his place?

Sheldon. Never, my Lord.

Corker. Mr. *Stapleton* was actually at *Paris* when I was there, and therefore I could not officiate in his ſtead; there is another that can teſtifie the ſame, that is, *Alice Broadhead*, [*Who appeared then.*] Pray ask her the ſame Queſtion.

L. C. J. Who is Preſident of the *Benedictines?*

Broadhead. Mr. *Stapleton*, I have known him for many Years, and there hath not been for a great many Years any other.

Corker. Then I do deſire that I may obſerve this, That Mr. *Oates* doth ſeem to accuſe me poſitively of nothing, but only of conſenting to the *Benedictines* Contribution of 6000 *l.* which he ſays they could not do without my leave, becauſe I was their Preſident; but I have brought three Witneſſes which ſay, and are ready to ſwear, that Mr. *Stapleton* is Preſident, was ſo theſe many Years, and I never was ſo in my Life.

Mr. *Recorder.* Here is Dr. *Oates* again now.

[*But he was not Examined.*]

L. C. J. Have you done now, all Three?

Sir *Geo. Wakeman.* I ſay, my Lord, I find that it was imputed to me, at leaſt as a ſin of omiſſion, that when I was before the Council, I did not ſufficiently deteſt, and abominate, and abhor this Crime that is laid to my Charge. I now deteſt, abhor, and abominate the Fact charged on me. I call God to Witneſs, I never was in any Conſultation about it in my Life, I never received any Bill for any Money upon this account, nor did ever receive any Money.

L. C. J. Had not you Two Thouſand Pounds.

Sir *Geo. Wakeman.* No, my Lord, I wiſh I may never enter into the Kingdom of Heaven, if I received one Farthing for any ſuch thing.

Corker. He ſays, that I was employed in diſtributing Moneys; and I profeſs before God, I never diſtributed any Money upon ſuch Account; all that I had was an Annual Annuity which I gave amongſt the Poor. I proteſt before God, I never in my my Life did deliver or hold it as a matter of Faith or commendable Doctrine, That it was lawful for the promoting of the Catholick Religion, to Murder the King, or deſtroy my Country. And I renounce and deteſt it from the bottom of my Soul. And this is all can be expected from a good Chriſtian upon that account; and I hope the Jury will have no prejudice againſt me for that; and neither Pope or any breathing upon Earth can diſpence with me from that Obligation.

Marſhal. And if no Door can be opened for a merciful Sentence upon any Conſideration offered by the Living; at the loud Cries of the dying, I hope there may; and all the earneſt Vows, and all thoſe ſolemn Proteſtations of Innocency by ſuch as were lately Executed for the Crimes we ſtand here charg'd with, left behind them as ſacred Teſtimonies of their Loyalty and unviolated Faith to the King. And I beg leave to put before the Eyes of this Honourable Court, and this whole Aſſembly, this Landskip of Horror, wherein may be ſeen thoſe Caves of Darkneſs, thoſe Baths of glowing Sulphur, ſuch Men muſt be eternally judged to be condemned unto, if what they then ſpoke had not the Characters of the faireſt Truth found inſtamped upon it. Now if a right Survey be taken of this Landskip, and it be well obſerved what theſe Men ſo ſolemnly ſigned and ſealed to with their laſt Breath, it muſt be confeſſed they either conſpired finally to damn their own Souls, or were not Conſpirators againſt the King, nor were they Guilty of what was charged upon them. Preſent Content, where the Enjoyment is like to continue, works with a ſtrong Influence upon humane Nature, and chains it faſt to the preſent World. But, my Lord, with the approach of Death, Reformation of Conſcience does offer to advance, and we do obſerve thoſe who have lived a very ill Life, frequently to make a good end; but, my Lord, it is a thing ſcarce ever heard of or known, that thoſe who have Lived all their Lives well, ſhould die ill. Nor can ſuch as were looked upon while they Lived as Perſons of much Integrity, great candor of of Spirit, and unqueſtionable truth in all their Atteſtations, Dying, ſhould become Prophane to Blaſphemy, become Irreligious even to Sacriledge, and falſe even to the worſt of Atheiſm. My Lord, this cannot readily be believed, or eaſily imagined; nor will be, tho' it be poſſible, and yet all that will not believe this, muſt own an Innocency where guilt is ſo ſtrongly ſuppoſed. And if there be great Cauſe to doubt whether thoſe that were lately executed, and were ſuppoſed to be Leaders in this Conſpiracy, were Guilty upon the Conſideration of thoſe ſolemn dying Proteſtations they have made to the contrary; I humbly conceive it may be much more rationally doubted, whether others brought in only by the by, as I am, as a Letter Carrier, and only as Marginal-Notes to the great Conſpirators, may not be wholly innocent. Now, my Lord, if no credit be to be given to the Proteſta-

tions

ons of Men dying, that have ever been judged ſober and juſt; how can Faith be repoſed in the Teſtimony of ſuch Living Perſons as know no God nor Goodneſs? And if the reputed juſt Man at the very point of Death can be judged rationally falſe in his Proteſtations, tho' Death be in his Eyes, and Hell threatning to ingulph him; may not he, my Lord, who hath owned himſelf a Villain in print, be thought falſe in his Teſtimony, while Preferment tickles him, Rewards march before him, and Ambition beckons to him, which he greedily follows, tho' God and Conſcience tell him 'tis unjuſt.

England is become now a Mournful Theater, upon which ſuch a Tragedy is acted, as turns the Eyes of all *Europe* toward it; and the Blood which hath been already ſpilt, hath found a Channel to convey it even to the remoteſt Parts of the World. And tho' it inſpires different Breaſts with different Reſentments, yet it may ſpeak a Language that none who are Friends of *England* will be willing to underſtand. Our preſent Tranſactions here, are the preſent Diſcourſe and Entertainment of foreign Nations; and without all doubt will be chronicled and ſubjected to the cenſure of enſuing Ages. Now my Lord, I have great Reaſon to believe, That not any one of thoſe Honourable Perſons that now ſit Judges over us, would be willing to have their Names writ in any Characters, but thoſe of a juſt Moderation, of a profound Integrity, of an impartial Juſtice, and of a gracious Clemency. And tho' we would not be all thought to be well-wiſhers to the *Roman* Catholick Religion, yet we would be all thought Friends to Religion; and tho' we exclaim againſt Idolatry and new Principles of Faith, yet we all ſtand up for old Chriſtianity; whereas if the Teſtimony of Living Impiety be applauded and admitted of, and the Cries of Dying-honeſty ſcoffed at and rejected, what will become of old Chriſtianity? And if any Voice, Cry, or Proteſtation of Dying Men may paſs for Truth, and obtain belief, where is now our new Conſpiracy? The Queſtion now ſeems to come to this, the belief of Chriſtianity now in *Roman* Catholicks, and the Appearance of their Innocency, are ſo faſt linked together by thoſe ſolemn Vows and Proteſtations of their Innocency, made by the late Executed Perſons, that no Man can take up Arms againſt the Latter, but muſt proclaim War againſt the Former. Nor can our Innocency bleed, but our Chriſtianity muſt needs by the ſame Dart be wounded. Nor can any Tutelar Hand ſtretch it ſelf forth——

L. C. J. *North.* You ſpeak *ad faciendum populum*, and ſhould not be interrupted, but only I think you laſh out a little too much.

Marſhal. I ſpeak this to add the Teſtimony and ſolemn Vows of the Dying, to what we ſay Living for our own Defence. And I deſired they may be put in both together, and weighed in the Scales of an impartial Judgment. Now, my Lord, I ſay, the Queſtion ſeems not ſo much whether *Roman* Catholicks are Conſpirators, as whether indeed they be Chriſtians. Nor is it the great Doubt now whether they deſigned to kill the King, but whether they believe there is a God. For whoever grants this laſt, the belief of a God, of a Heaven, and an Hell, and conſiders what Aſſeverations they made at their Death, what ſolemn Proteſtations they inſiſted upon, does with the ſelf ſame breath proclaim them Innocent.

Mr. Juſt. *Pemberton.* But Mr. *Marſhal*, will you go on to affront the Court in this Manner, to vouch for the Truth of their Speeches, which they made at the Gallows, and affirm them Innocent after they have been found Guilty, and executed according to Law?

Marſhal. My Lord, I do not avouch them Innocent, I only deſire there may be conſideration had, and that the Words of ſuch Dying Men may be thought of. If they did believe a God and a Judgment-Seat that they were going to, could they be Innocent and Chriſtians too?

L. C. J. I was loth to interrupt you becauſe you are upon your Lives, and becauſe 'tis fit you ſhould have as much Indulgence as can be allowed. Your Defence hath been very mean I tell you beforehand; your Cauſe looked much better before you ſpoke a Word in your own Defence, ſo wiſely have you managed it.

Mr. *Recorder.* But really for your particular Part Mr. *Marſhal*, you abound too much in your Flowers of Rhetorick which are all to no Puapoſe.

Marſh. I hop'd it would be no Offence to inſiſt——

L. C. J. But I will tell you, and I'll be heard as well as you, Sir; Becauſe of the Proteſtations of theſe Men, which you make ſo much a ſtir about. If you had a Religion that deſerved the Name of a Religion, if you were not made up of Equivocation and Lying, if you had not Indulgences and Diſpenſations for it, if to kill Kings might not be meritorious, if this were not printed and owned, if your Popes and all your Great Men had not avowed this, you had ſaid ſomething; but if you can have Abſolutions either for Money, or becauſe you have advanced the Catholick Cauſe as you call it, and can be made Saints as *Coleman* is ſuppoſed to be, there is an end of all your Arguments. There is a God, you ſay, and you think we ſhall go to that God becauſe he hath given us the Power, we can let our ſelves in and turn the Key upon Hereticks. So that if they kill a King, and do all the Wickedneſs they can deviſe, they ſhall go to Heaven at laſt: for you have a Trick, either you can directly pardon the killing of a King, or if you excommunicate him he is no King, and ſo you may kill him if it be for the Advancement of Religion. But it will be in vain for you or any Prieſt in *England* to deny this, becauſe we know you Print it and publickly own it, and no body was ever yet puniſhed for any ſuch Doctrine as this. Therefore all your doings being accompanied with ſuch Equivocations and Arts as your Religion is made up of, 'tis not any of your Rhetorick can make you be believed, I do believe it is poſſible for an Atheiſt to be a Papiſt, but 'tis hardly poſſible for a knowing Chriſtian to be a Chriſtian and a Papiſt. 'Tis hardly poſſible for any Man of underſtanding, ſetting aſide the Prejudices of Education, to be a Papiſt and a true Chriſtian, becauſe your Doctrines do contradict the Foundations of Chriſtianity. Your Doctrine is a Doctrine of Blood and Cruelty, Chriſt's Doctrine is a Law of Mercy, Simplicity, Gentleneſs, Meekneſs and Obedience; but you have nothing but all the Pride that ever a Pope can uſurp over Princes: and you are fill'd with Pride, and mad till you come again into the Poſſeſſion of the Tyranny which you once exerciſed here: in ſo much that 'tis ſtrange to me, but that Princes abroad think you more conducing to their Politick Intereſt, elſe ſure they could not endure ſuch Spiritual Tyranny to Lord it over their Souls and their Dominions. Therefore never bragg of your Religion, for it is a foul one, and ſo contrary to Chriſt; that 'tis eaſier to believe any thing, than to believe an underſtanding Man may be a Papiſt. Well, Sir, if you have any more to ſay, ſpeak it. You have provoked me to this: and indeed I ought to do it, becauſe you have ſo much reflected on the Juſtice of the Court: but if you have any thing to ſay in your

your Defence, ſpeak it, or to your own particular Caſe. As for your Religion, we know what it is, and what merciful Men you are: and if we look into the bottom of you, we know what you were ever ſince Queen *Mary*'s Days: and if we look into the Gunpowder-Treaſon, we know how honeſt you are in your Oaths, and what Truth there is in your Words, and that to blow up King, Lords and Commons, is with you a merciful Act, and a ſign of a candid Religion; but that is all a Story with you: for it is eaſier for you to believe, that a Saint, after her Head is cut off, did go three Miles with her Head in her Hand, to the Place where ſhe would be buried, than that there was a Gunpowder-Treaſon. [*At which the People gave a Shout.*]

L. C. J. North. You muſt not meddle any more with the Speeches of thoſe that died.

Marſhal. I did not intend, my Lord, to call any thing of Juſtice in queſtion.

L. C. J. What, do you think we will be impoſed upon in this manner? Perhaps you have Tricks enough to gull your own Party, but you have not to deceive Proteſtants; they can look thro' all your Arts; nay, I never ſaw ſuch Men of weak Parts as your Prieſts generally are; ſo that I wonder you ſhould have any Diſciples, but ſilly Women, or Men without Learning.

Marſhal. If we were guilty of this Conſpiracy, we ſhould gull only our ſelves.

L. C. J. Go you on with one Harangue, I warrant you I will give you another; you ſhall not be hindred to ſay any thing that is pertinent; but this is not at all ſo. We have a Bench of Aldermen have more Wit than your Conclave, and a Lord Mayor, that is as infallible as your Pope. Have you any thing more to ſay for your ſelves?

Marſhal. 'Tis not proper to contradict your Lordſhip, but 'is a wonder you ſhould know our Religion better than our ſelves; for I know not of any ſuch Doctrines owned amongſt us.

L. C. J. No! then I believe you have not read your own Books; I ſuppoſe that your Buſineſs is not now to read, but to ſeduce ſilly Women, or weaker Men. What, don't you publiſh them all over the World? Is there any *Index expurgatorius*, into which you have put theſe Doctrines? Surely you know not any thing, if you know not this.

L. C. J. North. If you have any thing more to ſay, in the proper Defence of your Trial, pray ſpeak it now.

Corker. As to thoſe damnable Doctrines, we profeſs our ſelves innocent of them. I deſire that the Jury may not go upon ſuch a Prejudice, that I entertain ſuch Principles of Religion, as Matters of my Faith. They are horrid Crimes, I proteſt againſt them, and own them not. I deſire the Jury to take Notice of it.

Marſhal. I have this further to offer to your Lordſhip, that Mr. *Bedlow* owned before the Lords that he knew no more to be guilty than he had declared, and among all thoſe I am not named; and this was a Month or ſix Weeks before I was taken.

Mr. Juſt. *Pemberton.* There is no ſuch thing at all proved here, or given in Evidence, and therefore why do you inſiſt upon it?

Marſhal. In this I appeal to the Knowledge of your Lordſhip: and if you know it, I hope you will be pleaſed to acquaint the Jury with it.

L. C. J. I do not know for my own particular, what Anſwer was made; I was not in the Houſe, nor do I know it.

Judges. None of us know it.

Marſhal. I deſire the worthy Jury to take Notice, that among all the Perſons named, there is no ſuch Name mentioned as mine.

Mr. J. *Pembert.* There is no ſuch Thing prov'd here.

Marſhal. They deny all the Lords Records.

L. C. J. Well, have you done? Look you, Gentlemen of the Jury——

Marſhal. I deſire but one Word: Theſe Things I have inſiſted upon as far as I can for my ſelf; but the main Matter I rely'd upon was, that Mr. *Oates* did not know me, neither as to my Calling, Converſation, Words nor Actions. He can bring no Perſon, Man nor Woman, that ever ſaw him in my Company, nor took notice of our meeting together, nor *Bedlow* neither; he can name no place where he ſaw me, none but the *Savoy*, againſt which no Proof can be found. And then at the ſearching of the Houſe, I deſire the Jury to take notice, that at that Time he diſowned us, and ſaid he did not know us. A ſufficient rational Cauſe cannot be given, why he ſhould ſay now he knows me, and did not then take me.

Mr. Juſt. *Pemberton.* You have ſaid all this before.

Marſhal. Then, my Lord, for a Concluſion, I have been told, and I will only deſire the Jury to take notice of it, that every Jury that finds a Man guilty of Death, upon the Teſtimony of Witneſſes that come in againſt him, do take it ſolemnly upon their Conſciences, that what ſuch Witneſſes ſwear is true.

L. C. J. That they believe they ſwear true: For we have no Infallibility with us: 'Tis one thing to ſay 'tis true, and another thing to ſay we believe it is true. Look you, the Jury may give a Verdict that is falſe, and yet go according to their Conſciences. Do you underſtand that, Prieſt?

Mr. Juſt. *Pemberton.* You need not teach the Jury what they are to do.

Marſhal. But conſidering in caſe an Oath be falſe, and the Jury have reaſon to doubt what the Priſoners ſay in their own Defence, upon what they hear or have learnt of their own Knowledge, if they find ſuch Doubt grounded upon that double Matter, then they are in great Danger to bring the Fault to their own Doors, and make the Crime of Perjury their own.

Mr. Juſt. *Pemberton.* What, do you go over Things again and again?

L. C. J. All this ſignifies but little, if you had Popery here, you would get but little by it. We ſhould hardly part with our *Peter Pence* for all your Speeches. We all know what Things are, 'tis not a parcel of Words patch'd thus together, will do your Buſineſs.

Marſhal. I wiſh all Thoughts were as open-fac'd as ours are.

L. C. J. Look you, Gentlemen of the Jury, here are four Priſoners; as to one of them, that is *Rumley*, the Truth of it is, there is but one Witneſs againſt him, and by the Law there ought to be two; ſo I cannot ſay, but you ought to diſcharge him: We do not find, that there is Teſtimony ſufficient, according to the Law, to condemn him, and therefore you ought to acquit him. As to the reſt, here is Sir *George Wakeman*, Mr. *Corker*, and Mr. *Marſhal*; there hath been two ſorts of Evidence given, I will repeat them as well as I can, and as ſhort as I can. There hath been a general Evidence, and a particular Evidence: There was a general Evidence given by Mr. *Dugdale*, of the Plot in general, and by Mr. *Prance*, and ſomething of Intimation by Mr. *Jenniſon*. Theſe of *Dugdale*, *Prance*, and *Jenniſon* do not mention ſo much as the Names of the three Gentlemen that are upon their Lives; but I'll tell you why it was neceſſary, and anſwers a great Objection that they ſeem to make: for you are to believe Men, ſay they, and to believe Men upon probable Circumſtances, ſomething to guide you

you beſides the Poſitiveneſs of an Oath, and that is well enough ſaid. Now here is ſomething beſides, and that is the Plot; that there was a Conſpiracy to introduce Popery, by the likelieſt Means, which was to kill the King; and that ſuch People as theſe Men were to do it. Now that there was ſuch a general Deſign to do it, is a Circumſtantial Evidence, (as to theſe Men I call it ſo.) And theſe are Circumſtances which may anſwer the Objection they make, when they ſay, You are not to give Credit to poſitive Oaths, without any thing to govern you by; for you have this to govern you by, beſides the Oath, that there was a Plot.

The Teſtimony of Mr. *Jenniſon* does go more particularly to the Buſineſs of *Ireland*, which I would obſerve, by the way, for the ſake of that Gentleman that ſtands ſo much upon the Innocency of thoſe Men, and would have them to be believed upon their own Aſſertions, becauſe he ſays they dare not die with a Lye in their Mouths. I believe it is notorious enough, Mr. *Jenniſon* that comes here is a Man of Quality, and one againſt whom there is no Objection, and he is juſtified by one or two more. He ſays, he ſaw Mr. *Ireland* the 19th of *Auguſt*, when he, to his Death, took upon him to averr he was then in *Staffordſhire*, and brought ſeveral of his own Religion, who would outface it to the Court, that he kept them Company ſo many Days, and was in the Country all the while. There was a Maid, before this, that came and teſtified that ſhe ſaw *Ireland*, and ſaw him at his own Door, in *Auguſt*, but this Gentleman comes and proves it upon him more particularly, and tells you when, the Day of the Week, and of the Month, that he was with him at his own Lodging, that Night he came from *Windſor*, that he was pulling off his Boots, and pretended to come Poſt from *Staffordſhire*, and ſo that he was in *Staffordſhire* is true, becauſe he came thence Poſt, but he hath always conſtantly deny'd that he was here, and that may ſerve for the Integrity even of their dying Oaths. And you are not going, according to your own Doctrine, ſo immediately to Hell, I hope you ſuppoſe a Purgatory, where you may be purged from ſuch Peccadillo's as this of dying with a Lye in your Mouths.

As for the Teſtimony of the particular Evidence, firſt, againſt Sir *George Wakeman*, Mr. *Oates* ſays, he ſaw a Letter ſubſcribed, *George Wakeman*; and it was writ to Mr. *Aſhby*, and therein, among other Expreſſions, was this particular, That the Queen would aſſiſt him to kill the King. He was asked, How he knew it was his Hand? He ſaid, He had never ſeen his Hand before, but afterwards he ſaw him writing, (as he thinks, writing,) in a writing Poſture, and there he looked upon that Paper when he was gone from it, while it was wet, and that Character, to his thinking, was juſt the Character of the Letter. Now I muſt obſerve this to you: Firſt, ſuppoſing it to be true, yet it is ſomewhat hard, for a Man that had never known a Man's Hand in his Life, to ſee a Hand to Day, and ſometime after to come and ſee his Hand to a Bill of Phyſick, and to recollect the Character ſo much backward, as to know, this is that, or that, Man's Hand, that I ſaw before. 'Tis one thing to know Hands we are uſed to, but 'tis another thing, if we ſee a Hand that we never ſaw before in our Lives, and then by Reflection at another time, and by Compariſon of Hands, to ſay this is the ſame, that is hard; but that is ſuppoſing it to be true. Sir *George Wakeman*, as all People will that are accuſed, does deny the Fact, and ſays there was no ſuch thing. Againſt him beſides, he ſays he ſaw, in a Book that the Jeſuit Prieſts kept among them of their Tranſactions and Affairs, he ſaw, in *Harcourt*'s Chamber, a Book, wherein was written, *This Day*, (and there was a certain Day in *Auguſt* named, but he cannot tell what Day,) *This Day agreed with Sir* G. W. *for* 15000 *l. to which he conſented.* And under was written, *Receiv'd* 5000 *l. part of* 15000 *l. by Order of Mr.* Coleman, George Wakeman. This he ſays he ſaw, and he believes that to be the very ſame Hand that he ſaw before, ſo it is by a Compariſon of Hands. He does not charge Sir *George Wakeman*, to the beſt of my Memory, with any poſitive Thing of his own Knowledge, more than as I tell you of this Matter.

Sir *Rob. Sawyer.* Yes, my Lord, he ſays he ſaw his Commiſſion.

L. C. J. Indeed he does ſay, he ſaw a Commiſſion in his Hands, to be Phyſician General of the Army that was to be raiſed. And that he denied 10000 *l.* and would have 15. The Truth I leave with you, Gentlemen. Look you, Gentlemen, we will ſhew ourſelves what we ought to do, let them be as they will; we would not, to prevent all their Plots, (let them be as big as they can make them) ſhed one Drop of innocent Blood. Therefore I would have you, in all theſe Gentlemens Caſes conſider ſeriouſly, and weigh truly the Circumſtances, and the Probability of Things charged upon them. There is an additional Evidence againſt Sir *George Wakeman*, by *Bedlow:* He ſays he ſaw him have a Note for 2000 *l.* which was ſaid came from the Queen, there were Diſcourſes of doubtful Words, but whether they be plain enough to ſatisfy your Conſciences, when Men are upon their Lives, I leave to you. That Sir *George Wakeman* ſhould ſay, *Are you ready for me? why am I drill'd on thus in a Matter of this Concern?* This he would have to imply the poiſoning of the King; but there is but one Thing that ſounds any thing plain to the Matter, and that was this; ſaid he, *If they miſs* (ſpeaking of killing the King) *if they miſs at* Windſor, *and you miſs your Way, then it ſhall be done at* New-Market. This he did ſwear directly, and then Sir *George Wakeman* reply'd, He would be ready. Now if you believe this, then there are two Witneſſes againſt Sir *George Wakeman*, for the Matter of the Bill alone would do nothing, but when he ſays he ſaw ſuch a Bill, it muſt be for ſomething, and if he did ſay ſo, *if they miſs killing him at* Windſor, *and you miſs your Way, we will do it at* New-Market; and he reply'd, *I will be ready*, the Thing is made plain; I leave it to you; and this is all the Evidence againſt Sir *George Wakeman*, as I remember: I hope my Brothers, if they remember more, will repeat it to you. I cannot undertake to repeat every Word, I remember ſo much as is material, and my Brothers, I hope, will help me out, in what they have better obſerved.

As to Mr. *Corker*, *Oates* ſays, that he ſaw a Letter under his Hand, that is, his Name, I ſuppoſe, was to it, wherein he conſented to the raiſing the 6000 *l.* which was to be raiſed out of the *Benedictines* Eſtates, and was in order to the carrying on of this Plot. I do not find that he does prove that he did know Mr. *Corker*'s Hand. And he ſays of him further, he was their Preſident, and ſo it was neceſſary to have his Conſent for the raiſing the 6000 *l.* and particularly he ſays, that he did except againſt *Pickering*'s being deſigned for the Murdering of the King; for ſaid he, *He is a Man that waits at the Altar, and methinks you ſhould chooſe ſome fitter Perſon. For that*, ſays Mr. *Corker*, *which he ſays, That I was Preſident; I was not Preſident; and he makes it neceſſary for me to ſet my Hand, becauſe I being Preſident, it was ſuppoſed it could not be done without me*; and Dr. *Oates* does intend ſuch a Thing by his inforcing of it too: But he does produce to you two or three Witneſſes, that do ſay, Mr. *Stapleton* hath been Preſident for 4 or 5 Years; and, ſaid he, *If I were not Preſident, what needs all this ado about my Conſent?* So he contradicts him in that Particular,

ticular, that he was not Preſident, and it is not only a bare immaterial Thing, becauſe his being Preſident made his Hand more neceſſary to the raiſing the 6000 *l.* And for that Matter of his ſaying, that he did except againſt *Pickering*, and they might have choſe another, he does not charge him to be actually at the Conſultation, but he ſays he knew of it, becauſe he ſaid *Pickering* was not a fit Man to do it. And he ſaid, they had better chooſe a Layman. He proves no Fact, but only theſe Words. And Mr. *Bedlow* he ſpeaks againſt him, and what he ſays is rather leſs than what *Oates* ſays. For 'tis, that he talked with *Le Fevre* the Prieſt about the Plot in general Words. It may be, he was talking with ſome body elſe, and yet he could hear that they talked together in general about it. That is all againſt him.

Againſt Mr. *Marſhal*, 'tis rather leſs than againſt *Corker*, that is, that he did conſent to the 6000 *l.* that ſhould be raiſed among the *Benedictines*, he being a *Benedictine* too, and that he took Exceptions againſt *Pickering*, as *Corker* did, that it was not convenient to employ him in killing the King. And this is that *Oates* ſays, and that he was a Carrier of Letters up and down, and a Factor that Way. And *Bedlow* ſays, that he knew that he carried Letters, and was at the Conſult where they were read and anſwered, and when they asked him, Where? He ſaid, At the *Benedictine* Convent in the *Savoy*. And names in particular, a Letter to Sir *Francis Radcliff*, and that there was a Diſcourſe concerning the Plot, in his hearing.

They ſay for themſelves, they cannot anſwer any more than by Circumſtances, 'Tis a very ſtrange thing, if Dr. *Oates* knew this of us, why did not he take us before? And ſays Sir *Geo. Wakeman*, Why did not he accuſe me of this Letter that he talks of, before the King and Council? He makes an Anſwer, which to me indeed is a very faint one, as if he were ſo weak and tired, that he could not ſpeak any Word farther. When the Council asked Sir *Geo. Wakeman* what he had to ſay for himſelf, and he behaved himſelf ruggedly, they call for *Oates* again, *What*, ſaid they, *do you know any thing of your own Knowledge? No*, ſaid he, *God forbid, I know nothing more*; as Sir *Philip Lloyd* ſays, and as the Matter ſpeaks: For if he had charged him that he had ſeen that Letter, the Lords would infallibly have committed him. If he had but ſaid, *I ſaw a Letter with his Name to it, which by the Character I believe was his, becauſe I ſaw his Writing elſewhere.* And 'tis wonderful to me; I don't know, if a Man be never ſo faint, could not he ſay, *I ſaw a Letter under his hand*, as well as, *I knew nothing more of him?* there are as few Words in one, as in the other. If he had ſaid, *I beg your Lordſhips or His Majeſty's Pardon, I am ſo weak I cannot recollect my ſelf*, it had been ſomething, but to make a great Proteſtation that he knew nothing of him. This is that that is ſaid by Sir *Philip Lloyd*, on his Behalf.

Theſe other Gentlemen ſay, that *Oates* did not know them, and the Woman does ſay, that ſhe did tell them, when they came to ſearch, that *Corker* and *Marſhal* were there, and Dr. *Oates* and they ſaid, they had nothing to do with any but *Pickering*. They make Anſwer now and ſay, that they had no Commiſſion to take any but him. But 'tis ſtrange indeed, if they were there, and they did ſee them, that they did not apprehend them. For what Defence they make about what Talk was had at the *Gate-houſe*, 'tis all contradicted by Sir *William Waller*. And indeed, if it were poſſible, they have almoſt undone themſelves in their own Defences, by making weak Obſervations, and inſiſting upon trivial Things; improper for the Court to hear, and impertinent for them to urge. But I deal faithfully with you, I will diſcharge my own Conſcience to you. It lies upon the Oaths of theſe two Men. Tho' there was a Plot in general proved, yet that does not affect theſe Men in particular, but was only uſed to anſwer that Objection, that it ſhould not be believed upon poſitive Swearing, Hand over Head, without ſomething elſe. Here was ſomething elſe, the Plot in general, and their being Prieſts, is another Circumſtance to me, who are mad to bring in Popery, and would do any thing to get their Tyranny again eſtabliſhed amongſt us. And there is more than probable Evidence of that I aſſure you.

Sir *Tho. Doleman* did indeed ſay Mr. *Oates* was very weak, ſo that he was in great Confuſion, and ſcarce able to ſtand, weigh it with you how it will, but to me 'tis no Anſwer. I tell you plainly, I think a Man could not be ſo weak, but he could have ſaid, he ſaw a Letter under his Hand. It was as ſhort as he could make an Anſwer, and 'tis ſtrange that he ſhould go and make Proteſtation that he knew nothing. And ſo I pray you weigh it well, let us not be ſo amazed and frighted with the noiſe of Plots, as to take away any Man's Life without any reaſonable Evidence. If you are ſatisfied with the Oaths of theſe two Men ſo, I have obſerved to you what Objections they make for themſelves, and thoſe Objections are material: what Sir *George Wakeman* ſays about his not accuſing him before the Council, and what theſe Men ſay that he did not apprehend them. And 'tis very ſtrange, they ſhould have ſo little Knowledge and ſo little Acquaintance with *Oates* and *Bedlow*, and ſo great a Matter as they ſpeak ſhould be true. And 'tis well enough obſerved, that he was a begging there; 'tis very much that ſuch a Man ſhould know of ſuch a great Deſign on Foot, and they ſhould uſe him in that manner. Theſe are the Things that I remember, worthy of your Conſideration. Theſe Mens Bloods are at ſtake, and your Souls and mine, and our Oaths and Conſciences are at ſtake; and therefore never care what the World ſays, follow your Conſciences; if you are ſatisfied theſe Men ſwear true, you will do well to find them Guilty, and they deſerve to die for it: If you are unſatisfied, upon theſe Things put together, and they do weigh with you, that they have not ſaid true, you will do well to acquit them.

Mr. *Bedlow*. My Lord, my Evidence is not right ſumm'd up.

L. C. J. I know not by what Authority this Man ſpeaks.

Cl. of Cr. Make way for the Jury there; who keeps the Jury?

Then an Officer was ſworn to keep the Jury: the Judges went off the Bench, leaving Mr. Recorder and ſome Juſtices to take the Verdict. And after about an Hour's Space the Jury returned, and the Foreman coming up to the Table, ſpoke thus to Mr. Recorder.

Foreman. Sir, the Gentlemen of the Jury deſire to know, whether they may not find the Priſoners guilty of Miſpriſion of Treaſon?

Mr. Recorder. No, you muſt either convict them of High Treaſon, or acquit them.

Foreman. Then take a Verdict.

Cl. of Cr. Gentlemen, anſwer to your Names, *Ralph Hawtrey.* Mr. *Hawtrey.* Here, *&c.*

Cl. of Cr. Gentlemen, are you all agreed of your Verdict? *Omnes.* Yes.

Cl. of Cr. Who ſhall ſay for you. *Omnes.* Foreman.

Cl. of Cr. Sir *George Wakeman*, hold up thy Hand, (which he did,) Look upon the Priſoner, how ſay you, is he Guilty of the High Treaſon whereof he ſtands Indicted, or Not Guilty?

Foreman. Not Guilty.

Capt. *Richardſon.* Down on your Knees.

Sir *George Wakeman.* God bleſs the King and the Honourable Bench.

And in like manner were the other Three acquitted. After the Verdict Recorded, the Court adjourn'd till 5 Afternoon.

The

THE TRYAL OF *CHARLES KERNE*,

At *Hereford* Aſſizes, for being a *Romiſh* Prieſt.

On* Monday *the Fourth Day of* Auguſt, *at* Hereford; Charles Kerne *was brought to the Bar, and being Arraigned, he pleaded Not Guilty to the Indictment: Then the Court (after the uſual Formalities performed) proceeded to the Tryal of him, as followeth.

Cl of Ar. GEntlemen of the Jury, Look upon the Priſoner and hearken to his Cauſe. You ſhall underſtand that he ſtands Indicted by the Name of *Charles Kerne*, late of the Pariſh of *Weobly* in the County of *Hereford*, Gent. For that he being born within the Kingdom of *England*, the twenty ninth day of *April* in the thirty firſt Year of the Reign of our Sovereign Lord King *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland*, King, Defender of the Faith, *&c.* Then being a Seminary Prieſt, made, profeſſed, and ordained by the Authority and Juriſdiction challenged, pretended, and derived from the *See of Rome*, the ſaid twenty ninth day of *April* in the year aforeſaid, within this Kingdom of *England* (*viz.*) at *Weobly* aforeſaid in the County aforeſaid, Traiterouſly did come, was, and did remain againſt the Form of the Statute in that caſe made and provided; and againſt the Peace of our Sovereign Lord the King, his Crown and Dignity.

Upon this Indictment he hath been Arraigned, and thereunto pleaded Not Guilty; and for his Tryal hath put himſelf upon God and his Country, which Country you are. Your Charge is to enquire whether he be Guilty of the High Treaſon whereof he ſtands indicted, or not Guilty: If you find him Guilty, you are to enquire what Lands, Goods or Tenements he had at the time of the Treaſon committed, or at any time ſince; if you find him not Guilty, you are to enquire whether he did flee for the ſame: If you find he did flee for the ſame, you are to enquire what Lands, Tenements or Goods he had at the time of ſuch flight, or at any time ſince; if you find him not Guilty, nor that he did flee for the ſame, you are to ſay ſo and no more; and hear your Evidence.

Cl. of Arr. Call *Edward Biddolph.* [*Who was Sworn.*

L. C. J. Give the Jury Pen, Ink and Paper. Sir *William Scroggs.*

L. C. J. Biddolph, do you know Mr. *Kerne?*

Biddolph. I do not know him now: I did know ſuch a Man about ſix years ago; I have ſeen him once or twice at Mr. *Somerſet*'s at *Bollinghams* about ſix Years ago.

L. C. J. How long is it ago ſince you ſaw him laſt?

Biddolph. About a Year.

L. C. J. Had you any Diſcourſe with him?

Biddolph. No, I never had any.

L. C. J. Look on the Priſoner, can you ſay that is the Man?

Biddolph. No my Lord, I cannot.

L. C. J. Can you ſay you ever ſaw or knew him?

Biddolph. I cannot.

L. C. J. Set him down. Call another Witneſs.

Cl. of Arr. Swear *Margaret Edwards*, [*Which was done.*

L. C. J. Do you know Mr. *Kerne?*

Edwards. Yes, my Lord, I do.

L. C. J. How long have you known him?

Edwards. Five or ſix Years.

L. C. J. Where did you know him?

Edwards. At *Sarnsfield*, at Mrs. *Monington*'s.

L. C. J. Were you a Servant there?

Edwards. No, I went thither about Buſineſs.

L. C. J. Where did you firſt ſee him?

Edwards. At Mr. *Wigmore*'s of *Lucton*.

L. C. J. Had you any Diſcourſe with him there?

Edwards. No.

L. C. J. How came you to ſee him at Mrs. *Monington*'s?

Edwards. My Lord, one *James Harris*'s Wife being very ſick, I was deſired by him to go to Mrs. *Anne Monington* to ſeek ſome Remedy for her: He deſired me the rather, for that ſhe being a Papiſt, and I of the ſame Religion; he believed for that Reaſon ſhe would be the more kind to her.

L. C. J. Were you a Papiſt then?

Edwards. Yes, my Lord.

L. C. J. Well, what ſaid Mrs. *Monington* to you?

Edwards. My Lord, ſhe told me ſhe was glad that they had ſent me, for that ſhe did not care to diſcourſe the Diſtempers of a Woman to a Man.

L. C. J. Well, go on.

Edwards. My Lord, after ſhe had diſcourſed to me concerning the ſick Woman, ſhe deſired me to go with her, which I did; and ſhe brought me into the Chapel, where I ſaw Mr. *Kerne* in his Robes.

L. C. J. Were there any more in the Room beſides him?

Edwards. Yes, my Lord, four or five: He was in his Robes and Surplice, and was at the Altar, and gave the Sacrament to the reſt, but I did not receive it.

L. C. J. What did you ſee him do?

Edwards. I ſaw him give the Sacrament.

L. C. J. What did he ſay?

Edwards. He ſaid *Corpus Chriſti*, or ſome ſuch Words.

L. C. J. Did you ſee him deliver the Wafers?

Edwards. Yes, my Lord.

L. C. J. To how many?

Edwards. To four.

L. C. J. You ſwear poſitively to four: Did they confeſs to him?

Edwards. Yes, I believe they did.

L. C. J. Did you ever ſee him ſince?

Edwards. No my Lord, I never ſaw him between that and this.

L. C. J. Did you ever receive the Sacrament before, and of whom?

Edwards. Yes I received ſeveral times: The firſt time was of Mr. *Duffres*, next of Mr. *Kemble*, then of Mr. *Rowenhill*, Mr. *Standiſh*, Mr. *Morgan*, Mr. *Trindal*; I have received from Mr. *Draycot* at Mr. *Berrington*'s; I have received at Mr. *Blount*'s; but the laſt time was from Mr. *Jennings* at Mr. *Wigmore*'s Houſe.

Priſ. My Lord, I deſire ſhe may be ask'd whether ſhe came to Mrs. *Monington*'s of her own accord, or was ſent for Phyſick?

Edwards. I was ſent.

Priſ. Did the Man ſend you or his Wife?

Edwards. The Man.

Priſ. Have a care what you ſay, *Harris*'s Wife is here to trepan you.

L. C. J. Give good words, you begin to Triumph too ſoon. Woman, was it *Harris* or his Wife ſent you?

Edwards. It was *Harris* himſelf that deſired me to go, becauſe I might have more favour, being a Papiſt.

Priſ. Where did that *Harris* live?

Edwards. At *Lempſter*.

Priſ. I am ſatisfied, 'twas a miſtake, I thought it had been *Harris* of *Lawton* ſhe had meant.

L. C. J. Will you ask her any thing elſe?

Priſ. I deſire to know the time when ſhe ſaw me at Mrs. *Monington*'s?

Edwards. It was in laſt *May* was Twelvemonth, the twenty ninth day to the beſt of my Memory.

L. C. J. Do you take it to be certain, or do you believe it only that it was that day?

Edwards. My Lord, I am certain it was that very day; for the Woman died that day, and that day is writ on the Graveſtone.

Priſ. I deſire to know of her whether ſhe was ever ask'd upon her Oath, whether ſhe was ever at Mrs. *Monington*'s ſince that time?

Edwards. I was not there ſince, nor ever ask'd the Queſtion to the beſt of my Knowledge.

L. C. J. What a Queſtion is that?

Priſ. 'Tis very remarkable, for ſhe was ask'd by a Juryman laſt Aſſizes, it was not upon the Tryal, but before the Grand Jury, and ſhe denied then that ſhe was ever at Mrs. *Monington*'s in her life.

Edwards. I have been there above twenty times.

Priſ. Call *Roger Hyet*.

L. C. J. By and by your Defence will be proper, in the mean time, what will you ask her more?

Priſ. I deſire to ask her what Diſcourſe ſhe had with *Mary Jones* the other Witneſs, for ſhe has been inſtructing her what to ſay; and that they may be examined aſunder (*which was granted.*)

L. C. J. What Diſcourſe had you with the other Woman?

Edwards. My Lord, ſhe told me that ſhe had never in all her life been before a Judge or Juſtice of Peace; and that ſhe was afraid of coming before one, for ſhe did not know how to behave her ſelf.

L. C. J. Did you tell her what ſhe ſhould ſay?

Edwards. No, my Lord.

L. C. J. What did you ſay to her?

Edwards. I told her that ſhe would hear her Name call'd, and then ſhe muſt anſwer: And I bid her have a care that ſhe ſpoke what ſhe knew, and no more or leſs than the Truth.

L. C. J. Did ſhe tell you what ſhe could ſay?

Edwards. She did.

L. C. J. What?

Edwards. That ſhe liv'd at Mr. *Somerſet*'s where Mr. *Kerne* uſually was, and that ſeveral People uſed to come thither and go up ſtairs into the Chamber; and ſhe went once to hearken, and ſhe heard Mr. *Kerne* ſay ſomething in Latin, which ſhe ſaid was Maſs.

Priſ. Here is a material Queſtion to ask this Witneſs. I deſire to know where this Woman ſaw me firſt?

Edwards. At Mr. *Wigmore*'s of *Luckton*, as they told me it was him, for I did not know his Name.

Priſ. I would know if the Man ſhe ſaw at Mrs. *Monington*'s, was the ſame Perſon ſhe ſaw at *Luckton*?

Edwards. To the beſt of my Knowledge it was.

Priſ. I never was at *Luckton* in all my life.

L. C. J. Call the other Woman: You ſhall now ſee how theſe Women agree.

Cl. of Arr. Call *Mary Jones*. Cryer, ſwear her.

[*Which was done.*]

Priſ. I deſire they may be examined apart.

L. C. J. Let the other Woman go out.

L. C. J. When was the firſt time you ſaw *Margaret Edwards*?

Jones. Yeſterday, and again to day.

L. C. J. Did ſhe tell you and inſtruct you what you ſhould ſay againſt the Priſoner?

Jones.

Jones. No, my Lord.

L. C. J. Did you tell her what you could ſay againſt him?

Jones. No.

L. C. J. Did not you tell her that you liv'd at Mr. *Somerſet*'s, and that ſeveral People uſed to come thither and go up ſtairs into the Chamber, and that once you went up to hearken, and heard Mr. *Kerne* ſay Maſs?

Jones. She did ſay ſo to me, but I did not anſwer her any thing.

L. C. J. Did ſhe ask where you ſaw Mr. *Kerne*?

Jones. Yes.

L. C. J. Where, at *Bollingham*?

Jones. I did tell her that I ſaw him at *Bollingham*, and that I heard him ſay ſomewhat aloud, I think it was Latin.

L. C. J. How you anſwer: I ask'd you but juſt now, whether you told her that you ſaw Mr. *Kerne* at Mr. *Somerſet*'s Houſe, and that you went up to hearken, and heard him ſay ſomewhat in Latin? And you then ſaid you did not, and now you ſay you did.

Jones. She ſpoke to me firſt about it, and I did but anſwer.

L. C. J. What, did ſhe ask you what you could ſay againſt Mr. *Kerne*?

Jones. Yes.

L. C. J. And what did you tell her you could ſay?

Jones. I told her, that one Sunday Morning ſeveral People came to *Bollingham*, out of the Town and out of the Country, and went up after him, and he ſaid ſomewhat aloud that I did not underſtand.

L. C. J. Did you not tell *Margaret Edwards* that you heard him ſay Maſs?

Jones. No, my Lord.

L. C. J. Call *Margaret Edwards* again. *Margaret Edwards*, Did *Mary Jones* tell you that ſhe heard Mr. *Kerne* ſay Maſs?

Edwards. Yes, my Lord.

L. C. J. Now, *Mary Jones*, what ſay you? Did not you tell her that you heard the Priſoner ſay Maſs?

Jones. No, I am ſure I did not; for I never heard the word before, nor do not know what it means.

L. C. J. The one Witneſs ſays ſhe did not name Maſs, for ſhe did not underſtand what it was; the other ſays ſhe did; ſo they contradict one another in that.

L. C. J. Mary Jones, when did you ſee Mr. *Kerne*?

Jones. Seven or eight Years ago.

L. C. J. Where?

Jones. At Mr. *Somerſet*'s at *Bollingham*, he lived there half a Year.

L. C. J. What did you ſee him do?

Jones. One Sunday Morning I was buſie a waſhing the Rooms, and I ſaw ſeveral People follow him into the Chamber.

L. C. J. Did you ſee him do any thing?

Jones. No, I heard him ſay ſomewhat aloud which I did not underſtand.

L. C. J. How near were you to him?

Jones. There was only a Wall between.

L. C. J. Did you ever ſee him give a Wafer, Marry, or Chriſten?

Jones. No, my Lord: There was a Child Chriſtened in the Houſe.

L. C. J. Who Chriſtened it?

Jones. I cannot tell: There was no one there but my Maſter and Miſtreſs, Mr. *Lachet* and his Wife, and Mr. *Kerne*: I was in the next Room, and I heard words ſpoken by the Voice of Mr. *Kerne*.

L. C. J. What can you ſay more?

Jones. I waſh'd a Surplice.

L. C. J. Whoſe was it, the Priſoner's?

Jones. I cannot tell, becauſe I did not ſee it on his Back.

Priſ. How could you know a Voice?

Jones. Very eaſily, there was but a Wall between.

Priſ. Was there no Room between?

Jones. No, there was not.

L. C. J. The Woman ſpeaks ſenſibly: If you have done asking Queſtions, you had beſt call your Witneſſes.

Priſ. Call Mr. *Hyet*.

L. C. J. Mr. *Hyet*, you cannot be ſworn, but you muſt ſpeak the Truth as much as if you were: Well, what can you ſay?

Hyet. I ask'd *Margaret Edwards* if ſhe had been at Mrs. *Monington*'s; ſhe ſaid ſhe had: I ask'd her if ſhe knew Mr. *Kerne*? She ſaid ſhe did not.

L. C. J. Was ſhe upon her Oath when you ask'd her this?

Hyet. No, my Lord.

L. C. J. Have you any more Witneſſes?

Priſ. Call Mr. *Weſton*'s Maid.

L. C. J. What can you ſay?

Weſt. M. I ſaw thoſe two Women talking together, and that Woman inſtructed the other what ſhe ſhould ſay.

L. C. J. What ſay you to this?

Edwards and *Jones.* My Lord, we did not.

L. C. J. Look you, they both deny it on their Oaths.

L. C. J. How often between the firſt time and the twenty ninth of *May* was Twelvemonth, did you ſee Mr. *Kerne*?

Edwards. Twice or thrice in *Weobly*.

L. C. J. What can you ſay for your ſelf?

Priſ. My Lord, I am very happy that I receive my Tryal before your Lordſhip.

L. C. J. Come, ſetting aſide your Apologies, tell what you have to ſay; if you have any more Witneſſes, call them.

Priſ. My Lord, here are ſeveral Witneſſes who will prove that that Woman was never at Mrs. *Monington*'s.

L. C. J. That's very improbable; but call whom you will.

Priſ. My Lord, here's Mrs. *Monington*, the Perſon ſhe pretends ſhew'd her up, will ſwear ſhe never ſaw the Woman in her life; and upon my Salvation I never ſaw either of them before.

L. C. J. Mrs. *Monington*, the Law will not allow you to be ſworn, but I preſume that a Perſon of your Quality will ſpeak the Truth, as much as if you were upon your Oath. Do you know *Margaret Edwards*?

Mrs. *Mon.* My Lord, I do not.

L. C. J. Woman, tell Mrs. *Monington* from whom you came.

Edwards. I came from *James Harris* of *Lempſter*.

L. C. J. Mrs. *Monington*, do you know *James Harris* of *Lempſter*?

Mrs. *Mon.* My Lord, I do not.

L. C. J. Do you remember that about *May* was Twelvemonth this Woman came to you for Phyſick for a Woman that was ſick?

Mrs. *Mon.* A great many People come to me on that Errand, ſo that it is impoſſible for me

to remember any particular Perſon.

L. C. J. Did you ever take up that Woman to hear Maſs?

Mrs. *Mon.* That I am ſure I did not, for I never took up any Stranger in my Life.

L. C. J. Did Mrs. *Monington* know you by Face or by Name?

Edwards. I had been at the Houſe ſeveral times, but this time I was carried up to Mrs. *Monington* by *Mary Lewis* her Maid: Mrs. *Monington* told me that ſhe was very glad that I was ſent, for ſhe ſaid ſhe would not give the Man ſo juſt an Account, becauſe he was a Man.

L. C. J. Mrs. *Monington*, do you remember this?

Mrs. *Mon.* This is frequent.

Edwards. Then ſhe told me that I muſt put a Plaiſter of *Diapalma* to the Woman's Back, and give her a Drink of Malt with Raiſins, *&c.*

Mrs. *Mon.* As for the Plaiſter, 'tis poſſible I may preſcribe it, but the Drink is no Receipt of mine.

Edwards. My Lord, the Maid when I came in was making a Cheeſe in the Dairy, and I ask'd for Mrs. *Monington*, and ſhe told me ſhe was within, and ſtraightway brought me up to her: Mrs. *Monington* in a little time fell into diſcourſe with me about Religion; and underſtanding what I was, deſired me to go into the Chamber with her.

L. C. J. What kind of Chapel was it?

Edwards. I will give an Account of it as well as I can remember. When we came up ſtairs, we turn'd in at a Door on the right hand; the Altar ſtood juſt before the Door; it was richly adorned, the Altar-Cloth was white, and a fine Crucifix on the Altar.

Mrs. *Mon.* What were the Cuſhions of?

Edwards. As I remember they were Needlework.

L. C. J. What was the Chapel adorn'd with?

Edwards. With abundance of Pictures: I think the Window was on the left hand of the Altar.

Mrs. *Mon.* She has fail'd in the firſt deſcription, for we go not off the Stairs into the Chapel, as ſhe ſays; neither is it adorn'd in the manner as ſhe ſays it is, nor is there any Needlework. Here is a Maid that I deliver all my Medicines to, that perhaps can give a better Account whether this Woman were at my Houſe, than I can.

L. C. J. Call the Maid. You wait on Mrs. *Monington:* Did you ever ſee that Woman?

Maid. No.

L. C. J. I'll ſhew you how you ſhall remember her; ſhe came to Mrs. *Monington* on the behalf of one *Harris*'s Wife, and ask'd if ſhe were within, and you carried her to your Miſtreſs.

Edwards. My Lord, I was there ſeveral times beſides this, for I carried the Child, Mr. *Thomas Monington*, thither ſeveral times.

L. C. J. Do you remember this?

Mrs. *Mon.* I do not remember that ſhe ever brought the Child to me, but another.

Edwards. My Lord, I always lay with him, and tended him, and carried him Abroad.

L. C. J. If you have any thing more to ſay, ſpeak. What ſay you for your ſelf?

Priſ. I hope your Lordſhip will ſum up the Evidence.

L. C. J. That I will: I will tell the Jury all I can remember on both ſides; I will not ſhed innocent Blood, neither will I help the Guilty; for I, by the Duty of my Place, am Counſel for the Priſoner in all things fit and legal.

Priſ. I deſire the Statute may be read.

L. C. J. Let it be read. What Statute do you mean, that of 27 *Eliz.*?

Priſ. Yes my Lord. [*Then the Statute was read.*

Priſ. Now Gentlemen, I deſire you to take into conſideration, whether my Blood ſhall be drawn by the Evidence of a Woman that ſays ſhe ſaw me give a Wafer; or on that Evidence of the other, who ſays ſhe heard me read ſhe knows not what through a Wall: My Lord it is an Oppreſſion that Statutes ſhould be conſtrued otherwiſe than they are intended. I hope, my Lord, that the Statute will not take hold of a Man for ſaying Maſs, for many ſay Maſſes that are not in Order.

L. C. J. It is one of the greateſt Evidences to prove a Man to be a Prieſt that can be; for we cannot think of bringing Witneſſes who ſaw you take Orders; Do any ſay Maſs but Prieſts? Is it lawful for any one but a Prieſt to ſay Maſs?

Priſ. That of Bread and Wine they do not, but the other they do.

L. C. J. Do any Bury or Chriſten but Prieſts?

Priſ. Yes they do *in extremis*; and, my Lord, I do acknowledge that I read Prayers ſometimes, and ſometimes others did it. And I deſire your Lordſhip and the Jury will take notice, that I have taken the Oaths of Allegiance and Supremacy.

L. C. J. Is that all you have to ſay?

Priſ. Yes, my Lord.

L. C. J. Then Gentlemen of the Jury, The Matter you are to try is, whether *Charles Kerne* the Priſoner at the Bar, be a Popiſh Prieſt: An Engliſhman I ſuppoſe he does not deny himſelf to be; the Queſtion is then if he be a Romiſh Prieſt? If ſo, he is guilty of High Treaſon by the Statute of 27 *Eliz.* This was a Law made for the preſervation of the Queen, for the preſervation of our Religion, and for the preſervation of all Proteſtants. The Witneſſes are *Margaret Edwards* and *Mary Jones*. *Margaret* ſays, the firſt time that ſhe ſaw the Priſoner was at Mr. *Wigmore*'s, who told her it was Mr. *Kerne*; and ſhe ſays that ſhe hath ſeen him ſeveral times ſince; twice or thrice at *Weobly*, and the laſt time was the twenty ninth of *May* was Twelvemonth, at Mrs. *Monington*'s, where ſhe ſaw him deliver the Wafer, which is the Sacrament, to four Perſons that were there, but ſhe her ſelf did not receive it; and then ſhe gives you an account of the reaſon of her coming then to Mrs. *Monington*'s, which was at the requeſt of one *Harris*, whoſe Wife was ſick, to ſeek ſome Remedy from Mrs. *Monington* for the ſick Woman: She tells you how the Maid brought her up to her Miſtreſs, how ſhe acquainted her with her Errand, what Advice Mrs. *Monington* gave her for the ſick Woman, and how that Mrs. *Monington* underſtanding what Religion ſhe was of, took her into the Chapel, whereof ſhe gives you a Deſcription. 'Tis very probable ſhe may go on ſuch an Errand, and yet Mrs. *Monington* not know her; but Mrs. *Monington* cannot poſitively ſay, but believes ſhe was never there: Mr. *Kerne*, I ſuppoſe, will not deny but that he who gives the Wafer is a Prieſt.

Priſ. There is bleſſed Bread which others may give.

L. C. J. When you give ſuch Bread, do you not ſay, *Accipe Corpus Chriſti?*

Priſ. We uſe no ſuch words. [*But it appeared, upon*

upon his own repeating of the Latin words they uſed upon the giving the Sacrament, that thoſe were part of the Words.

L. C. J. The Priſoner made an offer to prove ſome diſagreement between the Witneſſes; 'tis true, they did differ in ſome ſmall things, as the ſaying the word Maſs, but from hence can no great matter be inferr'd againſt the Evidence; ſo here is one poſitive Evidence.

There muſt indeed be two Witneſſes; now the Queſtion will be about the ſecond Woman's Teſtimony: She ſays ſhe knew Mr. *Kerne* about eight Years ago, when ſhe lived at Mr. *Somerſet*'s, and that Mr. *Kerne* lived in the Houſe about half a Year: She tells you that ſhe hath ſeen ſeveral Perſons come thither; and amongſt the reſt ſhe ſays, that one Sunday morning ſeveral Perſons came thither and went up with Mr. *Kerne*, and that ſhe was ſo curious as to hearken, and did hear Mr. *Kerne* ſay ſomething in an unknown Tongue: *Kerne* objects that ſhe could not know it was his Voice, but for that, I think Men are eaſily diſtinguiſhed by their Voices, but that I muſt leave to your conſideration.

But now the main Queſtion will be, what it was ſhe heard him ſay? Mr. *Kerne* ſays, that in Times of ſtraitneſs, Perſons that are not Prieſts may read Prayers, and ſo perhaps he may be then reading the Collects.

But then again: She ſays there was a Child Chriſtened in the Houſe, and no one there but Mr. *Somerſet* and his Wife, Mr. *Latchet* and his Wife, and Mr. *Kerne*, to do it: She did not ſee him Chriſten it, and 'tis true likewiſe what he ſays, that in their Church they allow others, as Midwives, to Chriſten *in extremis*; not that he confeſſes he did Chriſten.

L. C. J. Call *Mary Jones* again. *Mary Jones*, was it a ſickly Child?

Jones. No, my Lord.

L. C. J. Then that is anſwered: So that if you believe that he did Chriſten the Child, there are two Witneſſes againſt him: I muſt leave it with you as a tender Point on both ſides; I would not ſhed innocent Blood, neither would I willingly let a Popiſh Prieſt eſcape. There is one poſitive Witneſs, and if you believe upon the Woman's hearing his Voice, that he did ſay Maſs, or did Chriſten, for I muſt confeſs ſhe ſays ſhe did not ſee him Chriſten, then you muſt find him Guilty: So I leave it to you upon the whole matter.

The Jury return'd, and were call'd over.
William Barret, *&c.*

Cl. Arr. Jaylor, ſet up *Charles Kerne*.
Gentlemen, Are you agreed of your Verdict?

Jury. Yes.

Cl. Who ſhall ſay for you?

Jury. The Foreman.

Cl. Look upon the Priſoner: What ſay you, Is *Charles Kerne* Guilty of the High Treaſon whereof he ſtands Indicted, or Not Guilty?

Foreman. Not Guilty.

The TRYALS of *Andrew Brommich*, and *William Atkins*.

Upon Wedneſday *the* 13*th of* Auguſt, 1679. *at the Aſſizes held at* Stafford *for the ſaid County*, Andrew Brommich *and* William Atkins, *being both Seminary Prieſts, were brought to their Tryal and Convicted before the Right Hon. Sir* William Scroggs, *Knt. Lord Chief Juſtice of* England, *and one of his Majeſty's Juſtices of Aſſize there.*

The Court being ſat, they proceeded to their Tryal thus.

THE *Lord Chief Juſtice* having the Night before charged the Sheriff to Return a good Jury, and the Court being ſat, he enquired of him if he had obſerved his Directions; The Sheriff acquainted his Lordſhip, that ſince he had impanell'd the ſaid Jury, he had heard that one *Allen*, of in the ſaid County, being then returned to ſerve on the ſaid Jury, had ſaid in Diſcourſe with ſome of his Fellows, that nothing was done againſt the Popiſh Prieſts above, and therefore he would do nothing againſt them here, nor find them guilty; whereupon his Lordſhip called for the ſaid *Allen*, and one *Randal Calclough*, one of his Fellow Jurymen, and another Witneſs upon Oath, who proving the words againſt him, his Lordſhip diſcharged him of the Jury, and committed him to Priſon till he found Sureties for his good Behaviour; and likewiſe three more of the Jury were diſcharged upon ſuſpicion of being Popiſhly affected, his Lordſhip commanding the Sheriff to return good Men in their places; which was accordingly done, and the Jury Sworn, *viz.*

Thomas Higgin, *John Webb*, *Edward Ward*, *Thomas Marſhall*, *John Beech*, *Randal Calclough*, *Richard Trindall*, *James Beckett*, *William Smyth*, *William Pinſon*, *Daniel Buxton*, and *Richard Cartwright*, Jur'

Cl. of Arr. Jaylor ſet up *Andrew Brommich* to the Bar: Cryer, make Proclamation.

Cryer. O yes! If any one can inform my Lords the King's Juſtices, the King's Serjeant, the King's Attorney or this Inqueſt now to be taken, of any Treaſons, Murders, Felonies, or other Miſdemeanors, committed or done by the Priſoner at the Bar, let them come forth and they ſhall be heard.

Cl. of Arr.

Cl. of Arr. Andrew Brommich hold up thy Hand. Theſe good Men that were lately called, and have now appeared, are thoſe which muſt paſs between our Sovereign Lord the King and you upon your Life or Death: If you will challenge any of them you muſt ſpeak as they come to the Book to be ſworn, and before they be ſworn.

The Priſoner challenging none, the Jury was ſworn, ut ante.

Cl. of Arr. Gentlemen of the Jury, look upon the Priſoner and hearken to his Cauſe. You ſhall underſtand that he ſtands Indicted by the Name of *Andrew Brommich*, late of *Perry Barr* in the County of *Stafford*, Gent. for that he being born within the Kingdom of *England*, the Thirteenth Day of *January*, in the Thirtieth Year of the Reign of our Sovereign Lord King *Charles* IId, by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c.* then being a Seminary Prieſt made, profeſſed and ordained by the Authority and Juriſdiction challenged, pretended and derived from the See of *Rome*, the ſaid Thirteenth Day of *January* in the Year aforeſaid, within this Kingdom of *England*, *viz.* at *Perry Barr* aforeſaid, in the County aforeſaid, Traiterouſly did come, was and did remain againſt the Form of the Statute in that Caſe made and provided, and againſt the Peace of our Sovereign Lord the King, his Crown and Dignity.

Upon this Indictment he hath been Arraigned, and hath pleaded thereunto Not Guilty, and for his Tryal hath put himſelf upon God and his Country, which Country you are: Your Charge is to enquire whether he be guilty of the High Treaſon whereof he ſtands indicted, or Not Guilty: If you find him Guilty, you are to enquire what Lands, Goods or Tenements he had at the Time of the Treaſon committed, or at any time ſince: If you find him Not Guilty, you are to enquire whether he did fly for the ſame, and what Lands, Goods or Tenements he had at the ſame time of ſuch flight, or at any time ſince; if you find him Not Guilty, nor that he did fly for the ſame, you are to ſay ſo and no more, and hear your Evidence.

Cl. of Arr. Cryer, call *Ann Robinſon.* [*Who was ſworn.*

Sir *William Scroggs.* *L. C. J. Ann Robinſon*, what can you ſay againſt *Andrew Brommich*?

A. Rob. My Lord, I can ſay that I received the Sacrament of him according to the Church of *Rome* in a Wafer.

L. C. J. When? How long ago?

A. Rob. About *Chriſtmas* laſt.

L. C. J. What Company was there? How many were there in Company?

A. Rob. My Lord, I cannot poſitively tell how many, but I believe there were about ſeven or eight.

L. C. J. Did they all receive at the ſame time?

A. Rob. Yes, my Lord, they did all receive at that time.

L. C. J. Are you a Papiſt?

A. Rob. No, my Lord.

L. C. J. How long were you a Papiſt?

A. Rob. Several Years.

L. C. J. Who firſt ſeduced you?

A. Rob. My Lord, I cannot tell his Name.

L. C. J. Did you ever receive the Sacrament, according to their way, of Mr. *Brommich* before the time you ſpeak of?

A. Rob. Yes.

L. C. J. How often?

A. Rob. Four times, my Lord; twice at Mr. *Birch*'s, and twice at Mr. *Purſal*'s.

L. C. J. How came you to give her the Sacrament? [*To the Priſoner.*

Priſ. My Lord, I never did.

L. C. J. Why, ſhe has ſworn you gave it her ſeveral times, once in particular at *Chriſtmas* laſt, and four times more, twice at Mr. *Birch*'s, and twice at Mr. *Purſal*'s.

Priſ. My Lord, I cannot help it. I deſire your Lordſhip will take notice of one thing, that I have taken the Oaths of Allegiance and Supremacy, and have not refuſed any thing which might teſtifie my Loyalty.

L. C. J. That will not ſerve your turn, you Prieſts have Tricks to evade that.

Priſ. Beſides, my Lord, I never abſconded.

L. C. J. You never abſconded, what is that to giving the Woman the Sacrament ſeveral times?

Priſ. My Lord, I deſire ſhe may prove it.

L. C. J. She does ſo.

Priſ. My Lord, I humbly conceive it was no Sacrament unleſs I were a Prieſt.

L. C. J. What an Argument is that? You expect we ſhould prove you a Prieſt by Witneſſes which ſaw you take Orders; but we know ſo much of your Religion, that none undertake to give the Sacrament in a Wafer, or ſay Maſs, but a Prieſt; and you gave the Sacrament to that Woman in a Wafer, therefore you are a Prieſt.

Cl. of Arr. Cryer, call another Witneſs, ſwear *Jeoffery Robinſon.*

L. C. J. What can you ſay to Mr. *Brommich*?

Jeof. Rob. I can ſay nothing againſt him.

L. C. J. Did you ever hear him ſay Maſs?

Jeof. Rob. I cannot tell, I have heard him ſay ſomething in an unknown Tongue, but I know not what it was.

L. C. J. Was it Latin that he ſaid?

Jeof. Rob. I cannot tell, I am no Scholar.

L. C. J. Had he a Surplice on?

Jeof. Rob Yes, my Lord, he had.

L. C. J. Robinſon, are you a Papiſt?

Jeof. Rob. Yes, my Lord.

L. C. J. I thought ſo, it is ſo hard to get the Truth out of you.

Cl. of Arr. Cryer, ſwear *Jane Robinſon.*

L. C. J. Come, what can you ſay? Did you ever ſee *Brommich* give the Sacrament?

Jane Rob. Not to my Knowledge.

L. C. J. Did you ever hear him ſay Maſs?

Jane Rob. I never ſaw him do any thing; for I only went up and ſaid my Prayers, I took no notice of any thing.

L. C. J. Did you not ſee *Brommich* there?

Jane Rob. I cannot tell.

L. C. J. Why, don't you know him?

Jane Rob. No, my Lord.

L. C. J. Your Husband knows him. You *Jeoffery Robinſon*, do not you know Mr. *Brommich*?

Jeof. Rob. Not I, my Lord.

L. C. J. That's right like a Papiſt, did you not but juſt now ſay you heard him ſay ſomething in an unknown Tongue, and ſaw him in a Surplice, and yet now you do not know him? You have no more Conſcience than what your Prieſts allow you. But though your Prieſts can perſuade you to take falſe Oaths, I would not have you think they can protect you from the Puniſhment due to them here or hereafter.

An.

An. Rob. My Lord, they both took the Sacrament with me at the ſame time from him.

L. C. J. Look you there, was ever the like impudence ſeen? Come Friend, conſider you are upon your Oath, and do not bring your ſelf into the Snare of a Pillory. Come *Robinſon*, I ask you by the Oath you have taken, did you receive the Sacrament with *Ann Robinſon* at the time ſhe ſpeaks of at Mr. *Purſal*'s?

Jeof. Rob. Yes, my Lord.

L. C. J. How hard is the Truth to be gotten out of you! But within this Country, which abounds ſo with Prieſts and ſwarms with Papiſts, that you get Popery here like the Itch; if they but rub upon you, you catch it.

Jane Rob. My Lord, he's a weak Man.

L. C. J. Who gave it you?

Jeof. Rob. I do not know.

L. C. J. He'll ſay no more than his Wife and Prieſt will give him leave.

L. C. J. Look you Gentlemen of the Jury, here are two Papiſts that are Witneſſes; you are to conſider how far they tell the Truth, and how far they conceal it, how they tell their Tale ſo as to ſerve a Turn: For here you ſee the Man ſaid at firſt he heard him ſay ſomewhat in an unknown Tongue, and that he ſaw him in a Surplice; after that he denies he knows him; but now you ſee by this Woman the Truth is come out; he hath confeſs'd and own'd he received the Sacrament at *Purſal*'s with her. We cannot expect more poſitive Evidence from ſuch People. Come read the Statute.

Anno 27 *Eliz.* cap. 2.

Whereas divers Perſons, called or profeſſed Jeſuit, Seminary Prieſts, and other Prieſts, which have been, and from time to time are made in the parts beyond the Seas, by or according to the Order and Rites of the Romiſh Church, have of late comen and been ſent, and daily do come and are ſent into this Realm of England, and other the Queens Majeſties Dominions, of purpoſe (as it hath appeared) as well by ſundry of their own Examinations and Confeſſions, as divers other manifeſt means and proofs, not only to withdraw her Highneſſes Subjects from their due obedience to her Majeſtie, but alſo to ſtir up and move ſedition, rebellion and open hoſtility within the ſame her Highneſs Realms and Dominions to the great indangering of the ſafety of her moſt Royal Perſon, and to the utter ruine, deſolation and overthrow of the whole Realm, if the ſame be not the ſooner by ſome good means foreſeen and prevented.

For reformation whereof be it ordained, eſtabliſhed and enacted by the Queens moſt excellent Majeſtie, and the Lords Spiritual and Temporal, and the Commons in this preſent Parliament aſſembled, and by the Authority of the ſame Parliament, That all and every Jeſuits, Seminary Prieſts, and other Prieſts whatſoever, made or Ordained out of the Realm of England, or other her Highneſs Dominions, or within any of her Majeſties Realms or Dominions, by any Authority, Power or Juriſdiction, derived, challenged, or pretended from the See of Rome ſince the feaſt of the Nativity of St. John Baptiſt, in the firſt year of her Highneſs Reign, ſhall within forty days next after the end of this preſent Seſſion of Parliament depart out of this Realm of England, and out of all other her Highneſs Realms and Dominions, if the wind, weather, and paſſage ſhall ſerve for the ſame, or elſe ſo ſoon after the end of the ſaid forty days as the wind, weather and paſſage ſhall ſo ſerve.

And be it further enacted by the Authority aforeſaid, That it ſhall not be lawful to, or for any Jeſuit, Seminary Prieſt, or other ſuch Prieſt, Deacon, or Religious, or Eccleſiaſtical Perſon whatſoever, being born within this Realm, or any other her Highneſs Dominions, and heretofore ſince the ſaid feaſt of the Nativity of St. John Baptiſt in the firſt year of her Majeſties Reign made, ordained or profeſſed or hereafter to be made, ordained or profeſſed by any Authority or Juriſdiction derived, challenged or pretended from the See of Rome, by, or of what name, title or degree ſoever the ſame ſhall be called or known, to come into, be, or remain in any part of this Realm or any other her Highneſs Dominions, after the end of the ſame forty days other than in ſuch ſpecial caſes, and upon ſuch ſpecial occaſions only, and for ſuch time only as is expreſſed in this Act. And if he do, that then every ſuch offence ſhall be taken and adjudged to be High Treaſon, and every perſon ſo offending ſhall for his offence be adjudged a Traytor and ſhall ſuffer loſſe, and forfeit as in caſe of High Treaſon.

And every perſon which after the end of the ſame forty days, and after ſuch time of departure as is before limited and appointed, ſhall wittingly and willingly receive, relieve, comfort, aid or maintain any ſuch Jeſuit, Seminary Prieſt, or other Prieſt, Deacon or Religious, or Eccleſiaſticall perſon as is aforeſaid, being at liberty, or out of hold, knowing him to be a Jeſuit, Seminary Prieſt, or other ſuch Prieſt, Deacon or Religious, or Eccleſiaſtical perſon as is aforeſaid, ſhall alſo for ſuch offence be adjudged a Felon without benefit of Clergy, and ſuffer death, loſſe, and forfeit, as in caſe of one attainted of Felony.

L. C. J. Come, what have you more to ſay?

Priſ. I deſire that there may be notice taken what *Robinſon* and his Wife ſaid upon their Examinations before the Juſtice of Peace.

L. C. J. We are to take notice only of what they ſay here.

Priſ. My Lord, they ſaid here they did not know me.

L.

L. C. J. No, Did not *Robinſon* ſay he heard you ſay ſomething in an unknown Tongue; that he then ſaw you in a Surplice? Did we talk of any one but you? Come Jeſuit, with your Learning, you ſhall not think to baffle us: I have of late had occaſion to converſe with your moſt learned Prieſts, and never yet ſaw one that had either Learning or Honeſty.

L. C J. Have you any Witneſſes? Have you any more to ſay?

Priſ. No.

L. C J. Then Gentlemen of the Jury, the Queſtion you are to try, is, Whether *Andrew Brommich* be a Popiſh Prieſt or not: To prove that he is, here is a Woman, one *Ann Robinſon*, that ſwears ſhe received the Sacrament of him in a Wafer once at *Chriſtmas* laſt, and twice at Mr. *Birch*'s, and twice at Mr. *Purſal*'s, and that he gave it to ſeveral others at the ſame time. There needs not much to perſuade you that he who gives the Sacrament is a Prieſt, for in their Church they allow no one but a Prieſt to give the Sacrament, ſo there is one expreſs Evidence againſt him: And now I muſt ſatisfie you in one thing, that you are to give a Verdict not that he is a Prieſt, but that you believe him in your Conſcience upon the whole Evidence, to be a Prieſt. To make you do this, here is one poſitive Evidence.

The other Man, when I came to examine him whether he ever heard the Priſoner ſay Maſs; he anſwered, that he heard him ſay ſomething in an unknown Tongue, and that he was in a Surplice. This is as much as we could expect from one of their own Religion, who dare ſay no more than their Prieſts will give them leave to do. So Gentlemen I muſt leave it to you, whether or no you will not believe the Teſtimony of this real poſitive Witneſs, and the circumſtantial Evidence of the other Man: For you ſee in what Dangers we are; I leave it upon your Conſciences, whether you will let Prieſts eſcape, who are the very Peſts and Dangers of Church and State; You had better be rid of one Prieſt than three Felons; ſo Gentlemen, I leave it to you.

The Jury having ſtaid ſome time, returned to the the Court to give their Verdict.

Cl. of Arr. Gentlemen of the Jury, have you agreed on your Verdict?

Jury. Yes.

Cl. of Arr. Who ſhall ſay it for you?

Jury. The Foreman.

Cl. of Arr. Jaylor, ſet up *Andrew Brommich* to the Bar.

Gentlemen, do you find *Andrew Brommich* Guilty of the High Treaſon he hath been Arraigned of, or Not Guilty?

Jury. Guilty.

L. C. J. Gentlemen, you have found a good Verdict, and if I had been one of you, I ſhould have found the ſame my ſelf.

The TRYAL of *William Atkins.*

The Court proceeded to his Tryal in like manner as in the former, there being the ſame Jury.

Cl. of Arr. JAYLOR, ſet up *William Atkins* to the Bar: Cryer, Make Proclamation.

Cl. of Arr. Gentlemen of the Jury, Look on the Priſoner and hearken to his Cauſe. You ſhall underſtand that he ſtands indicted by the Name of *William Atkins*, late of *Wolverhampton* in the County of *Stafford*, Gent. for that he being born within the Kingdom of *England*, the Fifth Day of *December*, in the Thirtieth Year of the Reign of our Sovereign Lord King *Charles* the Second, by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c.* Then being a Seminary Prieſt, made, profeſſed, and ordained by the Authority and Juriſdiction challenged, pretended, and derived from the See of *Rome*; the ſaid Fifth day of *December* in the Year aforeſaid, within this Kingdom of *England*, *viz.* at *Wolverhampton* aforeſaid in the County aforeſaid, Traiterouſly did come, was, and did remain againſt the Form of the Statute in that Caſe made and provided; and againſt the Peace of our Sovereign Lord the King, his Crown and Dignity.

Upon this Indictment he hath been Arraigned, and thereunto pleaded not Guilty; and for his Tryal he hath put himſelf upon God and his Country, which Country you are. Your Charge is to enquire whether he be Guilty of the High Treaſon whereof he ſtands indicted or not Guilty: If you find him Guilty, you are to enquire what Lands, Goods or Tenements he had at the time of the High Treaſon committed, or at any time ſince; if you find him not Guilty, you are to enquire whether he did flee for the ſame; if you find he did flee for the ſame, you are to enquire what Lands, Goods or Tenements he had at the time of ſuch flight, or at any time ſince; if you find him not Guilty, nor that he did flee for the ſame, you are to ſay ſo and no more, and hear your Evidence.

Cl. of Arr. Cryer, call the Witneſſes; call *William Jackſon*, *Francis Wilden*, *Jo. Jarvis*, *&c.* Swear *Jackſon.* [*Which was done.*

L. C. J. Come Friend, what can you ſay concerning *Atkins* the Priſoner being a Prieſt?

Jack-

Jackſon. My Lord, I can ſay nothing at all, I was there when he was apprehended, and bound over to proſecute him.

Cl. of Arr. Cryer, Swear *Francis Wilden.* [*Which was done.*

L. C. J. What can you ſay concerning *Atkins* being a Prieſt?

Wilden. My Lord, I have ſeen him at Prayers.

L. C. J. Was he in a Surplice then?

Wilden. Yes, my Lord.

L. C. J. Did you ever ſee him ſay Maſs?

Wilden. I cannot tell.

L. C. J. In what Language were his Prayers?

Wilden. In an unknown Tongue.

L. C. J. Were they in Latin?

Wilden. I cannot tell, my Lord, I am not a Scholar good enough to know.

L. C. J. Are you a Papiſt?

Wilden. I have been a Proteſtant ſince *Chriſtmas.*

L. C. J. 'Tis the Principle of a Proteſtant to tell downright Truth, and the Principle of a Papiſt is to equivocate; come ſpeak Truth and your Conſcience will be lighter: Did you ever ſee *Atkins* deliver the Sacrament in a Wafer, according to the manner and way of the Church of *Rome*?

Wilden. My Lord, I never received it of him my ſelf, but I have ſeen him give it to others.

L. C. J. Where?

Wilden. At Mrs. *Stanford*'s, at *Wolverhampton.*

L. C. J. To how many?

Wilden. To ſeven or eight at a time.

L. C. J. Was he in a Surplice then?

Wilden. Yes, my Lord.

L. C. J. I do not know whether the Priſoner can hear what the Witneſs ſays, 'tis fit he ſhould know. [*The Priſoner being told, he reply'd, he knew not the Witneſs.*

Cl. of Arr. Swear *John Jarvis.*

Cryer. My Lord, he refuſeth to be ſworn.

L. C. J. Jarvis, why will you not be ſworn?

Jarvis. My Lord, I was troubled with a Viſion the laſt night.

L. C. J. You miſtake Friend, old Men dream Dreams, 'tis young Men ſee Viſions, and you are an old Man: Speak the Truth, and I'll warrant you you will not be troubled with Viſions any more; this is a Trick of the Prieſts. Swear him Cryer. [*Which was done.*

L. C. J. Come, *Jarvis,* what can you ſay?

Jarvis. My Lord, he is a Man that hath relieved me and my Children oftentimes when I was in want.

L. C. J. Did you ever hear him ſay Maſs?

Jarvis. My Lord, I am an ignorant Man; I cannot tell; I have heard him ſay ſomewhat in an unknown Tongue.

L. C. J. Did you ever confeſs to him?

Jarvis. Yes, my Lord, I did.

L. C. J. Did you ever receive the Sacrament of him according to the manner of the Church of *Rome?*

Jarvis. Yes, my Lord, I have, I muſt ſpeak the Truth.

L. C. J. How often?

Jarvis. A great many times.

L. C. J. And had he not his Prieſt's Habit on when he gave it you?

Jarvis. Yes, my Lord, he had.

Cl. of Arr. Cryer, call *Joan Wright.* [*Who was called but did not appear.*

Call *Henry Brown.* [*Who appeared and was ſworn.*]

L. C. J. Come, Mr. *Brown,* what can you ſay againſt the Priſoner? Did you ever receive the Sacrament of him, or hear him ſay Maſs?

Brown. My Lord, I was almoſt turned from the Proteſtant Religion to that of the Church of *Rome*; but I never went further than Confeſſion, and that was to this Man, and then I left them.

L. C. J. Indeed you were the wiſer.

Cl. of Arr. Cryer, call *Tho. Dudley.* [*who was ſworn.*

L. C. J. What can you ſay againſt the Priſoner?

Dudley. I was a little given that way, and have been at Confeſſion with one *Atkins,* and have ſeen him perform ſeveral Rites of the Church of *Rome,* at *Well-head,* at *Ham.*

L. C. J. Do you believe this to be the Man?

Dudley. Yes, my Lord, I do.

L. C. J. Have you any more to ſay?

Dudley. No, my Lord.

L. C. J. Read the Statute. [*Which was done.*] Have you Witneſſes, *Atkins,* or any thing to ſay for your ſelf?

Priſ. No, my Lord.

L. C. J. Look you Gentlemen of the Jury, Here is as full and as poſitive an Evidence as can be againſt the Priſoner: The two firſt Witneſſes, *Wilden* and *Jarvis,* are poſitive. *Wilden* ſwears he heard him ſay his Prayers in an unknown Tongue; and further ſays, that he gave the Sacrament to ſeven or eight according to the manner of the Church of *Rome* in a Wafer, at Mrs. *Stamford*'s Houſe in *Wolverhampton. Jarvis,* the other Witneſs, ſwears that he hath been at Confeſſion with him, and hath oftentimes received the Sacrament of him. Here are two other honeſt Men, that ſpeak very full as to Circumſtances; ſo that in the whole you cannot have a more clear Evidence: And Gentlemen, I muſt tell you, it is to theſe ſorts of Men we owe all the Troubles and Hazards we are in, the Fear of the King's Life, the Subverſion of our Government, and the Loſs of our Religion. It is notorious by what they have done, that they are departed from the Meekneſs and Simplicity of Chriſt's Doctrine, and would bring in a Religion of Blood and Tyranny amongſt us. As if God Almighty were ſome Omnipotent Miſchief, that delighted and would be ſerved with the Sacrifices of human Blood. I need not ſay more to you, the Matter's plain; I think you need not ſtir from the Bar, but do as you will.

The Jury having conſidered of the Evidence ſome time, gave in their Verdict.

Cl. of Arr. Gentlemen of the Jury, are you agreed of your Verdict?

Jury. Yes.

Cl. of Arr. Who ſhall ſay for you?

Jury. The Foreman.

Cl. of Arr. Jaylor, ſet up *William Atkins,* [*Which was done.*] Gentlemen of the Jury look on the Priſoner. What ſay you, Is he Guilty of the High Treaſon whereof he ſtands indicted, or Not Guilty?

Jury. Guilty.

Cl. of Arr. What Lands, Goods or Tenements had he?

Jury. None to our knowledge.

Cl. of Arr. Look to him Jaylor, he is found guilty of High Treaſon.

Note, Their Sentence was the ſame as in Caſes of of High Treaſon.

THE TRYAL OF *THOMAS KNOX* and *JOHN LANE.*

ON *Tuesday* the Twenty fifth Day of *November*, 1679. at the *King's-Bench* Bar at *Weſtminſter*, *Thomas Knox* and *John Lane* were tryed for the Miſdemeanour and Offence herein-after in the Indictment expreſſed, and which Tryal was in manner following.

Proclamation being made in uſual manner for Information, and the Defendants call'd to their Challenges, the Jury were ſworn, whoſe Names follow,

Sir *John Kirke*, *Thomas Harriot*, *Henry Johnſon*, *Simon Middleton*, *Hugh Squire*, *Francis Dorrington*, *John Roberts*, *Rainsford Waterhouſe*, *Thomas Earsby*, *Joſeph Radcliffe*, *James Supple*, *Richard Cooper*. } Jur'

Who being numbred, the Clerk of the Crown charged them with the Indictment thus,

Cl. of Cr. Gentlemen, You of the Jury that are ſworn, hearken to your Charge; you ſhall underſtand that the Defendants ſtand Indicted by the Oaths of Twelve honeſt and lawful Men of the County of *Middleſex*, by the Names of *Thomas Knox* of the Pariſh of St. *Margaret's Weſtminſter* in the County of *Middleſex* Labourer, and *John Lane* of the ſame Pariſh and County Labourer, for that whereas *Edward Coleman*, *William Ireland*, and *John Grove*, and other falſe Traitors againſt our Sovereign Lord *Charles* II. by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, *&c.* to the Jurors aforeſaid unknown, the 24th Day of *April*, in the 30th Year of the Reign of our ſaid Sovereign Lord the King, at the Pariſh of St. *Margaret's Weſtminſter* in the County of *Middleſex*, traiterouſly amongſt themſelves had conſpired, conſulted, and agreed, to bring, and put to Death and Deſtruction our ſaid Sovereign Lord the King, and war againſt our ſaid Sovereign Lord the King within this Kingdom of *England* to ſtir up, and the Religion in the ſaid Kingdom of *England* rightly, and by the Laws of the ſaid Kingdom eſtabliſhed, to the Superſtition of the Romiſh Church to change and alter, and the Government of the ſaid Kingdom of *England* to ſubvert; for which their ſaid moſt wicked Treaſons, and traiterous Conſpiracies, Conſultations, and Agreements, the ſaid *Edward Coleman*, *William Ireland*, and *John Grove*, in due Manner, and according to the Laws of this Kingdom of *England* were afterwards attainted, and underwent the Pain of Death for the ſame. And whereas *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel* of *Wardor*, *William* Lord *Petre*, and Sir *Henry Tichbourn* Bar. the 30th Day of *November*, in the 30th Year of the Reign of our ſaid Sovereign Lord the King aforeſaid at the Pariſh of St. *Margaret's Weſtminſter* aforeſaid, in the County of *Middleſex* aforeſaid, of the Treaſons aforeſaid were lawfully accuſed, and thereupon, according to due Form of Law, were committed to the *Tower* of *London*, being the Priſon of our ſaid Sovereign Lord the King, there ſafely to be kept to anſwer for the Treaſons aforeſaid, whereupon they the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel* of *Wardor*, and *William* Lord *Petre*, were in Parliament impeached by the Commons in the ſame Parliament aſſembled. And whereas *Thomas* Earl of *Danby*, afterwards to wit the ſaid Thirtieth Day of *November*, in the Thirtieth Year aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, of certain Treaſons and other Miſdemeanours, was lawfully accuſed, and thereupon, according to due Form of Law, was committed to the ſaid *Tower* of *London*, there to be ſafely kept to anſwer for the Treaſons and Miſdemeanours aforeſaid, of which ſaid Treaſons and Miſdemeanours, he the ſaid *Thomas* Earl of *Danby* is impeached in Parliament, by the Commons in the ſame Parliament aſſembled, that they the ſaid *Thomas Knox* and *John Lane* well knowing the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel* of *Wardor*, *William* Lord *Petre*, and *Thomas* Earl of *Danby*, to be accuſed of the Treaſons and Miſdemeanours aforeſaid, and they the ſaid *Thomas Knox* and *John Lane*, being deviliſhly affected towards our ſaid Sovereign Lord the King their Supream and Natural Lord, and deviſing, and with all their Strength intending the Peace and Tranquillity of this Kingdom of *England* to diſturb, and to hinder and ſtifle the Diſcovery of the ſaid Treaſons, by the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel*, and *William* Lord *Petre*, as aforeſaid ſuppoſed to be committed, and as much as in them lay to elude the due Courſe of Law,

Law, and the Proſecution of Juſtice againſt the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *William* Lord *Petre*, *John* Lord *Bellaſis*, Sir *Henry Tichbourn*, and *Thomas* Earl of *Danby*, to retard, they the ſaid *Thomas Knox* and *John Lane* afterwards, to wit the Thirtieth Day of *April*, in the Thirty-firſt Year of the Reign of our ſaid Sovereign Lord the King, at the Pariſh aforeſaid, in the County aforeſaid, falſly, maliciouſly and unlawfully did conſult and agree among themſelves, *Titus Otes* Clerk, and *William Bedloe* Gentleman, who Informations of the Treaſons aforeſaid had given, and whom they the ſaid *Thomas Knox* and *John Lane* the Day and Year aforeſaid, well knew to have given Information of the Treaſons aforeſaid againſt them, the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel*, and *William* Lord *Petre*, to ſcandalize, and upon the Tryal of the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel*, and *William* Lord *Petre*, to repreſent them to be Perſons of evil Converſation, and Witneſſes not deſerving Credit. And that he the ſaid *Thomas Knox* afterwards, to wit the ſaid Thirtieth Day of *April*, in the Thirty firſt Year aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, in the Names, and with the Conſent and Agreement of the ſaid *John Lane*, and one *William Osborn*, to diſgrace the Information of the ſaid *Titus Otes* and *William Bedloe*, againſt them the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *William* Lord *Petre*, *John* Lord *Bellaſis*, and *Henry* Lord *Arundel*, for our ſaid Sovereign Lord the King, to be given falſly, maliciouſly, ſubtilly, and adviſedly, did write and cauſe to be written three Letters, and thoſe Letters, ſo written falſly, craftily, unlawfully, and adviſedly, did direct and cauſe to be delivered to himſelf the ſaid *Thomas Knox*, by which ſaid Letters falſly, craftily, and deceitfully, it was declared that they the ſaid *John Lane* and *William Osborn* were greatly troubled in their Conſciences by reaſon of certain things which they well knew, and had concealed concerning the unjuſt Contrivances of the ſaid *Titus Otes* and *William Bedloe*, in accuſing the ſaid *Thomas* Earl of *Danby*, to be guilty of the Treaſons and other Miſdemeanours aforeſaid, and that the ſaid *Titus Otes* was a Perſon of a wicked and vitious Life, and made an Aſſault upon the ſaid *John Lane*, and with the ſaid *John Lane* to commit that deteſtable Sin called Sodomy before that time had endeavoured. And that he the ſaid *Thomas Knox*, the ſooner and more effectually to perſwade the *John Lane* and *William Osbourn* falſly to accuſe the ſaid *Titus Otes* and *William Bedloe*, that they the ſaid *Titus Otes* and *William Bedloe* unjuſtly, and againſt all Truth had accuſed the ſaid *Thomas* Earl of *Danby*, of the Treaſons and other Miſdemeanours aforeſaid, and ſo to affirm againſt the Evidence of our ſaid Sovereign Lord the King, upon the Tryal of the ſaid *Thomas* Earl of *Danby*, for the Treaſons and other Miſdemeanours aforeſaid, to be had afterwards, to wit the ſaid Thirtieth Day of *April*, in the Eleventh Year of the Reign of our ſaid Sovereign Lord the King aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, falſly, adviſedly, corruptly, and againſt the Duty of his Allegiance, unlawfully gave to the ſaid *John Lane*, and *William Osborn* divers great Sums of Money, and alſo further falſly, adviſedly, corruptly, and againſt the Duty of his Allegiance, the Day and Year aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, did promiſe unto the ſaid *John Lane* and *William Osbourn*, that they ſaid *John Lane* and *William Osbourn*, within a certain time by the ſaid *Thomas Knox*, to the ſaid *John Lane* and *William Osbourn*, propounded divers other great Sums of Money, and other great Rewards therefore ſhould have and receive, againſt the Duty of their Allegiance, to the great retarding, obſtructing and ſuppreſſing of Juſtice, in manifeſt Contempt of the Laws of this Kingdom of *England*, to the evil and pernicious Example of all others in the like Caſe offending, and againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity, to this Indictment, the ſaid *Thomas Knox* and *John Lane*, by their Attorney pleaded that they are not guilty, nor either of them is guilty of the Offence aforeſaid, and further withal put themſelves upon the Country, and the King's Attorney likewiſe. And your Charge is to enquire if they are guilty or not guilty, *&c.*

Cl. of Cr. Make an, O yes.

Cryer. O yes, if any one will give Evidence, on the Behalf of our Sovereign Lord the King, againſt *Thomas Knox* and *John Lane*, of the Miſdemeanours and Offence whereof they ſtand indicted, let them come forth and give their Evidence.

Then Trenchard *Eſq; of Counſel for the King in this Cauſe, opened the Indictment thus.*

Mr. *Trenchard.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *Thomas Knox* and *John Lane*, ſtand indicted for a great and high Miſdemeanour, and the Indictment ſets forth, that whereas *Coleman*, *Ireland*, *Pickering*, and *Grove*, and other falſe Traitors did conſpire to deſtroy the King, and change the Religion eſtabliſhed by Law, to levy War againſt our Sovereign Lord the King, and to introduce Popery, and for theſe Treaſons were convicted, attainted, and executed, and further ſets forth, that the Lord *Powis*, Lord *Arundel* of *Warder*, and others, were accuſed of the ſaid Treaſons, and were committed to the *Tower*, and afterwards were impeached for the ſame by the Commons in Parliament aſſembled, as alſo that *Thomas* Earl of *Danby*, was impeached of High Treaſon and other Miſdemeanours, that the Defendants knowing Mr. *Otes* and Mr. *Bedloe* had given Information of theſe Treaſons, to ſtifle the Evidence, and to ſcandalize them, did falſly conſpire to repreſent them as wicked Perſons, and Men of no Credit. And the Indictment further ſets forth that the Defendant *Knox*, with the Agreement of *Lane*, and one *Osbourn*, did cauſe ſeveral Letters to be writ, in which it was contrived to accuſe the ſaid *Otes* and *Bedloe*, that they had conſpired falſly to accuſe the ſaid Earl of *Danby*, and that *Otes* was a Perſon of a vitious Converſation, and had a Deſign to attempt an Aſſault upon the Perſon of the ſaid *Lane*, with an Intention to commit that deteſtable Sin of Sodomy; the better to effect which wicked Deſigns, the ſaid *Knox* gave ſeveral Sums of Money to *Osbourn* and *Lane*, and had offered great Rewards unto them. To this Indictment they have pleaded not guilty, and you are to try

whether they are guilty or not, of this Misdemeanour.

Then Sir John Maynard *the King's eldeſt Serjeant at Law purſued the Charge thus.*

Mr. Serj. *Maynard.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury; this Cauſe is of great Conſequence, and my Lord I deſire the Jury to obſerve that their Queſtion this Day is not to enquire whether the Lords or the other Perſons accuſed and impeached in Parliament are guilty or not, but the Queſtion before them, is, whether the Perſons that ſtand here indicted are guilty of wicked and vile Endeavours, to diſcountenance and ſuppreſs the Evidence, and ſcandalize their Perſons, who were to give Evidence againſt theſe Lords, we are not to give Evidence againſt the Lords, but againſt theſe Perſons.

Sir *William Scroggs.*

L. C. J. You are right, Brother.

Mr. Serj. *Maynard.* Gentlemen, ſomething I muſt obſerve to you, that is an Inducement to this Matter, that there hath been an horrid and abominable Conſpiracy againſt the King, the Nation, the Religion, and the Law, appears (my Lord) by the Proceedings in Parliament, wherein the Lords and the Commons, have ſeveral times jointly declared, and, I think, 'tis ſo publick that no body will doubt there is ſuch a thing; who is guilty that is another Matter.

L. C. J. This Court muſt take notice of that, becauſe ſome have been tried, convicted, and condemned for it by this Court.

Mr. Serj. *Maynard.* Your Lordſhip ſays right. But, my Lord, the firſt Diſcovery of this Conſpiracy came from a ſingle Perſon, one that ſtood ſingle and diſcouraged a long time, and that there were Endeavours to diſcourage his further Diſcovery, that will appear. My Lord, when it ſtood ſo, it happen'd that Sir *Edmondbury Godfrey* had taken his Examination, and theſe things will be material in the End of the Cauſe. Sir *Edmondbury Godfrey* having taken the Examination of *Otes*, then the Endeavour was to ſuppreſs this Examination that he had taken, and that by no leſs a Wickedneſs than the barbarous Murder of that honeſt Gentleman, whom you all knew, and they not only took away his Life; but they did ſtrive to baffle and defame him when he was dead, and that will appear too, and is publick and known. My Lord, all this while ſtood *Otes* ſingle, it fell out by the Mercy of God, that a further Diſcovery was made by *Bedloe*, he was examined, and it is publickly known, and publick Juſtice hath gone upon it.

The next Attempt was to corrupt the Teſtimony of *Bedloe* with Bribes and Rewards, and by other Ways, and the Perſon that tranſacted it, *Reading*, is attainted of it, *Scelere tutandum eſt ſcelus*, when Men have invented and deſigned any great Wickedneſs, they are forced to enter upon others to cover and conceal the former. My Lord, it proceeded now, and comes to that which will be the Queſtion this Day. Having gone all theſe ways, now they return again, to ſee if they can diſgrace and baffle the Evidence *Otes* and *Bedloe* had given, and the way to that is by diſparaging and ſcandalizing them with foul Offences, eſpecially Dr. *Otes*; and that was thus, (as we ſhall prove to your Lordſhip) *Lane* had been a Servant with *Otes*, and the other was one of the like Condition, and he was tampered with to accuſe Dr. *Otes* of that horrid Sin of Sodomy, and I think if he were ſuch an one, little Credit were to given to ſuch a Man. This was the Deſign they were to accompliſh. And we ſhall prove to you, in order to it there were Letters (written and contrived by *Knox* indeed) written by *Osbourn* who is not now before you, but a Contrivance of them all. And, my Lord, there muſt be a Pretence, for in truth theſe Perſons had been examined, and had charged him with this Offence, but upon further Examination they had renounced their Diſcovery.

L. C. J. Had they all given Evidence? Or who did?

Mr. Serj. *Maynard.* No, my Lord, pardon me, I am not ſpeaking of their Evidence, but only of their Examination before the Lords.

L. C. J. What was it that was there witneſſed?

Mr. Serj. *Maynard.* Then they pretended this Matter, that they were touch'd in Conſcience, and now they repent, and muſt diſcover the Truth for the Truth's ſake, that themſelves were falſe in making of the Charge, and this, my Lord, muſt be furthered with Bribes and Rewards, as we ſhall prove to you. We ſhall make out the Particulars by Witneſſes, and then we think we may leave it to your Lordſhip and the Jury to determine. In truth, my Lord, it happens in this Caſe as it did long ago, when the firſt Diſcovery was of a like Deſign, and as is told by the Hiſtorian; *Multi ob ſtultitiam non putabant, multi ob Ignorantiam non videbant, multi ob pravitatem non credebant, & non credendo conjurationem adjuvabant.*

Then Sir Creſwel Levins, *His Majeſty's Attorney General, further opened the Evidence thus.*

Sir *Creſwel Levins.*

Mr. *At. Gen.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury: I am of Counſel for the King in this Cauſe whoſe Suit it is. The Evidence hath been opened fully by Mr. *Serjeant*. I ſhall only ſay this, that this is a Counter-part of Mr *Reading*'s Caſe, only it ſeems in this to differ, that the Counter-part exceeds the Original, for, I think, that it is of a further Extent than his was. It hath been told you by Mr. *Serjeant*, and, I know, the Court will tell you, that it matters not whether thoſe Perſons that are accuſed of the Plot, and impeached for it, were guilty or not, it is ſufficient that they are accuſed, and that by theſe Perſons. For any body to endeavour to ſuppreſs and withdraw the King's Evidence, or to diſgrace the King's Evidence, that is not lawful, be the Crime what it will, but it is a much greater Crime in a Caſe of this Nature of High Treaſon, where the Life of the King, the Government of the Kingdom, the Religion, and the true Worſhip of God eſtabliſhed in it, and the Laws of the Nation are in danger: Some of theſe Perſons are guilty, for Mr. *Coleman* and ſeveral others, have been found guilty, and have been executed for it.

The Deſign in this Caſe that lies before you, Gentlemen, to try, was to throw a Diſparagement upon the Teſtimony of thoſe Perſons by whoſe Evidence thoſe Traitors were principally attainted and executed. This is, Gentlemen, to affront the Juſtice of the Nation, and indeed to caſt

caſt a Diſparagement upon it; and that ſure is as great an Offence as can be; the Matter of the Evidence hath been open'd to you, I ſhall only acquaint your Lordſhip and the Jury, that it hath been deſign'd a great while, and ſo long deſign'd, that one of the Perſons here accuſed, Mr. *Lane*, one of *Otes*'s Servants, had the Opportunity to get into his Maſter's Secrets, thereby the more effectually to betray him, and as it will appear by Witneſſes, did carry on the Deſign till it was diſcovered, and by that Diſcovery prevented as to any Succeſs,

Mr. *Recorder*. Your Lordſhip is pleaſed to obſerve in the Indictment that is now to be tried, there are but two Perſons that ſtand Indicted, that is, *Lane* and *Knox*. I preſume the Gentlemen that are on the other ſide for each of the Priſoners (for I perceive thoſe that are for the one are not for the other) may expect that there ſhould be Proof made of what is laid as Inducementin the Indictment, and will not tend immediately to that which will be the Queſtion in this Caſe: for there is recited in the Indictment the Conviction of *Coleman* in this Place, and others in other Places, for the High Treaſon the Evidence whereof theſe Perſons are Indicted for ſcandalizing, we have here the Records ready to prove it.

L. C. J. I ſuppoſe they will admit that.

Mr. *Recorder*. If they will not, we have that which will prove it.

Mr. *Withins*. My Lord, we ſhall not ſtand upon that.

Solliciter General. Sir *Francis Winnington*. We are ready if you did.

Mr. Serj. *Maynard*. And you will admit that Doctor *Otes* and Mr. *Bedloe* were Witneſſes upon thoſe Tryals?

Mr. *Withins*. Yes, and gave Evidence very conſiderable.

Mr. *Recorder*. Then my Lord, we muſt hint to you, that *Lane*, who is one of the Perſons taken notice of in the Indictment, was a Servant to Dr. *Otes*, *Knox* was not in his Service; but *Knox* is a Man that made uſe of *Lane* as a Handle to the Matter he had deſign'd; therefore Letters are prepared, but by whom? That we ſhall give you an Account of was by the Direction of *Knox*, tho' the Letters that will be produc'd are directed to *Knox* himſelf.

L. C. J. Your Indictment ſays ſo.

Mr. *Recorder*. But we ſhall give you an Account, that he was Director of thoſe Letters himſelf; but as your Lordſhip may obſerve, there are not only Letters, but ſome Accuſations or Informations. We ſhall prove to your Lordſhip whoſe Hand-writing they were, and who dictated thoſe Informations: For I think that Mr. *Knox* is pretended to have the moſt Brains; and I believe Mr. *Knox* in the Conſequence will appear to have the moſt malice. And we ſhall prove in the next Place, that inaſmuch as it would be natural in the Courſe of Juſtice to ask, whether theſe Perſons ſhould not have Money for the Reward of ſuch a Buſineſs; we ſhall prove that there were Treaties with Mr. *Lane* and one Mr. *Osborne* who is not indicted, (but was likewiſe a Servant to Dr. *Otes*, and had thereby an Opportunity of deceiving him) that they had Meetings; how Guineas have been cunningly dropt down, which was to prevent, as I was acquainting your Lordſhip, any ſuch Queſtion that ſhould be ask'd, what Monies and Rewards they were to have for this great Diſcovery of any Wickedneſs that Mr. *Otes* ſhould be guilty of. Mr. *Knox* he prepares them in this Manner. At every Meeting, when they were diſcourſing and purſuing this Buſineſs, then by ſome *unlucky* Accident or other Mr. *Knox* he is to drop a Guinea or two, according as Mr. *Lane* and the other Perſon had occaſion or a deſire to have it; but none were to be given, but as by accident, as if *Knox* holding his Guineas in his Hand, or in ſome other accidental way ſhould drop them, and then *Osborne* and *Lane* were to pick them up in a kind of a Jeſt only, as if *Knox* had accidentally let them fall, and they had as accidentally taken them up. How this came to be diſcover'd we muſt give you an Account. Matters being thus prepar'd by the Inſtigation of *Knox*, and tranſacted ſo far by *Lane* and *Osborne*, they thought it then fit to put their Deſign in execution. Accordingly their Informations are produced before a Juſtice of Peace, who finding the Matters were improbable; (for I think they had ſome Scrutiny before the Juſtice of Peace, and before the Lords Committees of the Lords Houſe) one of them Gentlemen, tho' now he is pleaſed to ſay he is *Not Guilty*, yet at that time had a little more Ingenuity, and did confeſs the whole Matter, and how he was drawn in, and how far he was concern'd, and how Mr. *Knox* had directed him, and the Money and Rewards he had received, and that beſides divers other Sums of Money had been promiſed, and great Rewards offered in caſe this Deſign had taken effect. We ſhall call our Witneſſes before your Lordſhip, and give in Evidence the Informations that they had intended to offer; and if we ſhall prove the Matters that have been open'd to you, I believe the Conſequence of this Caſe will appear as much to concern the Government as any that hath come to this Bar.

Sir *Fr. Winnington*. My Lord, if your Lordſhip pleaſe, we ſhall now go to prove our Caſe; the Queſtion was ask'd whether they would admit the ſeveral Attainders of thoſe Perſons that have been executed for this Plot. I now ask them whether they will admit the ſeveral Impeachments that are alſo mentioned in the Indictment, both of the five Lords in the *Tower*, and alſo of the Lord *Danby*.

Mr. *Withins* and Mr. *Scroggs*. Yes, we do.

Mr. Juſt. *Pemberton*. All that they will allow.

Mr *Recorder*. Then we begin with Mr. *Radford*. [*Who was ſworn.*

Mr. *At. Gen.* What is your Name, Sir?

Mr. *Radford*. *Robert Radford*.

Mr. *At. Gen.* Come on, Mr. *Radford*, tell my Lord and the Jury what you know concerning this Buſineſs, about *Lane* and *Knox*.

Mr. *Radford*. Sir, if it pleaſe your Honour, *R. Lane*, Father of *John Lane* was a Yeoman of the Guard extraordinary, and I am one of his Majeſty's Yeomen of the Guard. As he was in waiting he was telling me a Story——

L. C. J. Richard was?

Radford. Yes, *Richard* the Father was telling me that Dr. *Otes* did attempt his Son many times to do ſuch and ſuch things to him that was in the way of Buggery; ſaid I, *Richard*, I am aſhamed of you, that you ſhould cheriſh your Son in ſuch things as theſe are, ſo I went away in Anger, and told him, that if he were my Son, I would correct him ſeverely for it, and ſaid no more, knowing him to be a lying Fellow, and

all

all the whole Guard know him to be a lying Fellow, and that there is no Truth in him.

L. C. J. All who?

Radford. All the Guard, and that is all I can say.

Mr. Juſt. *Jones.* When was this?

Radford. Above a Twelvemonth ago. And I knew that he was a lying Man, and I durſt not ſpeak of it, becauſe I knew he was ſo, and was afraid he would have put it upon me.

L. C. J. What, he told you that his Son told him ſo?

Radford. No, he told me only that his Son was weary of Dr. *Otes*'s Service; and I told him that he was come away once before, and why did he go again? He ſaid his Son could not be quiet.

L. C. J. Did he ſay his Son told him? The Queſtion is plain: Did he ſpeak it of himſelf, and not that his Son told him?

Radford. He ſaid only that he had attempted his Son.

Mr. *Att. Gen.* My Lord, we will call *Thomas Allen.* [*Who was ſworn.*

L. C. J. What is this Man's Name?

Mr. *Att. Gen.* Mr. *Allen*, my Lord. What do you know of any application to bring this *Lane* into *Otes*'s Service? Tell your whole Knowledge of the matter.

Mr. *Allen.* My Lord, about the Month of *December* laſt, when he was gone out of Dr. *Otes*'s Service——

L. C. J. Who was gone out of Dr. *Otes*'s Service?

Allen. Lane; he deſired me to intercede for him again and again, and accordingly he was admitted into his Service again.

Mr. *Att. Gen.* Did you hear any Diſcourſe before this of any Attempt upon him?

Allen. How Attempt?

Mr. *Att. Gen.* Did you ever hear of any Complaints made by *Lane* againſt Dr. *Otes*?

L. C. J. Did you ever hear *Lane* complain that his Maſter would be uncivil with him?

Allen. No, I remember nothing of that.

Mr. *Recorder.* Now, if your Lordſhip pleaſe, we ſhall give your Lordſhip an account, that when he was admitted again, he bragg'd he ſhould get a great Sum of Money; and for that we call Mr. *Samuel Otes.* [*Who was ſworn.*

L. C. J. Are you Brother to Mr. *Otes*?

Mr. *S. Otes.* Yes, Sir.

Mr. *Att. Gen.* What do you know of any Sum that this Mr. *Lane* did pretend to get, and on what Account?

Mr. *S. Otes.* My Lord, about a matter of a Fortnight before he went away from my Brother, I was in the Withdrawing-Room——

L. C. J. How long is it ago ſince he went away?

Mr. *S. Otes.* It was in *April* laſt, as near as I can remember.

L. C. J. Well, go on, Sir.

Mr. *S. Otes.* So there were ſeveral Servants in the Room, and they were talking and laughing together, and he was wiſhing; ſaid he, I wiſh I had a Thouſand Pounds; ſaid ſome of them to him, what would you do with it? Said he, I would take it and fling it upon the Ground and tumble in it; ſays one of them, you may wiſh long enough before you have it; I queſtion not, ſays he, but 'ere long to find a way to get a Thouſand Pounds.

Mr. *Recorder.* Do you hear him, Gentlemen? This was a Fortnight before he went away.

Mr. *S. Otes.* I can only ſpeak as to *Osborne*, as to the thing it ſelf.

Mr. *Att. Gen.* Did you ever hear him ſay which way he did intend to get this Thouſand Pounds?

Mr. *S. Otes.* No, I do not remember that, but upon theſe ſcandalous things coming out, I was conſidering what he had ſaid, and how he behaved himſelf in his Service, and upon recollection I did think of this Saying of his.

Mr. Juſt. *Pemberton.* Ay, he recollected it afterwards.

Mr. *Williams.* Speak thoſe Words over again, as near as you can remember.

Then Mr. S. Otes *repeated his Evidence to the ſame Effect.*

Sir *F. Winnington.* What is that of *Osborne* that you can ſay?

L. C. J. What does that ſignifie to theſe Defendants?

Sir *F. Winnington.* Although he is not a Party that does defend this matter; yet it is all one intire Act that they three were in combination to corrupt the King's Evidence, and to ſtifle it; and tho' ſo far as it does relate to *Osborne*, it will not convict him being abſent; yet it will enlighten the King's Evidence about the Conſpiracy, for he is mentioned in the Indictment.

L. C. J. Well, if you think it material, you may ask what Queſtions you will about it.

Mr. *S. Otes.* I was asking *Osborne*, a little after he was let out of the *Gatehouſe*, how he came to repent himſelf——

L. C. J. Who had repented himſelf?

Mr. *S. Otes. Osborne.*

L. C. J. Had *Osborne* repented himſelf, of what?

Mr. *S. Otes.* Of what he had given an account of before the Committee.

Mr. Juſt. *Pemberton.* Do you know any thing of that?

Mr. *S. Otes.* I know nothing but what they did ſay upon their Examination.

L. C. J. Were you by and preſent at their Examination?

Mr. *S. Otes.* I heard nothing but what they ſaid for themſelves; I was at ſome part of their Examination.

Mr. Juſt. *Pemberton.* What did *Knox* and *Lane* ſay?

Mr. *S. Otes. Osborne* was a ſaying, that as we walked, ſaid he, in the Cloyſters of the *Abbey*, where he did dictate what we were to do.

L. C. J. This is no Evidence. Shall what *Osborne* ſays at one time, and apart from the reſt be any Evidence here?

Mr. *Recorder.* No, my Lord, we offer it only as an Evidence of the general Conſpiracy.

L. C. J. Osborne is a telling how *Knox* and *Lane* and he did conſpire and contrive this Buſineſs; is this Evidence againſt theſe Defendants? I ask my Brother *Maynard.*

Mr. Serj. *Maynard.* My Lord, if this were ſingle clearly, it were no Evidence; but if it fall out in the Evidence, that we ſhall prove *Osborne*, *Knox* and *Lane* were all in the Conſpiracy, tho' it is not direct Evidence to Convict the other; yet it will enlighten that Evidence we give againſt them.

L. C. J. Why did you not make *Osborne* a Party?

Mr. Serj.

Mr. Serj. *Maynard.* He is laid in the Indictment to join with them, but he is run away.

Mr. Juſt. *Pemberton.* My Brother intends it thus, that the Buſineſs is ſo interwoven between them all, that to make it be underſtood, it is neceſſary to bring in ſomething about *Osborne.*

Mr. *Sanders.* I pray they may bring ſomething againſt them firſt.

L. C. J. Ay, the Counſel ſay very well on the other ſide; firſt prove ſome Fact againſt *Knox* and *Lane*, and then prove what you will afterwards.

Mr. Serj. *Maynard.* It is an inducement to it: But I beſeech you, in all Caſes that are Capital, are not the King's Counſel at liberty to prove Circumſtances as well as the Subſtance?

L. C. J. The Court will direct it is no Evidence againſt the now Defendants, unleſs you prove the Fact upon them.

Mr. Serj. *Maynard.* Unleſs we do bring it down to *Knox* and *Lane* afterwards, that they were guilty, it will not be any Evidence I know.

Mr. *Holt.* If it be not Evidence, we conceive with ſubmiſſion to your Lordſhip, it ought not to be heard.

L. C. J. Prove ſomething firſt, Brother, againſt the Defendants, and then urge this.

Mr. *Recorder.* They need not labour it on the other ſide. We agree it is no Evidence againſt the Defendants, but only circumſtantial as of the general Conſpiracy.

L. C. J. But pray how can it be circumſtantial Evidence and yet no Evidence? Prove the Conſpiracy, or it ſignifies nothing.

Mr. Serj. *Maynard.* If it be circumſtantial to make good the Evidence of the Fact, it will be material for us to urge it.

L. C. J. But firſt prove the Fact.

Mr. *Recorder.* We ſhall now prove, if your Lordſhip pleaſe, that *Knox*, who is one of the Perſons indicted, hath made his Applications to others that had relation to Dr. *Otes*, to endeavour to perſuade them to pick out ſomething or other againſt Dr. *Otes.* Call *Thurſton* and *Ray.*

Mr. Serj. *Maynard.* My Lord, we ſhall firſt go to the ſubſtance of the Evidence, and then the circumſtantial thing will be material, which before were not material.

L. C. J. Now you go right, Brother.

Mr. Serj. *Maynard.* We ſhall go this way, to ſhew that *Lane* and *Osborne* did accuſe Dr. *Otes*; and after they had accuſed him, they were convicted in their own Conſciences, and did confeſs they had falſly accuſed him, and afterward did repent of that Repentance; and that *Knox* had an Hand in all this.

L. C. J. I think you have not opened that clear enough; before whom was that Accuſation?

Mr. Serj. *Maynard.* Before the Lords, and before Sir *William Waller.*

Mr. *Recorder.* For they were in the *Gatehouſe*, and there they ſent for Sir *W. Waller* to come to them, and there did confeſs the matter to him; whom we deſire may be ſworn. [*Which was done accordingly.*

Sir *W. Waller.* My Lord, upon the Twenty ninth of *April*, during the Seſſions of Parliament, there was a Committee of Lords appointed for the taking Inſtructions about this Plot: Being there attending upon the Lords, this Complaint of Mr. *Otes* was brought before them of the horrid Abuſe of two of his Servants. And the Lords were pleaſed to order Mr. *Warcup* and my ſelf to take their Examinations.

L. C. J. What two Servants were they?

Sir *W. Waller.* They did belong to Dr. *Otes.*

L. C. J. What were their Names?

Sir *W. Waller. Osborne* and *Lane.*

L. C. J. What found you upon their Examination?

Sir *W. Waller.* Upon the Examination of *Osborne* and *Lane*, I did find they did agree together to a Tittle.

L. C. J. Then tell us *Lane*'s Evidence firſt. If they agreed in a Tittle, tell it us what it was.

Sir *W. Waller.* My Lord, Mr. *Lane* did confeſs this.

L. C. J. What, upon his Oath?

Sir *W. Waller.* Yes, upon his Oath, my Lord.

L. C. J. To you?

Sir *W. Waller.* Yes, my Lord, that he had been induced by Mr. *Knox* to betray his Maſter, and for to ſwear ſeveral things againſt him which *Knox* had drawn up and dictated to him. He did not write them himſelf, but *Osborne* writ them, and he did ſign them. There were four Letters that were brought before us; there were three or four Memorials, as they called them, three or four Informations, which were thoſe Papers that they carried to Mr. *Cheyney* to *Chelſey.*

L. C. J. Who carried them?

Sir *W. Waller. Knox* took *Osborne* and *Lane* with him, and carried them thither, as *Lane* ſwore. And when they came thither, and he was acquainted with the Buſineſs, he looked upon it as ſo foul and notorious a thing, that he would not meddle with it; but he adviſed them that they ſhould go (becauſe *Knox* pretended the Lord of *Danby* was much concerned in it) to ſome other Juſtice of Peace, or ſome of the Privy Council that were Friends of my Lord of *Danby.*

L. C. J. Knox adviſed this, did he?

Sir *W. Waller.* No, they ſaid Mr. *Cheyney* did. They went afterwards (and they did all confeſs it) to Mr. *Dewy*, and Mr. *Dewy* gave them the ſame Anſwer, that he could not meddle with it, And after this, Mr. *Knox* went and took ſeveral Lodgings for them, fearing that Dr. *Otes* would hunt after them; and one Lodging, amongſt others, was, I think, the *Three Flower de luces* in *White Fryars.* And afterwards they removed to a place in the paved Alley betwixt *Lincolns-Inn Fields* and *Chancery Lane.* During which time, *Knox* did bid them ſtand firm to what they were to do, and they ſhould not want for a conſiderable Reward, and have wherewithal to maintain them with their Footmen, and live very well. And, my Lord, *Lane* did confeſs this, that he brought Mr. *Osborne* to *Knox* firſt into the *Painted Chamber*, and made them acquainted there. And, my Lord, there is one thing that I omitted; Mr. *Lane* did confeſs to me, that Mr. *Knox* did, at the *One Tun* Tavern I think it was, drop a Guinea upon the Table, and ſaid, I will not give it you, becauſe now I can ſafely ſwear that I never gave you any Money; but be ſure you ſtand faſt to theſe Informations, and to what I have dictated to you, and you may be ſure you ſhall be well rewarded for your pains. And he told them this more, *My Lord Treaſurer would never have ſurrendered himſelf to the Black Rod, unleſs you had promiſed to ſtand faſt to this Evidence*; that was, to ſwear to what Evidence he had dictated to them.

L. C. J. Did *Lane* produce the Informations, and thoſe things that *Knox* tempted him to ſwear?

Sir

Sir *W. Waller.* My Lord, they were produced before us.

L. C. J. What were they? What was the ſubſtance of them?

Sir *W. Waller.* One part was to ſwear, that Mr. *Bedloe* ſhould come to Mr. *Otes*, and ſay to him, That my Lord of *Danby* ſhould offer him a conſiderable Sum of Money to go beyond Sea.

L. C. J. To whom?

Sir *W. Waller.* To *Bedloe*. And that was only conſiderable as relating to Mr. *Bedloe* in any part of the Examination: But as to Mr. *Otes*, they were to accuſe him of having a deſign of abuſing his Body; for he ſent to me——

L. C. J. Who did?

Sir *W. Waller. Lane* ſent twice. Upon his firſt Examination he did ſeem to be very ſhy; but upon the ſecond, he ſent one *Rix* to me, one of the Yeomen of the Guard, to let me know, that he was troubled in his Conſcience at what he had unjuſtly done in charging Mr. *Otes*; and that he was deſirous to diſcharge his Conſcience of the burden that lay on it, and to wave his own Reputation, that he might acquit the Innocent.

L. C. J. Why, where was the Villany done that he repented of?

Sir *W. Waller.* My Lord, it was in reference to his ſwearing againſt Dr. *Otes*.

L. C. J. Where, before the Lords?

Sir *W. Waller.* He was brought that very morning before the Lords; but notice being come that the King was come in, and the Houſe was ſitting, he was remanded, and afterwards ſent *Rix* to me, to tell me, he was ſenſible of the Injury he had done to Dr. *Otes*, and would make a Confeſſion of all.

L. C. J. Where had he done him Injury?

Sir *W. Waller.* In reference to thoſe Abuſes that he had offered to ſwear, and I think had ſworn, but before whom I don't know; I ſuppoſe you will have an Account of that by and by.

L. C. J. So then this is the Subſtance of what you ſay as to Mr. *Otes*: That *Lane* ſent to you, and ſhewed you ſeveral Papers and Informations againſt the Credit of *Otes* and *Bedloe*, and told you that *Knox* did tempt him to juſtifie this, and ſwear it; and that he went with them to a Juſtice of Peace in order to do it, but he did not care to meddle with it, and bid them apply themſelves elſewhere, and afterwards they came to you; and whether it was ſworn or no, you cannot tell, but you ſay he did confeſs he had wrong'd Mr. *Otes* in thoſe Scandals that he would have put upon him; and that this was by *Knox*'s Advice and Direction.

Sir *W. Waller.* But there is this thing further: He ſaid truly that Mr. *Otes* would be ſomething haſty and paſſionate, but that he was very religious, and was very conſtant in ſending his Servants to Prayers; and that what he had accuſed him of, it was an abominable Falſhood, and was done by the Inſtigation of *Knox*, who had encouraged him to it by the Promiſes of a great Reward.

Mr. Juſt. *Pemberton.* And it was he that told you of the dropping of the Guinea, was it not?

Sir *W. Waller.* My Lord, he did confeſs that himſelf, but he ſaid he lent it.

Sir *F. Winnington.* Pray did *Lane* confeſs to you from whom this Money and Reward was to be had? For he was not a Perſon that was likely to beſtow ſo much Money of his own. Was it from any of the Conſpirators? Or from whom, that the Rewards, and this Money ſhould come, upon your Oath?

Sir *W. Waller.* I have examined them many times as to that, but could never learn any thing.

Mr. Juſt. *Pemberton.* Sir *W. Waller*, was *Knox* ever before you?

Sir *W. Waller.* Yes, my Lord, I took his Examination, and it was only to excuſe himſelf, that he received the Letters from them, which they ſaid they writ out of trouble of Conſcience, and would have him to take their Examinations, and to go along with them before a Juſtice of Peace.

L. C. J. That was *Knox*'s Defence? Said he, they came to me, and I did not go to them, but they deſired me to go along with them to a Juſtice of Peace.

Mr. Juſt. *Pemberton.* Did you let him know what they had ſaid to you?

Sir *W. Waller.* No, my Lord, I kept that private: But there is one thing very material. That Morning we took *Knox*'s Examination, we were ſo long about it, that we could not diſpatch it in the Forenoon, and therefore ordered *Lane* to be brought before us in the Afternoon; and then did *Knox* write a Note, and ſent it up by a Woman that was a Nurſe there in the Priſon, and there was a Paper convey'd thro' the Door to him to this purpoſe, *We paid our*——

L. C. J. Who writ that Note?

Sir *W. Waller. Knox* did, and confeſſed it to me.

L. C. J. To whom was it convey'd?

Sir *W. Waller.* To Mr. *Osborne* from *Knox*; and it was, *We always paid our Club*——

Mr. *Sanders.* How do you know it was from *Knox*?

Sir *W. Waller.* He confeſſed it.

Mr. *Sanders.* Did he ſhew it you?

Sir *W. Waller.* No, I did not ſee the Note, but he confeſſed it.

Mr. Juſt. *Pemberton.* Pray Mr. *Sanders* don't interrupt them, they are in their Evidence.

Mr. Serj. *Maynard.* They muſt do that; for that is the beſt part of their Defence, for ought I know.

Sir *W. Waller.* The Words, my Lord, were theſe, *We always Clubb'd, and you paid two Shillings at the Sugar-loaf. Tear this.*

L. C. J. Why, what could this be?

Sir *W. Waller.* Why, I will tell you, my Lord, it was upon this Account, that he ſhould not gainſay what he had confeſſed and agreed to, that ſo they might not be in two Stories.

Mr. Serj. *Maynard.* My Lord, *Osborne* and *Lane* had formerly accuſed, and given ſome Informations againſt Dr. *Otes*; afterwards you ſee what happened before Sir *W. Waller*, they renounce what they had done, and then, my Lord, was *Knox* impriſoned, and thereupon he writes this Note, *We always club'd together, and you paid two Shillings at ſuch a Place*: The Circumſtances will come out by and by, They met at ſeveral Places, and we ſhall prove that *Knox* bore their Charges, and paid for them, though by this Note he would make it, that they bore their own Charges.

Mr. Juſt. *Pemberton.* The ſucceeding Evidence will open it.

Sir *W. Waller.* My Lord, here is one thing more that I had forgot: *Lane* did confeſs, that for the preventing of any Diſcovery of this horrid Fact, it was agreed amongſt them, that if any

any one ſhould make a Diſcovery of it, the other two ſhould murder him.

Mr. *Sol. Gen.* We deſire that the Jury may obſerve that.

Sir *W. Waller.* He did likewiſe declare, that the Lords in the *Tower* would not be wanting to acknowledge the Kindneſs in diſparaging the King's Evidence.

Mr. Juſt. *Pemberton.* That was *Lane* and *Osborne* did confeſs that?

Sir *W. Waller.* Yes, both *Lane* and *Osborne* ſwore it poſitively.

Sir *F. Winnington.* If you have done as to *Lane*, pray acquaint my Lord and the Jury what you know of the Confeſſion of *Knox* upon his Examination.

Sir *W. Waller.* *Knox* confeſſed not any thing, but ſtood ſtiff to it, that the Papers and Letters were written by them, and contrived by them.

Mr. Juſt. *Pemberton.* And that what he did was at their Requeſt?

Sir *W. Waller.* Yes, but the reſt did both confeſs, that what was done was wholly by the contrivance of *Knox*.

L. C. J. Did you ask *Knox* if he had drop'd a Guinea?

Sir *W. Waller.* My Lord, he confeſs'd he had drop'd a Guinea, but it was only to lend them, and they promiſed to repay him; and that one morning he drop'd ten Shillings upon the Bed, and they took it up.

L. C. J. Knox ſaid he only lent it?

Sir *W. Waller.* Yes, but they poſitively ſwore both the one and the other.

Mr. Juſt. *Pemberton.* What ſaid *Knox* to that?

Sir *W. Waller.* He lent them only.

L. C. J. Well, go on Sir.

Sir *W. Waller.* And *Lane* did poſitively confeſs, that at all the Places, and the ſeveral Lodgings, and the Treats and Entertainments they had been at, they were all at *Knox*'s Charge, except twice, which might amount to about eighteen Pence, and that he paid.

L. C. J. What ſaid *Knox* to it?

Sir *W. Waller.* He deny'd all.

Mr. Juſt. *Pemberton.* As to the Manner of it, what ſaid *Knox* to the dropping of it?

Sir *W. Waller.* He confeſs'd he dropp'd it, but only lent it them.

Sir *Fr. Winnington.* You ſay *Lane* was a Servant to Dr. *Otes*, pray whoſe Servant was *Knox*?

Sir *W. Waller.* He did belong to my Lord *Dunblane*. And moreover, Mr. *Knox* did confeſs to me, that the Papers ſo drawn up and deliver'd into his Hands, had been in the Cuſtody of my Lord *Latimer* for a long time.

Sir *Fr. Winnington.* Did he ſo, I hope the Jury will believe him then.

L. C. J. Sir *W. Waller* does ſwear, that *Knox* confeſſed that all thoſe Scandals raiſed againſt Dr. *Otes*, had been by his Hands delivered into the Hands of my Lord *Latimer*, and were there for ſome time.

Sir *W. Waller.* Yes, my Lord.

Sir *Fr. Winnington.* I did not well hear you Sir one thing you were ſaying in the beginning of your Evidence, that theſe Gentlemen ſpoke of my Lord of *Danby*'s not ſurrendering himſelf, pray let us hear that over again.

Sir *W. Waller.* Mr. *Lane* ſaid this, that my Lord of *Danby* would not have ſurrendred himſelf to the *Black Rod*, but that he did depend upon their ſtanding to what Informations they had given in.

L. C. J. Upon your Oath *Lane* did ſay this?

Sir *W. Waller.* Yes, my Lord.

Mr. Serj. *Maynard.* My Lord, now we will call another Juſtice of Peace, that took their Examinations, and we ſhall then particularly apply our ſelves to Mr. *Knox*, that ſeems to make theſe Excuſes for himſelf. Call Mr. Juſtice *Warcup*. [*Who was ſworn.*

Mr. *Warcup.* I muſt beg the Favour of the Court, becauſe my Memory is bad, that I may refer to the Informations that were taken before me.

Mr. Juſt. *Pemberton.* You may look upon them for the Refreſhment of your Memory.

Mr. *Warcup.* I anſwer to every Part of this that hath my Hand to it, I deſire it may be read.

Mr. *Recorder.* No, that can't be, you muſt not read them, but only refreſh your Memory by them.

Mr. *Warcup.* This *John Lane* did confeſs he liv'd with Dr. *Otes*, and about the Seventh of *April* he left him, and while he liv'd with him, he ſaid, he ſent his Servants daily to Prayer in the Morning to the Chapel, and left but one at home to dreſs him, and whilſt he was with Dr. *Otes*, he was never charg'd by his Maſter with the opening of any Letters, and that the Informations marked 1, 2, 3, 4 and 5.——

Mr. *Williams.* Pray Sir acquaint the Court as far as you can by your Memory.

Mr. *Warcup. Lane*, my Lord, before me deny'd all that he had ſaid, that is, that what he had ſaid before the Lords was true, but that particular Examination before Sir *W. Waller* was by him alone.

Sir *Fr. Winnington.* Was he upon Oath before you?

Mr. *Warcup.* Yes, I find he was.

L. C. J. Did you examine him after Sir *William Waller*, or before?

Mr. *Warcup.* To the beſt of my Remembrance it was before.

Mr. Juſt. *Jones.* He was upon his Oath there too?

Mr. *Warcup.* Yes, and I muſt acquaint you I find it at the bottom to be (*Jurat.*) He was brought before the Lords of the Committee for Examinations, and did there likewiſe at firſt ſwear the things in theſe Notes contained, and did afterwards come to the ſaid Committee, and beg their Pardon, and God's Pardon for what he had ſworn, for it was falſe.

L. C. J. Who did?

Mr. *Warcup. Lane* did.

L. C. J. Did you hear him?

Mr. *Warcup.* Yes.

Mr. Juſt. *Jones.* Was he upon his Oath the laſt time, when he ſaid this to the Committee?

Sir *W. Waller.* Yes my Lord, I was by too, I heard him.

L. C. J. So he ſwears backwards and forwards.

Sir *Fr. Winnington.* Such People us'd to do ſo.

Mr. *Warcup.* That particular of the Note, that Mr. *Knox* ſent up by the Nurſe, I was by and did hear him confeſs it.

Sir *W. Waller.* But he did declare there to the Commitee, that it was his Voluntary Repentance, and that he was exceeding ſenſible of the Abuſes he had offered to Dr. *Otes*, in this Deſign of accuſing him in ſuch a manner.

Mr. Juſt. *Jones.* What, before the Lords?

Sir *W. Waller.* Yes, my Lord.

Mr. *Warcup.* Mr. *Knox* did ſay he ſent ſuch a Note up to *Osborne*, and the Words were, as I remember, *We always club'd, and you paid two Shillings at the* Sugar-Loaf, *Tear this.*

L. C. J. Look you, the uſe I ſee that would be made of this, is, that *Knox* in a ſecret way, ſhould give Intimation to this *Osborne*, that he ſhould not own that he had been treated by him, or any Money ſpent upon him, and this Note is the cunning way of inſinuating that Matter, as I underſtand it.

Mr. *Warcup.* I ſhall humbly acquaint your Lordſhip with one thing further; *Knox* did confeſs that he had lain with theſe People in ſeveral private Places, for there were Warrants out for the apprehending them, upon the Information given by Dr. *Otes* of this Contrivance, that he had lain with them at *White Fryars*, and *Charing Croſs*, and at other Places.

Mr. Juſt. *Pemberton.* That he had obſcured them when they were in danger.

Mr. *Warcup.* That he had lain with them at that time.

Sir *Fr. Winnington.* Pray, upon your Oath, when he had told you he had lain with them in any private Lodging——

Mr. Juſt. *Pemberton.* Did he ſay he had adviſed them where to lie?

Mr. *Warcup.* He ſaid he had been with them, and adviſed them where to lie.

Mr. Juſt. *Pemberton.* Did he ſay he had taken Lodgings for them?

Mr. *Warcup.* Yes, he did.

Sir *Fr. Winnington.* Your Queſtion, Sir, hath prevented mine; but I would ask him a Queſtion further. Did he confeſs to you he paid for thoſe Lodgings?

Mr. *Warcup.* Truly, My Lord, unleſs I read the Information, I cannot tell.

Sir *W. Waller.* My Lord, I perfectly remember this, That *Knox* did confeſs he had paid for their Lodgings, but they were to pay him again; but both *Osborne* and *Lane* did poſitively ſwear he did pay for all, and ſeveral times at ſeveral Taverns where he treated them, he bid them call for what they would, and they ſhould have it.

Mr. *Sol. Gen.* What do you know of being at the *Sugar-Loaf* at any time?

Mr. *Warcup.* I tell you what I find here he confeſs'd, that they complaining they knew not where conveniently to lodge, this Examinant told them he would endeavour to find them a Lodging, and the very ſelf ſame Day, he went by the Direction of one of my Lord *Dunblane*'s Servants, a Coach-man, to the *Sugar-Loaf* in *White-Fryars*, and took Lodgings as for himſelf and two of his Friends, and lay there with them to the time of his going from the ſame Lodging, which was five or ſix Days.

Mr. Juſt. *Pemberton.* And he did it by the Direction of my Lord *Dunblane*'s Coach-man?

Mr. *Warcup.* Yes, my Lord, it is ſo in the Information.

Mr. Serj. *Maynard.* Is that Information true?

Mr. *Warcup.* Yes, My Lord, I am ſure he ſaid it, or I ſhould not have writ it down.

L. C. J. Mr. *Warcup*, Had *Lane* recanted what he had ſaid againſt Mr. *Otes* at that time when the Lodgings were taken?

Mr. *Warcup.* My Lord, it was before they came to the Lords that they took theſe Lodgings.

Mr. Juſt. *Pemberton.* Ay, that's clear, it was before all came out.

Mr. *Warcup.* I was commanded by the Houſe of Peers to give my Warrant for the apprehending of them.

L. C. J. The Lords ſent to apprehend them upon the Slander of Mr. *Otes*, and then he concealed them.

Mr. *Recorder.* My Lord, Sir *W. Waller* ſpeaks of one *Rix* that was ſent by *Lane* to him to make a Diſcovery, this is the Gentleman. [*Who was ſworn.*

Rix. May it pleaſe your Lordſhip, There was one *Osborne* that was concern'd with this *Lane*, who is ſince run away: *Osborne* came firſt upon the Guard to me, and deſir'd me to get him into Service. He deſir'd to come into my Lord Treaſurer's Service, and what he deſir'd of me was to frame him a Petition to my Lord Treaſurer. We had no Anſwer till two Days after, and I being upon the Guard with Dr. *Otes*, I did ſuppoſe I might get him into his Service, I ſpoke to Dr. *Otes*, and he entertain'd him; and after he had entertain'd him a while, this *Lane* then being a Servant with him, they both told me they were going off now from Mr. *Otes*.

L. C. J. Who told you?

Rix. Lane and *Osborne*, and that they ſhould get Preferment; they were ſworn Brothers together, if one did go, the other would go. I ask'd them why they would go away? Oh, ſaid he, I ſhall keep my Man my ſelf. Say you ſo, ſaid I, I have been in Town ſo long, and I could get no ſuch Preferment. Then they told me they ſhould have 100 *l.* a Year, and 500 *l.* in Money.

Mr. Juſt. *Pemberton.* Who told you ſo?

Rix. Osborne and *Lane* both.

Mr. Juſt. *Pemberton.* What, 100 *l.* a Year, and 500 *l.* a-piece?

Rix. Yes: So I ask'd them how, but they would not tell me, but, ſaid *Osborne* to me, for your preferring me to Mr. *Otes*, you ſhall be no loſer. I met him another time, for *Osborne* came to deſire me to lend him a Cravat. Said he, I muſt come down to your Houſe to morrow morning to get a Cravat, I deſire I may have a good one, for I am to go before one of the greateſt Peers of the Realm, to dine with him: Where, ſaid I, to which end of the Town? The other end of the Town, ſaid he to me: But, ſaid I, why do you leave Mr. *Otes*? Oh, ſaid he, let Mr. *Otes* look to himſelf, for I have enough againſt him. Then I ſmelt ſomething of ſome Deſign againſt Dr. *Otes*, and brought it before Juſtice *Warcup*, and gave in my Teſtimony, and upon further Inquiry into it, the Lords ordered him to ſend out his Warrant for the taking of thoſe Fellows, *Knox*, *Lane*, and *Osborne*, which he aſſign'd over to me; in a ſhort time after they were taken, firſt *Lane* was taken, and in a day or two *Osborne* and *Knox*, and were examined and taxed with it. *Osborne* he made a Confeſſion before Juſtice *Warcup*, and they deſir'd me to ſee *Knox* and *Lane* in Priſon, and I did ſee them in Priſon, and when they did come there, *Knox* ſaid, where is *Osborne*, why don't he come to Priſon as well as I? I am a better Gentleman than he. Oh, ſaid I, he hath confeſſed; ſo he was turn'd up into the Priſon. Said I to Mr. *Lane*, will you drink a Pot of Beer? Said

ſaid he, I don't much care if I do: and ſaid he, Mr. *Rix*, if I have not gone too far againſt my ſelf, if you will ſtand my Friend, I will make an honeſt Confeſſion. Said I, I am glad there is ſo much Grace in you, I will then do you all the good I can. Pray, ſaid he, will you pleaſe to go and call Sir *William Waller*: Why not Juſtice *Warcup*, ſaid I, who was firſt concern'd in this Diſcovery? No, he would have only Sir *William Waller*. I came and found him in the Court of *Requeſts*, ſo I went with him to *Smith*'s the Tobacconiſt near the Gate, and ſent for *Lane*; the Keeper brought him: I think this was about nine or ten in the Morning, and from that time till about ſix at Night he was in Examination. I went then to Mr. *Otes*, and told him *Lane* had made an honeſt Confeſſion. I waited on Sir *William Waller* till the Afternoon, and then he made an Order, that he having made an honeſt Confeſſion, ſhould have the Enlargement of the Priſon, and not be confin'd, as others were, which he had. *Lane* ſent for me the next Day, I came down in a Day or two after, and his Siſter was there with him, they were eating Butter and Radiſhes, and when I would have paid for the Drink, *Lane* cry'd No, by no means; for *Knox* hath ſent me in Three and twenty Shillings the other Day, and that will ſerve me, I hope, till I come out: But now, ſaid he, I have made a Confeſſion, I believe I ſhall have no more Money from him; and I deſire you would ſpeak for my Enlargement. I came down to him another time, and he told me he had receiv'd a Note, which Note was put up from a Gentlewoman in the Street,

That if he would ſtand firm to his Text, he ſhould have Five hundred Pounds; nay, he ſhould not want One thouſand Pounds; but in caſe they would not ſtand firm to their Text, the Lord Treaſurer would never have come in; and if yet they did not ſtand firm, he would loſe his Head.

L. C. J. Who came that Note from?

Sir *W. Waller*. He told me this, That there was ſuch Word brought to him by the Nurſe, and ſhe told him, That a Gentlewoman very well clad came to her, and deſir'd her to ſpeak to him to *ſtand faſt*, and that *Osborne* and *Knox* would be ſure to *ſtand faſt*, and that they two ſhould be too ſtrong for the other, he being but a ſingle Evidence; and more than that, he ſhould not want a Thouſand Pounds, if he had occaſion for it. I ask'd the Nurſe what the Gentlewoman's Name was, ſhe told me, ſhe had ask'd, but ſhe would not tell her.

L. C. J. Where is this Woman, this Nurſe?

Sir *W. Waller*. She was Nurſe to the Goal, and was turned out upon this Diſcovery by the Goaler.

Mr. Juſt. *Pemberton*. You had this from *Lane*, Sir *William Waller*?

Sir *W. Waller*. Yes.

Rix. My Lord, after this was done, *Lane*'s Father and Mother told me this at my own Houſe, That had it not been upon their Son's Account, my Lord Treaſurer would never have come in; and they told me that one *Heſt* ſhould come and tell them ſo: And *Lane* himſelf told me, he thanked God that now he had made an honeſt Confeſſion, that now his Heart was very light; he had a Burden upon him before, but now he had confeſſed, and his Heart was light.

L. C. J. What did he confeſs?

Rix. He did confeſs, That my Lord Treaſurer would never have ſurrendred himſelf, if he had thought they would not have ſtood firm, and if they did not ſtand firm, he ſhould loſe his Head.

Mr. *Williams*. You ſay *Lane* confeſſed this as of himſelf?

Rix. Yes, and afterwards his Father and Mother told me ſo, and he did ſay as of himſelf, that he had a Note put under the Door.

L. C. J. But from whom had he that Note?

Rix. From a Gentlewoman in the Street, he told me ſo.

Mr. Juſt. *Pemberton*. What did he ſay as to *Knox*?

Rix. He told me he was ſet on by *Knox*, and he drew up all the Writings for him; and *Knox* told him, if you come to be examined at ſuch or ſuch a thing, make a ſtop, and turn this way and that way.

Mr. *Williams*. Pray acquaint the Court and the Jury, did *Lane* tell you how he was drawn into this, and who drew him in?

Rix. *Knox* was the Man that drew up the Writings, and promiſed him thoſe Rewards, he ſaid.

Mr. Juſt. *Pemberton*. You ſay he told you that *Knox* promiſed them? How far *Knox* will be concerned in this Evidence, will be conſider'd afterwards.

Mr. Serj. *Maynard*. Now we come to *Knox*'s own particular Actings. What hath been ſaid already, hath been out of other People's Mouths, now we come to him himſelf, and we call *Richard Slightam*. [*Who was ſworn*:

Mr. *At. Gen*. Pray Mr. *Slightam* will you tell my Lord and the Jury what you know of this *Knox*, what Offers have been made you, by whom, and when, and for what?

Slightam. I was offered Money to carry Notes from the one to the other.

Mr. *Sol. Gen*. Why, what Office had you there?

Slightam I was a Priſoner there my ſelf, and Under-goaler too, and I was offered Money to carry Notes between the one and the other, that they might not betray one another.

Mr. *Recorder*. By whom?

Slightam. By *Knox*.

L. C. J. What did they offer you?

Slightam. I had Three half Crowns given me at one time by *Knox*, and he promiſed me he would give me a conſiderable Sum.

L. C. J. But he not name the Sum?

Slightam. No.

L. C. J. What did he deſire you to do for that Money?

Slightam. He deſired me to carry Notes from the one to the other, that they might not betray one another.

Mr. *At. Gen*. Between whom? Name them.

Slightam. *Knox*, *Lane*, and *Osborne*.

L. C. J. What did you ſay, that they might not betray one another? Why?

Slightam. Yes, that they might not betray one another, for they were fearful that they ſhould, becauſe they could not ſpeak together, to lay their Stories together.

Mr. *At. Gen*. And hark you, Sir. What Meſſages did you carry between them?

Slightam. None, I never carry'd any.

L. C. J. No, what had you your Money for?

Slightam. I told them of it below, and they would not let me carry any.

L. C. J. But you got your Money?

Slightam. Yes, I got ſome Money?

Mr. *At. Gen. Knox* you ſay gave you the Three half Crowns. Did you ſpeak with *Lane* and *Osborne*?

Slightam. Lane I ſpoke with every day, and *Lane* ſaid, he hoped that the Lords would not put him in the Pillory, for all he had ſworn falſely.

L. C. J. What Lords?

Slightam. My Lord *Shaftesbury*, and my Lord *Privy Seal.*

Mr. *Smith.* What did *Knox* ſay to you after *Osborne* had confeſſed?

Slightam. That is nothing, ſaid he, if we do but ſtand firm together, what *Osborne* hath given in Evidence will ſignifie nothing.

Mr. *Smith.* Why?

Slightam. For two, he ſaid, were better than one.

Sir. *Fr. Winnington.* I think you ſay you had Three half Crowns given you by *Knox*, pray who was the firſt that offered you Money to carry the Notes?

Slightam. It was *Knox.*

Sir *Fr. Winnington.* Ay, he carried the Purſe.

Slightam. Yes, I ſuppoſe he did.

Mr. Juſt. *Jones.* They were both in the *Gatehouſe* Priſoners at that time.

Slightam. Yes, ſo was I. But they were lock'd in ſeveral Rooms, and none could come at them.

L. C. J. But you carried no Note nor Meſſages, upon your Oath?

Slightam. No.

Mr. *Williams.* Pray call Mr. *Dewy.* [*Who was ſworn.*

Pray Mr. *Dewy* will you acquaint the Court and the Jury, what Diſcourſe you had with *Knox*, who he came from, what he came about, and what Recommendations he brought with him, and from whom?

Mr. *Dewy.* My Lord, ſometime in the ſitting of the laſt Parliament that began in *March*, about ten a-Clock at Night a Meſſage was ſent in to me that one would ſpeak with me from my Lord *Latimer:* I was either in bed or going to bed; and I did not think there was really any ſuch Meſſage, becauſe my Lord *Latimer* did not know me, nor I him. They were very preſſing to come in, inſomuch as my Man could hardly keep them out. I told them there was nothing ſure of ſo much haſte, but what might be done to morrow, or ſome other time: So I ſpoke not with them that Night. Either the next Day, or ſome ſhort Time after, as I remember, Mr. *Knox* came to me with another Gentleman, and he brought Papers in his Hands ready written; he told me that they were Informations of one *Lane* and *Osborne* (as I remember thoſe were the Names he mention'd then) and they were againſt Mr. *Otes.* Then I began to look upon it as ſomething extraordinary, the Parliament being then ſitting, and the Committee of each Houſe having the Examination of this Buſineſs. Said I, Mr. *Knox*, you have been a Juſtice of Peace's Clerk (for I knew him ſo) and you know 'tis very unuſual to take Informations againſt a Perſon without the Party's being preſent, if he may be had to croſs-examine the Witneſſes upon Interrogatories, as the Caſe may be: And beſides, this looks as if it were to take Informations againſt the King; which we never do upon Oath. So I diſmiſſed them, and directed them to the Committee of Secrecy of the Houſe of Commons, for whom it was moſt proper. This is all I know of this Buſineſs.

Mr. *Williams.* Did Mr. *Knox* tell you any thing what was contained in thoſe Examinations?

Mr. *Dewy.* Yes, he did give me ſome Information, that *Osborne* and *Lane* did repent of ſomething, but I can't give you Information particularly.

Mr. *Williams.* Pray tell the Subſtance of it.

Mr. *Dewy.* I can't remember what the particulars were, but *Lane* and *Osborne* were the Parties to be examined, and I ſhifted them off as well as I could.

L. C. J. Did they come along with *Knox?*

Mr. *Dewy.* They were not in my Room, but they were without, I believe.

L. C. J. And did he tell you at the ſame time that they had recanted?

Mr. *Dewy.* Truly, my Lord, I can't well remember; but he ſaid they repented of what they had falſely accuſed my Lord Treaſurer of.

L. C. J. Did they ſay they had falſely accuſed Mr. *Otes?*

Mr. *Dewy.* No, they did charge Mr. *Otes* with ſome Crime; and they did ſpeak ſomething of falſe accuſing, I can't remember what.

L. C J. Did not they ſay, Mr. *Otes?*

Mr. *Dewy.* I remember it now; it was as if Mr. *Bedloe* and Mr. *Otes* had made a Conſpiracy againſt my Lord of *Danby.*

Sir. *Fr. Winnington.* I think you ſay, you knew Mr. *Knox* a Juſtice of Peace's Clerk: Pray Sir, you are an ingenuous Man, from whom did he pretend to come to you?

Mr. *Dewy.* He came to me from my Lord *Latimer*, as he ſaid.

Sir *Fr. Winnington.* Did he ſay ſo, that the Lord *Latimer* wiſhed him to go to you?

Mr. *Dewy.* Yes; and I wondered at it, becauſe I did not know my Lord, nor my Lord me.

Mr. *Withins.* When was this?

Mr. *Dewy.* It was the latter end of *April*, or the beginning of *May*, as I take it; I do not very well remember: But the Subſtance of it I remember was, that they had over-heard Mr. *Otes* and Mr. *Bedloe* conſpiring againſt my Lord of *Danby.*

L. C. J. Mr. *Dewy*, can you remember whether they did come to give you Information againſt Mr. *Otes* for abuſing their Bodies, or *Otes* and *Bedloe*'s Conſpiracy againſt the Earl of *Danby?*

Mr. *Dewy.* Truly, my Lord, I can't be poſitive in it; for the Parliament was then ſitting, and I ſhifted them off.

Mr. Juſt. *Pemberton.* You never looked into the Information at all?

Mr. *Dewy.* No, I did not, I thought it not proper for me.

Mr. *Recorder.* Call *Henry Wiggins* and his Mother. [*Who were both ſworn.*

Mr. *At. Gen.* Come on Mr. *Wiggins*, what do you know of any Endeavours of *Knox* or *Lane*, or any of theſe Perſons, to take off or ſcandalize Mr. *Otes*'s, or Mr. *Bedloe*'s Teſtimony?

L. C. J. What is this Man's Name?

Mr. *At. Gen. Henry Wiggins.*

Wiggins. About the latter end of *February* laſt, Mr. *Knox* and I met at *Charing-Croſs*, and we went in

in and drank together; and he propoſed ſeveral things to me; firſt he deſired that I would get for him a Copy of the Papers my Maſter had.

L. C. J. Who is your Maſter?

Wiggins. Mr. *Bedloe.* And eſpecially what concerned my Lord Treaſurer; as alſo to take a Journal of all my Maſter's Actions, and the Names of the Perſons that came to him; for, ſaid he, my Lord hears that my Lord of *Shaftesbury*, and the Duke of *Buckingham* do cabal with him againſt my Lord. But if my Lord could but find out his Enemies, he would oppoſe them, and ſtrive to baffle them. My Lord, to encourage me to this, he told me he would carry me to his Lord, though it were at Midnight, to diſcourſe with him.

L. C. J. What Lord?

Wiggins. My Lord Treaſurer: And he ſaid he ſhould give me Incouragement to go on. Said I, Does my Lord know of this? Yes, ſaid he, I told my Lord I had a Friend lived with Mr. *Bedloe*, and he gave me Encouragement to go on and treat with him. And he ſaid moreover, my Lord, Mr. *Otes* and *Bedloe* were two great Rogues; that the King believed not a word they ſaid; and as ſoon as he had heard all they could ſay, they ſhould be hanged.

Mr. *Williams.* Pray did he propoſe any Reward to you?

Wiggins. He told me his Lord ſhould give me Encouragement.

L. C. J. What ſhould you do?

Wiggins. He deſired me to give my Lord the Papers, and then my Lord ſhould tell me what I ſhould do about my Maſter.

Sir *Fr. Winnington.* What did he ſay of *Otes* and *Bedloe*, Sir?

Wiggins. He ſaid, That *Otes* and *Bedloe* were great Rogues, and that the King knew them to be ſo; and when he had heard what they could ſay, he would hang them.

Mr. *Williams.* Pray upon your Oath, did he offer you any Money, or any Reward?

Wiggins. He offered me not any particular Sum, but he told me I ſhould have Satisfaction and Reward, or any Place in my Lord's Diſpoſal I ſhould be entertained into, if I went away upon this Buſineſs.

Mr. *Williams.* Did he ſay any thing to you, to invite you, or encourage you to ſwear againſt your Maſter?

Wiggins. No, But he told me my Lord ſhould give me Directions how to go on.

Mr. *Recorder.* What ſay you as to *Lane* and *Osborne*?

Wiggins. I did not know them at that time.

Mr. *Recorder.* What time after was it that you did know them?

Wiggins. I met with them a little while after, and they were diſcourſing all together, but I had no Diſcourſe with them.

Mr. *Recorder.* Did *Knox* at any time ſpeak to you, to bring him into the Company of *Lane* and *Osborne*?

Wiggins. No, Sir.

Mr. *Recorder.* This was the firſt time you met with him about this Matter?

Wiggins. Yes, it was.

L. C. J. What did you promiſe *Knox* you would do?

Wiggins. I told him I would do him any Service that lay in my power, but nothing that would be to my Maſter's Prejudice; and I was appointed by him to meet him at my Lord Treaſurer's.

L. C. J. And what other Meetings had you beſides?

Wiggins. I was but twice with him.

L. C. J. You never agreed to any thing?

Wiggins. I told it my Maſter, and it was diſcovered ſoon after, ſo that the Lords came to hear it.

Mr. *At. Gen.* Where is Mrs. *Wiggins*? What do you know of any Endeavours to corrupt this Evidence?

Mrs. *Wiggins.* I know no more than what my Son knows; he firſt came to my Houſe.

L. C. J. Who?

Mrs. *Wiggins.* Mr *Knox*; and asking me where my Son was, I told him he lived with Mr. *Bedloe*: And he ſaid, he very much rejoyced at it, and deſired to ſpeak with him. I told him, No, he could not, for his Maſter had ſo much Employment for him, that it was very ſeldom I my ſelf could get a ſight of him. Said he, I have a little Concern with him; and he living with Mr. *Bedloe*, may do my Lord Treaſurer great Service, and doing my Lord Treaſurer Service, he does his Majeſty Service; for his Majeſty loves my Lord Treaſurer above all things in the World. And he would not be contradicted, but he would ſee him. Then the next day I told him he ſhould come, and we appointed to go to him, but he ſhould not ſee him alone without me, I told him; he told me he deſired it not. He came according to the Appointment, and I carried him to *Charing croſs* to an Ale-houſe, and there ſent a Porter for my Son, and he came: And the firſt thing he ſaid to him was, I am mighty joyful to know you live with Mr. *Bedloe*; you may do my Lord great Service: In what, ſays my Son? In letting my Lord know what Company your Maſter keeps, and what Lords they are that daily and hourly keep company with your Maſter, and cabal againſt my Lord. Said I, Mr. *Knox*, that is the way to bring my Son's Neck to the Stake; that he ſhall never do. But, ſays he, I will tell him a way how he ſhall do himſelf no harm at all: And then he up and told him, he deſired him to write him Letters when he found any thing of Secrecy, and ſet no Name to it; and if he came at Twelve a-Clock at Night, he would let him into my Lord Treaſurer's, and no body ſhould take notice of it: And he would have had him taken a Coach to have gone to my Lady *Danby* preſently, to have an Aſſurance from her Mouth of Encouragement, and that he ſhould have any Place in her Lord's Diſpoſal.

L. C. J. Were you ever with my Lady *Danby*?

Mrs. *Wiggins.* No, we deny'd it; and it was diſcover'd. And beſides, my Lord, I told him, if he would lay down my Son a Thouſand Pounds he ſhould not do it; he ſhould not betray his Truſt. And then he ſaid, that the King knew Mr. *Otes* and Mr. *Bedloe* to be two great Rogues; and when he had got what he could out of them, he would hang them.

Mr. *Williams.* Have you had any Offers of late not to come here as a Witneſs in this Caſe?

Mrs. *Wiggins.* No, my Lord; but there have been Perſons three times at my Houſe to know whether I were *Subpœna'd*, yea or no, as from Mr. *Knox*.

Mr.

Mr. *Williams*. Did ever any body perſwade you not to come to give Evidence?

Mrs. *Wiggins*. No.

L. C. J. When was this you ſpeak of?

Mrs. *Wiggins*. In *February*, the latter end.

Mr. Serj. *Maynard*. Mr. *Dewy*, who came in company with Mr. *Knox* to you?

Mr. *Dewy*. One Mr. *Blayden*.

Mr. Serj. *Maynard*. Who is that?

Mr. *Dewy*. Steward to my Lord of *Danby*, I think.

Mr. Serj *Maynard*. Here is *Slightam* again, my Lord.

Mr. *At. Gen*. What have you to ſay more?

Slightam. Mr. *Lane* told me they had many Treats, and had ſo much Money, a Guinea, as I think he told me, to ſwear againſt Mr. *Otes*.

L. C. J. Who gave it him?

Slightam. Mr. *Osborne*, or Mr. *Knox*, I can't tell which.

L. C. J. Where did *Lane* tell you ſo?

Slightam. In Priſon.

L. C. J. In what Priſon?

Slightam. In the Gate-houſe.

Mr. *Williams*. Call Mr. *Palmer*. [*Who was ſworn.*

We call him to corroborate what that young Man *Wiggins* hath ſaid.

Mr. *Palmer*. What he hath told here, he diſcovered firſt to me, and I diſcovered to his Maſter, that Mr. *Knox* would have had him to take a Journal of his Maſter's Actions, and to give it him every Day. My Lord, I am one of the Yeomen of the Guard, and I waited upon Mr. *Bedloe*, and he deſired me to help him to a Clerk: and I helped him to *Wiggins*, this young Man. He had not been there three Weeks, or a very little time, when *Knox* came to him to tempt him; and being a Stranger to his Maſter, he knew not how to diſcover it to him, and told me, Such a thing is offered to me, but I am a Stranger to my Maſter, and I know not how to break it to him.

L. C. J. The uſe you make of this, is no more, but only to corroborate what he hath ſaid, that he told it him while it was freſh, and that it is no new Matter of his Invention now.

Mr. *Recorder*. It is very right, my Lord, that is the uſe we make of it. Call *Thomas Dangerfield*. [*Who was ſworn.*

Mr. *Williams*. Pray, Sir, give an Account what you know concerning Mr. *Knox* and Mr. *Lane*, and what Deſigns they have had againſt Mr. *Otes*, and who ſupported them and maintained them in it?

Mr. *Dangerfield*. My Lord, all that I have to ſay in this Caſe, is this: I do think it was in the Month of *June* I was at my Lord *Caſtlemain*'s, and he asked me, if I had been imployed in a Buſineſs of *Knox* and *Lane*, that were Priſoners at the *Gate-houſe*: I told him, Not. His Lordſhip then wrote a Letter to my Lady *Powis*, and deſired I might be imployed in it: And ſhe did tell me that it was a thing of material Conſequence, and that I ſhould be furniſhed with Money for the getting of *Knox* and *Lane* out. I took all Opportunities for the doing of it that were neceſſary. I went to the *Gate-houſe*, made Enquiry after *Lane*, and took Care with his Mother to relieve him, for I heard he was in an indigent Condition at that time.

L. C. J. Did you give his Mother the Money?

Mr. *Dangerfield*. Yes, my Lord, Twenty Shillings, and I had that Money from Mrs. *Cellier* by my Lady *Powis*'s Order. After that time there was one Mrs. *Airy*, who uſed to carry Money to the Catholicks in Priſon, ſhe ſaid that it was poſſible, as ſhe had been informed from ſome of the Prieſts in the *Gate houſe*, that ſome things might be had under the Hands of *Knox* and *Lane* that would be very material againſt Mr. *Otes*: She ſaid, ſhe had been informed ſo. I then deſired that Mrs. *Airy*, that Pen and Ink might be conveyed to them, that they might have the Convenience of giving it under their Hands, which ſhe promiſed, and they did convey Pen and Ink under the Door to this Mr. *Lane*.

L. C. J. How do you know that?

Mr. *Dangerfield*. As Mrs. *Airy* told me. Then ſhe came again, and withal told me, that it was Mr. *Knox*'s Deſire that *Lane* ſhould do ſomething to ſignifie to him, or ſatisfie him that he did ſtand faſt; then *Lane* wrote a little Note, and that Note was to this effect. *I will die before I will comply with that Villain* Otes, *and if any good People will do me the Kindneſs to get me my Liberty, I will do the Catholicks the greateſt Service imaginable in diſcovering what I know about* Mr. Otes. *This I write from the bottom of my heart, and ſhall die in it. So help me God.*

L. C. J. How came you by the Note?

Mr. *Dangerfield*. This Note was written by *Lane*'s own Hand, and given from under the Door to one Mr. *Parſons* a Prieſt in the *Gate-houſe*. This *Parſons* gave the Note to Mrs. *Airy*, and ſhe gave it to me.

L. C. J. Do you know *Lane*'s Hand?

Mr. *Dangerfield*. Yes, very well, as I ſhall ſhew you anon.

L. C. J. What became of the Note?

Mr. *Dangerfield*. My Lord, I don't know what became of the Note, for the Counteſs of *Powis* had it afterwards.

L. C. J. Do you believe it was of *Lane*'s own writing?

Mr. *Dangerfield*. I am very well ſatisfied of it, my Lord, according to the Judgment I am capable to give of Hands; indeed I was not acquainted with his Hand then, but that was the firſt, to my Knowledge, that ever I ſaw of it; but after I having parted with the Note, and ſeeing ſome of his Hand-writing, upon Recollection I can ſay I believe it was his own Hand.

L. C. J. Did you ever ſee the Note again?

Mr. *Dangerfield*. Never afterwards. And then my Lord, my Lady *Powis* was exceeding glad upon the hearing of it, and, as I was informed of it afterwards, ſhe was the greateſt part of the following Day upon her Knees, giving God Thanks for the great Advantage and Strength that was come to their Cauſe.

L. C. J. What! for having a Villain to come over to her ſide, that ſwore backwards and forwards?

Mr. *Dangerfield*. Afterwards I received Money ſeveral times, and gave his Mother more to furniſh and relieve him. And ſeveral times afterwards I received Money from Mrs. *Cellier* by Order of my Lady *Powis*, for the doing of *Lane*'s Buſineſs, that is, for his Liberty; and I had the Papers from one *Lawſon* an Attorney that had been employ'd in the ſame Buſineſs before; and, as I was informed by him, a Motion or two was made at this Bar for their Liberty, but however he began to deſpair of it, and I was to undertake it;

it; but withal he ſaid, he was glad he was rid of it, for he had been often employ'd in the Buſineſs of the Catholicks, and it had impair'd his Credit very much, and very freely deliver'd the Papers to me, which indeed were not many. After that, my Lord, I retained Mr. *Sanders*, as I think it was he, but there was a Motion about it, and with great Difficulty I did get *Lane* out upon Common Bail; and when I had done ſo, according to my Lady *Powis*'s Order, I brought him to *Powis* Houſe; and then my Lady *Powis* ordered, that he ſhould go by the Name of *Johnſon*; becauſe if any of the Servants ſhould talk of one *Lane* being in the Houſe, it might come to *Otes*'s Ear, the Houſe might be ſearcht, and if he were found there, it might be prejudicial to the Lords, and all their Buſineſs. And then, my Lord, Mr. *Wood* came a little after with the ſame Command from his Lord, and he had ſome Order——

L. C. J. Who is *Wood*?

Mr. *Dangerfield.* That *Wood* is my Lady *Powis*'s Gentleman: And he came and ordered that my Lady *Powis* gave particular Command to the Porter of the Houſe, in my hearing, that he ſhould give order to all the Servants, to have a particular Eye and Care that he did not go from the Houſe, for they were very dubious of him, having made ſo many Equivocations before; for they feared Mr. *Otes* might find him, or he might go voluntarily and make a Diſcovery of himſelf, and ſo contradict all he had given an Account of there. For, my Lord, before this, as ſoon as ever *Lane* was gone out, they were very deſirous to have what he had to ſay put in Writing; but they had not opportunity then, but we let it alone to ſome other time. Then, my Lord, ſoon after, about three Weeks or a Month after; I cannot be poſitive in the time, becauſe I had a great deal of Buſineſs upon my Hands; but I ſuppoſe it was about three Weeks or a Month after, my Lord *Powis* ſent for me to the *Tower*, and told me, he was informed that Mr. *Otes* was then making ſearch after *Lane*, and if he found him at his Houſe, it would be very prejudicial to their Buſineſs; and he deſired me to take care, and to ſend him out of the way, that Mr. *Otes* might not find him; which I did; and thinking of ſeveral Places, I could not find any ſo convenient as *Grays* in *Eſſex*, by the Water-ſide. I came to *Lane*, and told him that he ſhould be furniſhed with Money and Neceſſaries for his Journey, and, in order to it, that very day I took him and gave him a Pair of Shooes and Ten Shillings in his Pocket, and ſent him to *Grays*. I received two Letters afterwards from this *Lane*, by which Letters I am very well ſatisfied, that that Note that he wrote before that was given under the Door, was his Hand. So then I received a third Letter (I think) my Lord, and in the Letter he told me that ſome Perſon of Mr. *Otes*'s Acquaintance had been in that Town and ſeen him, and he thought it was not material that he ſtaid any longer there, and deſired to be removed. So then I ſhewed my Lady *Powis* the Letter, and I ſuppoſe my Lord *Powis* had an Account of it alſo; but I cannot be poſitive in that, but I had order to remove *Lane*, and by my Lady *Powis*'s means I ſent down one on Horſeback, and he diſcharged ſome Debts *Lane* had contracted in the Houſe, and ſent him away to *London*; and after his return to *London* he continued three days more at my Lord *Powis*'s Houſe; at which time, he ſays, he was forced to lie upon the Chairs, for at that time were the St. *Omer*'s Witneſſes removed from Mrs. *Celier*'s, becauſe they were afraid of being taken up by Sir *William Waller*, who was in ſearch for them. So having ſome other Buſineſs, I did not ſend him away preſently, but I had particular order to ſend *Lane* into ſome other place; and I did adviſe with Mrs. *Celier* where to ſend him, and ſhe ſaid, I think it will be neceſſary to ſend him to *Peterley*, at one Mr. *Waites*'s Houſe in *Buckinghamſhire*; for, ſaid ſhe, they are Catholicks, and will be ſure to take a particular care of him: But I told her it would be too far, and I would think of ſome place nearer; and then I thought it would be neceſſary to ſend him to *Tottenham*, to the *White Hart*; and there he ſtaid, I ſuppoſe, four or five Days, or a Week. This was after the Tryal of the five Jeſuits, as I remember. My Lord *Powis* ſent to me, and told me; ſays he, I am in ſeveral Doubts about this *Lane*, and if it ſhould be known that he is countenanced by me, or any of our People, it would not be well; ſo I leave him wholly to you, do what you will with him; but I adviſe you to ſend for him up to Town, and give him Ten Shillings a Week to live upon. So when I was at leiſure I ſent for him again from *Tottenham*, and I told him; Mr. *Lane*, it will be very neceſſary that you do take ſome care for a Livelihood about Town; it is not ſafe nor adviſeable for you to be about *Powis* Houſe; and at that time I took care he ſhould come there no more, and that if my Lord *Powis*'s Servants ſhould meet him, they ſhould take no Notice of him; which they did perform, I ſuppoſe, and as I was told. But before this, and before I ſent *Lane* into the Countrey the ſecond time, as near as I can remember, *Knox* was at Liberty; I had been endeavouring, as ſoon as I had got *Lane* out of the *Gatehouſe*, to get *Knox* out alſo; but I found I could not, and I left that. But I have been informed by Mr. *Knox* himſelf, that one Mr. *Nevil*, *alias Paine*, was furniſhed with Money from the Lords in the *Tower*, for the getting of *Knox*'s Liberty; and this *Nevil* himſelf did ſay, as Mr. *Knox* told me, that he did it by their Order; and from this *Knox*, by Mrs. *Celier*'s perſuaſion, I received ſeveral Papers, which were Informations againſt *Otes*; or at leaſt, thoſe Papers that they had drawn up before they were in Cuſtody. Theſe Papers were ſent by me to the *Tower*, and from thence to Mr. *Nevil* to inlarge upon, I ſuppoſe, as he thought fit; and after to my Lord *Caſtlemain*, and afterwards they were re-ſent to me by Mrs. *Celier*, who order'd me to draw up an Affidavit according to thoſe Directions, and get *Lane* ſworn to the ſame; which I did, and took *Lane*, and asked him, ſaid I, Mr. *Lane*, here is an Affidavit, can you ſwear it? Yes, ſaid he, I can ſwear it, before I read it to him.

L. C. J. I believe ſo.

Mr. *Dangerfield.* Nay, ſaid I, you know not what it is; ſo I read it to him; ſaid I, do you know this to be a Truth? Yes, ſaid he, I do know it to be all true: Said I, I will read it again to you, becauſe you are to make Oath of it, and I would not have you do any thing, but what is ſafe, and then we went to Sir *James Butler*, but he was not at home, then to have it ſworn.

L. C. J. What was the purport of that *Affidavit*?

Mr. *Dan-*

Mr. *Dangerfield.* My Lord, I cannot well remember the Words, but it was about accuſing Mr. *Otes* of Sodomy.

L. C. J. On whom?

Mr. *Dangerfield.* It was for attempting Buggery on the Body of this *Lane.*

L. C. J. That was the Subſtance of it?

Mr. *Dangerfield.* Yes my Lord: And I did take this *Lane* to Sir *James Butler*, and he did make *Affidavit* that it was true: And it was left there before Sir *James Butler.* I ſuppoſe the *Affidavit* may be in Court, or a Copy of it. So, my Lord, after that *Lane* being gone from *Powis*-Houſe, and I having no manner of Converſe with him more; but only that every *Saturday* I took care he ſhould have his Money, ſometimes I went to his Mother's Lodgings, and left it there for him; ſometimes he would come to me for it: After this we were removed from *Powis* Houſe to Mrs. *Celier*'s; but he was always certain of Ten Shillings a Week. Sometimes he would pretend, that it was too little for him to live upon; and ſometimes I would give him Two, or Three, or Four Shillings more of my ſelf; but I had no Order to do that from any Body. This is all, my Lord, I do know of *Lane*, as I remember.

Mr. Juſt. *Jones.* What do you know of *Knox?*

Mr. *Dangerfield. Knox* firſt delivered to me thoſe Papers, that were ſent firſt to the *Tower*, and afterwards to *Nevil*, and afterwards to my Lord *Caſtlemain*, and re-delivered to me; and I did deliver them again to *Knox*, after they were inlarged upon: And I believe, after that, *Knox* had prevailed with *Lane* to write them in his own Hand.

L. C. J. Why do you believe ſo?

Mr. *Dangerfield.* Becauſe being writ in a fair Hand, *Knox* told me when the Papers were delivered, theſe are the main things that I am to work by, and theſe muſt be produced againſt *Otes*, and be writ over in a fairer Hand, and by that I believe he prevailed with *Lane* to write it in his own Hand.

L. C. J. Whoſe Hand were they in?

Mr. *Dangerfield.* It was a ſtrange Hand I knew not, and I do not believe it was *Knox*'s Hand, tho' indeed I can't tell, I know it not.

Mr. Juſt. *Jones.* Did *Knox* ask you who had the peruſal of thoſe Papers? And who had made Additions to them?

Mr. *Dangerfield.* No, he took the Papers, and took no notice of any Addition or Enlargement.

Mr. Juſt. *Pemberton.* Pray Sir, tell the manner of the delivering of thoſe Papers.

Mr. *Dangerfield.* Firſt, by Mrs. *Celier*'s perſuaſion, *Knox* delivered to me the Papers, which imported the whole Matter of the Charge againſt Mr. *Otes:* Theſe I ſent to the *Tower* by Mrs. *Celier*'s Hands, from thence they were ſent to *Nevil* to be inlarged upon, from thence to my Lord *Caſtlemain*, who was alſo to inlarge upon them, and from thence they were ſent to Mrs. *Celier* again, and from her delivered to me, and I delivered them to *Knox* again. I found by his Diſcourſe, and every thing elſe, that Mr. *Knox* was deſirous of my Correſpondence, but yet ſeemed as if he were ſhy of any body's taking notice of it. Said I to Mr. *Knox*, there is one Mrs. *Downing*, that lives at *Lambeth* over the Water, where Mr. *Otes* and Dr. *Tongue*, and ſeveral other Perſons uſed to meet, where I had been informed by ſome of the Catholicks; by *Parſons*, my Lady *Powis*, and ſeveral others, that Mr. *Otes*, Dr. *Tongue*, my Lord of *Danby*, and others, did meet at the Alms-houſes there, where the Plot was contrived and formed, for they pretended to me there was no ſuch thing really. So, ſaid I, if you will go with me, we will diſcourſe with her about the Matter, for I heard ſhe talked very freely in ſeveral Matters nearly concerning Mr. *Otes*, and my Lord of *Danby*, and other Perſons. So, as I ſaid, I told him, if you will go along with me, I have not been there yet, I will go and diſcourſe with her, and put down what ſhe ſays in Writing. Then Mr. *Knox*, my Brother, and my ſelf, did go over to this Mrs. *Downing*, and had much Diſcourſe with her, where ſhe did repeat many Tranſactions that were very agreeable to the Story that I had received from my Lady *Powis*, and ſeveral other Perſons before. *Knox* did ſeem to be very well ſatisfied about it, and promiſed to take cognizance of it, and ſaid, it was very material, but we did not put it down in Writing. I did not, I know not what he did afterwards. We promiſed to come again another time, but I do not remember we did ever go afterwards. But Mr. *Knox* ſollicited me to go with him, and ſome Buſineſs or other did ſtill intervene; that is all that is remarkable of Mr. *Knox*, which I do remember at that time; but I do remember that after we were removed from *Powis* Houſe, when I was at Mrs. *Celier*'s, nay I think both before and after he was often treating with Mrs. *Celier*, but I know not what was their Diſcourſe, nor was I deſirous to know. But Mr. *Knox* came then to me, and began to renew his Correſpondence, and withal told me, that he had ſome likelihood of bringing *Osborne* over to their Party. Said he, I find he is gone again to his Maſter, but he ſhall do his Buſineſs (meaning, as I ſuppoſe, Mr. *Otes*) for he had, as I underſtood by him at that time, been tampering with *Osborne*, but he did tell me it was *Osborne*'s voluntary Act, that he did own it, and that he did go to Mr. *Otes* again only to do Mr. *Knox* Service. My Lord, ſome time after this, *Knox* came to me at Mrs. *Celier*'s, and told me he had done the Buſineſs, expreſſing the greateſt Joy that could be. What Buſineſs, ſaid I? *Osborne* is come over, ſaid he, and I have had an Account from the beginning to the end of all the Tranſactions of his Maſter *Otes*, and I have not only an Account of it, but it is put into Writing, and I took *Osborne* before a Juſtice of Peace, and he hath made *Affidavit* of it. When I heard this, I thought it would give great Satisfaction to the Lords in the *Tower*, and deſired Mr. *Knox* to let me have a Copy of that *Affidavit*. He told me, no, he thought it would not be material to let me have a Copy, for by that means it might become publick and be diſcovered; and, ſaid he, I have ſome further Deſign in this, Mr. *Otes* is going down to my Lord *Lovelace*'s in *Oxfordſhire*, and *Osborne* is going with him, and he hath promiſed me to be a Spy upon his Maſter's Actions, and to give me an account of all. And this will be material, but I do not think fit to let you have a Copy of the *Affidavit* at preſent. Some time after this, I told Mrs. *Celier* the Story, who I ſuppoſe went to the *Tower* and gave the Lords an Account of it. And the next time I had the Honour to ſee my Lady *Powis*, ſhe was pleaſed to ſay, ſhe liked it very well, but did not as I remember ſay any thing of the Copy; but being deſirous to ſee what

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Osborne had ſworn, and whether it were agreeable to *Lane*'s *Affidavit* that I ſpake of before, I did deſire *Knox* to let me ſee it, but he had it not about him at that time. Sometime after that, as near as I can remember I was at *Proctor*'s Coffee-houſe at *Charing croſs*, and Mr. *Knox* came thither, whether by my Appointment, or his, I can't well tell, but there we met, and one *Bedford* was with me; at that ſame time Mr. *Knox* deſired we would go into a Back-room, and now, ſaid he, I will give you Satisfaction, and drew out of his Pocket an Affidavit, it was a Sheet of Paper, if not written of every ſide, I believe of three ſides; it was very long, and he read it, my Lord, and I did find by the Contents of it, that it did imply the ſame thing that *Lane* had ſworn before Sir *James Butler*; that is, that Mr. *Otes* ſhould attempt upon *Lane*'s Body to commit Sodomy, or ſomething very agreeable to it. I told him, Mr. *Knox* ſaid I, this is very material, this will do you a great deal of Service, the Term is coming on, you would do well to get an Indictment drawn up againſt Mr. *Otes*. Said he, I will do his Buſineſs, and will adviſe with Perſons able to inſtruct me in it, and I don't doubt but to carry on the Buſineſs effectually. And to that purpoſe I deſired him to let me have a Copy of the Affidavit; he promiſed me I ſhould, and ſaid he would bring it ſeveral times, and he came ſeveral times to my Lodging, but did not bring it; but I having it read to me, and remembring the Contents of it, the next time I ſaw my Lady *Powis*, I gave her an Account of it. Said ſhe, this Man is very diligent, and deſerves to be encouraged, and as I believe, gave the Lords in the *Tower* an Account of it too, for then ſhe was lodg'd at the *Tower* with her Lord, and ſo her Ladiſhip told me: And, ſaid ſhe, do you know whether this Man be in a Condition to proſecute this Buſineſs againſt Mr. *Otes*? Said ſhe, I believe he is put upon this by my Lord of *Danby*, and he I believe takes Care of him to furniſh him with Money. Said I, I have endeavour'd to trace him out in that thing, and by all his Correſpondents I could never find, but only by one, that Mr. *Knox* was ever acquainted, or held Correſpondence with my Lord of *Danby*, and that Perſon is Mr. *Nettervile*, who is a worthy Gentleman of my Acquaintance in the *Pall-mall*: And being in his Chamber, *Knox* came in, and ſpeaking merrily after his Manner to him, ſaid he, *Knox*, when were you at the *Tower* with my Lord of *Danby*? Said he, I hold no Correſpondence with him. Yes, ſaid Mr. *Nettervile*, 'tis plain you do, and I believe a Friend of mine ſaw you go in the other Day: But *Knox* did poſitively deny it; that was all that ever I heard of his Correſpondence with my Lord of *Danby*. After this, when her Ladiſhip came to me to ask me what Condition he was in to proſecute the Tryal; I told her, I believed his Condition was very mean, and it would be very acceptable, if he might or could be furniſhed with Money. Well, ſaid ſhe, I will take care of it, and give an Account of it to my Lord, and he ſhall be furniſhed. And in the mean time, if Mr. *Knox* wants Money, be ſure you take care and furniſh him; but you need not let it be very conſiderable, till you ſee what is raiſed. Sometime after this, Mr. *Knox* came to Mrs. *Celier*'s Houſe to ask for me, I was then in my Chamber, but not ready; he came up to me, and told me, ſaid he, really I am very poor, I am going to pawn my Sword, or ſomething to that purpoſe, can you lend me five Pounds? Really Mr. *Knox*, ſaid I, I will tell you, the Affidavit that you read to me I have given an Account of it to my Lady *Powis*, and I ſuppoſe ſome other Perſons of Honour have had an Account of it alſo; I am ſatisfied they are, and that the Lords in the *Tower* will take care that Money ſhall be raiſed for your proſecuting of Mr. *Otes*. He ſeem'd to ſmile at this; but ſaid he, if this ſhould be known, it would be very prejudicial to the Buſineſs, and ſpoil it; but yet however if you can furniſh me with Money at this time, you will do me a great Kindneſs, for I have very great Occaſion. I told him, ſaid I, I have not ſo much Money by me, you come at an unſeaſonable time, though indeed I told him a Lye, but I thought it not ſafe to part with Money without further Order. Mr. *Knox* went away, and I gave an Account of it to Mrs. *Celier*, who went either every Day, or every other Day to the *Tower*; I told her what Mr. *Knox* ſaid, and I do believe (as ſhe told me afterwards) ſhe told my Lady *Powis* of it, and Mrs. *Celier* ſeem'd to be angry that I did not let him have the Money, and order'd me that at what time ſoever after that Mr. *Knox* ſhould come to me, I ſhould let him have what Money he wanted. Some time after this, Mr. *Knox* did come to me, and ſaid his Condition was very mean, and you told me, ſaid he, that Care ſhould be taken by the Lords in the *Tower* to furniſh me with Money. Said I, Mr. *Knox*, I can let you have 30 or 40 *s.* if that will do you any Kindneſs; I have no Order for any Sum at preſent, but as ſoon as it comes, it muſt come to you through my Hands, and it muſt paſs as if I lent it you, and you ſhall give me a Note for it to repay it, leſt any thing ſhould come to be diſcovered, and coming to Mr. *Otes*'s hearing, ſhould prejudice the Buſineſs; though I had been too forward before in giving Mr. *Knox* an Account that the Lords in the *Tower* would contribute to this Buſineſs. At that time I went up Stairs and fetch'd down 40 *s.* and gave it him: He came afterwards, and would have borrow'd more of me at other times, once or twice after that, but I did not furniſh him, for I had received no Order to furniſh him any further. And this, my Lord, is all the Correſpondence I had with him, and, as near as I can remember, I have given nothing in but what is a very true Account of the Tranſaction.

Sir *Fr. Winnington*. My Lord, I crave one Queſtion of him, if he have done: After the Papers were corrected and written fair, and enlarged upon by the ſeveral Perſons, did you read them? and what were the Contents of them?

Mr. *Dangerfield*. My Lord, I did not read them, nor did I draw them, but I do believe that the Contents were the ſame for Subſtance with the Affidavit that *Lane* made before Sir *James Butler*.

Mr. *Williams*. Sir, you mention ſeveral Sums of Money that you paid to *Knox*, and paid to *Lane*, pray where had you this Money?

Mr. *Dangerfield*. The 40 *s.* that I gave to *Knox*, it was my own Money, but if I muſt give an Account where I had it, I believe it came originally from the *Tower*.

Mr. *Williams*. The Ten Shillings a Week, whence came that?

Mr. *Dangerfield.* Sometimes from the Hands of my Lady *Powis*, at other times from Mrs. *Gellier*; ſometimes from Mr. *Wood*, and ſometimes from my ſelf. and I placed it to Accompt.

Mr. Serj. *Maynard.* If your Lordſhip pleaſe, we will now proceed to another Part of our Evidence.

Mr. *Williams.* About what time were they to indict Mr. *Otes*? Was not this Project on foot when the Presbyterian Plot was on foot?

Mr. *Dangerfield.* My Lord, I don't know what time; but it was by my Advice to be done this Term, and ſo did *Nevil* adviſe too.

Mr. Serj. *Maynard.* My Lord, I would read ſome of the Memorials or Informations, that they were to ſwear againſt Dr. *Otes* concerning the Buſineſs that you have heard.

L. C. J. Wou'd you have them read, Brother?

Mr. Serj. *Maynard.* Yes, my Lord.

L. C. J. Who proves them?

Then the Juſtices of Peace ſwore them.

Mr. Juſt. *Pemberton.* Sir *William Waller*, Did he confeſs he left them with my Lord *Latimer*?

Sir *W. Waller.* Theſe are the Papers that were confeſſed to be carry'd to my Lord *Latimer.*

Mr. *Warcup. Osborne* did ſwear, That the Informations marked 1. 2, 3, 4, and 5. were all of his own Hand-writing, and were dictated by the ſaid *Knox.*

Mr. Juſt. *Pemberton.* And he did confeſs, That theſe were the Informations that he had deliver'd to my Lord *Latimer.*

Mr. *Warcup.* Yes, he did ſo.

Mr. Serj. *Maynard.* It will lie on his part, to prove that they were true.

Mr. Juſt. *Pemberton.* Which will you have read, one, or all of them?

Mr. Serj. *Maynard.* One, or Two; take *Knox*'s firſt.

Which was delivered to the *Clerk of the Crown*, who read it *in hæc verba.*

[*Numb.* 1.] The Information of *Thomas Knox*, ſworn before me this day of 1679.

THis Informant doth upon his Oath declare, That on the Firſt of this preſent April, *there came one* William Oſborne *to the Informant in the* Painted-Chamber *in* Weſtminſter, *and told to him the ſaid Informant, that he had ſomething of Moment to reveal to him; and did alſo deſire the Informant to go with him into the Abby, and he would reveal it to him; upon which the ſaid* Osborne, *and the Informant being together, the ſaid* Osborne *did tell the Informant, that his Conſcience was mightily troubled for that he found the* Lord Treaſurer *was maliciouſly proſecuted by Mr.* Otes *and Mr.* Bedloe; *for that he having been a Servant to Mr.* Otes, *and had often heard Mr.* Otes *and Mr.* Bedloe *conſult together, in Mr.* Otes's *Chamber in* White-hall, *and reſolve how they might contrive a Way whereby to deſtroy my* Lord Treaſurer: *And that he had choſen to reveal this Secret, and eaſe his Conſcience to the Informant, rather than to any one elſe, becauſe he thought he would keep it ſecret, for his own ſake, becauſe he had already ſuffered by endeavouring to ſerve the ſaid* Lord Treaſurer, *and thereupon the ſaid* Osborne *ſhewed to the Informant ſome Papers written, as he told the Informant, all in his own Hand, and which were relating to the ſaid* Lord Treaſurer; *upon which the ſaid Informant told the ſaid* Osborne, *that he was no Servant of the ſaid* Lord Treaſurer's, *and did not therefore deſire to meddle in it; and that particularly, becauſe he had never ſpoke with the ſaid* Osborne *before, and deſired to be excuſed; upon which the ſaid* Osborne *did preſs the Informant, and withal did tell him, that if he did not aſſiſt him in this Affair, it was reſolved both by him, and one Mr.* Lane, *that they would come in on the Day of the ſaid* Lord Treaſurer's *Tryal, and declare the Truth concerning what they knew, concerning the malicious Deſign of the ſaid Mr.* Otes *and Mr.* Bedloe, *againſt the ſaid* Lord Treaſurer; *for that they could not reſt for fear he ſhould ſuffer innocently, whilſt they could, with ſo good a Conſcience, as they thought, ſave him: And the ſaid* Osborne *did withal declare, that the aforeſaid Mr.* Lane *was reſolv'd to ſpeak to the Informant, upon the foreſaid Matter: And the ſaid* Lane *did accordingly, upon the ſaid firſt of* April *in the Evening, meet the Informant, and ſhewed him ſome Papers, wherein he had taken ſeveral Memorials, relating to His Majeſty, the Queen, my Lord Treaſurer, and ſeveral other Perſons: And did withal declare to the Informant, that his Conſcience was ſo troubled, to ſee the malicious Proceedings of the ſaid Mr.* Otes *and* Bedloe *againſt the ſaid* Lord Treaſurer, *that he could not reſt in his Bed, until he had disburdened it, by telling the Truth; and if he had not met with this Informant, he was reſolv'd to declare it ſpeedily to ſome one elſe; or come himſelf at the Day of the ſaid* Lord Treaſurer's *Tryal, and there declare all that he knew relating to that Affair. And did withal conjure the Informant, as alſo the ſaid* Osborne, *to keep all they had told him ſecret: For if it ſhould come to the Ears of the ſaid Mr.* Otes *and* Bedloe, *they would endeavour to poiſon, or murder them, the ſaid* Osborne *and* Lane, *the firſt time they ſhould ſee them.*

Tho. Knox.

Then a Second was offered to be read; but there appearing ſcandalous Matter to be in it, reflecting on the King, the Court thought not fit to ſuffer the ſame to be read through.

Mr. Serj. *Maynard.* My Lord, I think it appears by the Evidence ſufficiently, how they did deſign to accuſe Mr. *Otes.*

L. C. J. Ay, Brother, come let us hear what they can ſay to it on the other ſide.

Mr. *Withins* May it pleaſe your Lordſhip, and you Gentlemen of the Jury; I am of Counſel for the Defendant *Knox*, and for *Knox* only.

Mr. *Williams.* Pray Sir, hold; my Lord, we have here Two Witneſſes more, that will fortifie Mr. *Dangerfield* in what he hath ſaid. Call *Suſan Edwards*, and Mrs. *Blake.*

Then Mrs. Blake *appeared, and was ſworn.*

Mr. *Williams.* Pray Mrs. *Blake*, what can you ſay of any Reward *Lane* was to have, for accuſing Mr. *Otes*? Or any Promiſes were made to him?

Mrs. *Blake.* All that I can ſay of *Lane*, is this; That *Lane* did ſay once to me, I am here; and I was Dr. *Otes*'s Man, and he would have buggered me: And he did make Complaint for want of Linnen; and ſpoke to me to waſh him ſome Linnen. Said he, Here I have no Linnen, neither will they let me have any; and his Boy here will not ſtir to look for any, unleſs *Willoughby* ſpeak to him. Then the Boy was ſpoke to.

L. C. J. What is all this? What ſays the other Woman?

Mr. *Williams.* He is call'd *Willoughby* ſometimes, and ſometimes *Dangerfield*; for he went by both Names: But I ask you what Money you know was given to him?

Blake. He told me, he was to be allow'd Ten Shillings a Week?

L. C. J. This is only to ſtrengthen his Evidence.

Blake.

Blake. He never ſaid to me, from whom it was.

Then Mrs. Edwards *was Sworn.*

Mr. Serj. *Maynard.* What do you ſay, Miſtreſs?

Edwards. May it pleaſe you, I don't know *Lane*; I never ſaw him in my Life, but only when he was ſent for by Mrs. *Celier*, to get an *Habeas Corpus* for *Willoughby*, who was then in *Newgate*; and he did come the next Day, and gave his Anſwer to me.

L. C. J. She ſays nothing, but only he was deſired to get an *Habeas Corpus* for *Willoughby*.

Mr. *Sol. Gen.* Yes, my Lord, ſhe is called to ſhew you, whether *Lane* had not Money from Mrs. *Celier*.

Edwards. That was the firſt time I ſaw him, and the next Morning I ſaw him again: And when he came to the Door, he told his Errand to me. He ſaid, he could get no *Habeas Corpus*; for he was ſuch a Rogue, no body would meddle nor make with him.

Mr. *Dangerfield.* I would fain have her ask'd this Queſtion, my Lord, if you pleaſe: Did you ever ſee Mr. *Knox* at Mrs. *Celier*'s Houſe?

Edwards. If I ſee him, I can tell.

Then the Defendant, Knox, *was ſhewn to her.*

Edwards. I cannot ſay, this is the Man: I have heard much talk of Mr. *Knox*, and that he hath been there; but I cannot ſwear this is he.

Mr. *Dangerfield.* My Lord, if your Lordſhip pleaſes, when *Lane* was firſt brought to me to the Counteſs of *Powis*'s Houſe, he was very meanly Equipag'd, and the Counteſs of *Powis* was informed of it, and did deſire me to take ſome particular care to cloath him, and that I ſhould put him into a Diſguiſe; but at that time I had a Suit of Cloaths that were lin'd with blue, which I gave to him; and I alſo adviſed him to cut off his Hair, and to put on a Peruke, which he did, and hath worn it ever ſince, as I believe.

L. C. J. Well, let us hear what they ſay to it.

Mr. *Withins.* May it pleaſe your Lordſhip, I am of Counſel in this Caſe for Mr. *Knox*; there are two Perſons here made Defendants: As for Mr. *Lane*, I have nothing to do with him, nor to ſay for him; and his Caſe hath made him appear to be a very evil Man. But, my Lord, I do obſerve that the Indictment conſiſts of two Parts: The firſt is, That theſe two Defendants did conſpire together; and this was the Thirtieth of *April* (and the Proof comes to that time, for it will be material in our Caſe) that they did maliciouſly and deceitfully combine and conſpire againſt *Titus Otes*, Clerk, and *William Bedloe*, Gentleman, who had diſcovered this horrid Popiſh Plot, and whom they knew to have given Informations of it, to take away their Reputation, and make them Witneſſes of no Belief, or Credit; that is one part of the Indictment: The other part is, That to further the ſame, Mr. *Knox* did cauſe two or three Letters to be written, as from *Osborne* and *Lane* to him, purporting thoſe Aſperſions to be laid upon *Otes* and *Bedloe*: For the laſt part of the Indictment, the Counſel for the King have not thought fit to proceed upon it, and they have not given an account of the Letters: But for the firſt part, their conſpiring to take off the Reputation of *Otes* and *Bedloe*, is the only thing they have proceeded upon as I conceive. I muſt needs ſay, my Lord, that Mr. *Knox*, as well as Dr. *Otes* and Mr. *Bedloe*, have had a very great Misfortune to meet with theſe Men.

L. C. J. To meet with whom?

Mr. *Withins.* To meet with *Osborne* and *Lane*, for I do not here pretend to lay any Aſperſion, or make any Reflections upon the Credit or Reputation of Dr. *Otes* or Mr. *Bedloe*. I think they have ſerv'd the Nation too well to be vilify'd here. But I ſhall ſay this, that as *Osborne* and *Lane* had a great Deſign to Diſgrace and Diſcredit Mr. *Otes* and Mr. *Bedloe*; ſo they had a Deſign to draw my Client Mr. *Knox* in, to purſue their Malice. I did ſhew you, that they did begin their Evidence, as to time, in *April*, and they have laid it ſo in the Indictment: We ſhall prove to your Lordſhip, and ſhew you, that before this, and before that Mr. *Knox* knew either *Osborne* or *Lane*, that they had drawn up this Accuſation againſt Mr. *Otes*, and read it to ſeveral Witneſſes which we ſhall produce. And afterwards, when they came to adviſe how they ſhould proſecute the ſame, they were adviſed firſt to go to Mr. *Thewer*: He told them, that it was a dangerous thing to meddle about, and he would not involve himſelf, but bid them take care what they did in it. Upon this they apply themſelves to my Client Mr. *Knox*, he told them the ſame thing; it is a matter of great Conſequence, I deſire not to meddle with it. Said they, will you not aſſiſt us in this Buſineſs, when we only diſcover this to acquit our own Conſciences, who knew theſe things to be treating and contriving againſt the King and my Lord of *Danby*? For my part, ſays one of them, I cannot leave the Town till I have diſcovered it. Notwithſtanding this, Mr. *Knox* would not undertake to meddle with it, but left them. They come to him the ſecond time, and Mr. *Knox* being a young Man, and it ſeems being a Servant in the Family, enter'd into a Correſpondence with them,, to proſecute what they had deſign'd to do. There is nothing appears (and this I would obſerve, if your Lordſhip pleaſe) in the whole Evidence, that Mr. *Knox* was to ſwear any thing againſt Dr. *Otes* or Mr. *Bedloe* (as I remember) but he was indeed engaged to carry on the Proſecution, theſe Witneſſes informing him of it; and that it was a Truth, I muſt obſerve to your Lordſhip upon their Evidence, they did inſinuate, as if Mr. *Knox* had been at the charge of maintaining *Lane*: But I think, that Mr. *Dangerfield* hath pretty well cleared whence that Maintenance came that he gave to Mr. *Lane*; that it came thro' none of the Hands of my Client Mr. *Knox*.

L. C. J. No, Mr. *Withins*, he is not accuſed for giving him a conſtant Maintenance, but for the Money, the Guineas and Ten Shillings. 'Tis true, it was ſaid, it was to be paid again; but from him they had the Money: And it appears, that he provided Lodgings for them, and paid for their Lodgings.

Mr. Juſt. *Pemberton.* And pray obſerve this, That what Mr. *Dangerfield* ſpeaks of, is of a time afterwards, after they had been taken and impriſoned, and confeſſed the matter.

Mr. *Withins.* But this you obſerve, I hope, my Lord, from Mr. *Dangerfield*'s Evidence; That *Knox* was very poor, had not any thing to maintain himſelf with.

L. C. J. The Sums indeed don't ſeem to be very great; a Guinea, and Ten Shillings in Silver: But whatever it was, he gave it them, and took Lodgings for them, and paid for them.

Mr. *Withins.* I did intend to obſerve to your Lordſhip, That 'tis a pretty ſtrange thing, that there ſhould be a Deſign to corrupt Perſons to commit this foul and horrid Offence; and nothing of a Reward or Corruption prov'd, but two Guineas and ten Shillings.

Mr. Juſt. *Pemberton.* What ſay you to the Promiſes of 500 *l.* and 100 *l.* a Year apiece?

Mr. *Withins.* That was *Lane*'s own Evidence. *Lane* and *Osborne* might brag what they would of what they were to have, and from whom; but I believe not one in the Court believed a Word they ſaid. For it does appear, that *Lane* did forſwear himſelf backwards and forwards, as the Wind blew. So that, as for what *Lane* hath ſaid, it weighs not: But we ſhall call two Witneſſes, to whom *Lane* declared this matter in *February* and *March*, before the time that *Knox* was concerned: So that if we make it appear, that the Contrivance was theirs, and there was only a great deal of Weakneſs and Indiſcretion in Mr. *Knox* to believe ſuch idle Perſons, againſt Perſons that had ſhew'd themſelves ſo conſiderable in this Diſcovery: I hope it will not be thought ſuch a Crime in us, ſeeing there is nothing in it, but that a young Man was led away; and only his Folly and his Indiſcretion drew him in, not any Malice or ill Deſign.

Sir *W. Waller.* My Lord, Mr. *Knox* did confeſs to me, that he did throw down a Guinea, and then *Lane* and *Osborne* took it up; but they both poſitively ſwore, that he threw it down for this Reaſon, that he might ſafely ſwear he never gave them it.

Mr. *Saunders.* All that they ſwear is not agreed to be true: My Lord, if your Lordſhip pleaſe, I am of Counſel for the Defendant *Knox*, and as to that part of the Indictment that charges him with writing the Letters, they do not proceed upon.

Mr. Serj. *Maynard.* Yes, we do, we proceed upon the whole———

L. C. J. They proceed upon the whole, but you may ſay, if you will, they give no Proof of it.

Mr. *Saunders.* Then, as to that, with ſubmiſſion to your Lordſhip's Judgment, the Defendant is to be found Not Guilty.

Mr. Juſt. *Pemberton.* You muſt obſerve, theſe are not ſeveral Crimes, but one continued Crime, and therefore the Evidence muſt go to the whole.

L. C. J. You do well to obſerve it for your Client, but if you require it of the Counſel on the other ſide, it may be they will give you an Anſwer, if you will undertake to affirm, that they have given no Evidence as to that part of the Indictment wherein it ſays, Mr. *Knox* contrived three Letters to ſcandalize Mr. *Otes.*

Mr. *Saunders.* We ſubmit it to the Court whether they have or no. For the other part of the Indictment, wherein it is charged, that he ſhould maliciouſly contrive with *Lane* to lay a Calumny and Scandal upon Mr. *Otes* and Mr. *Bedloe*, the very Point we are to anſwer to is this, Whether this were a malicious Contrivance or no, and for that we ſhall give your Lordſhip this Evidence: That *Knox* was a young ignorant Man, and drawn in by *Lane* and *Osborne* to patronize their Miſchief they intended againſt *Otes* and *Bedloe*; for, my Lord, Mr. *Knox* was not acquainted with them, or had any thing to do with them, till that they had contrived this matter among themſelves: For, my Lord, we ſhall call you Witneſſes to prove, that before *Knox* had to do with them, they would have had another Perſon to proſecute this Buſineſs for them. And if we ſatisfie you that he was drawn in, I hope it will acquit us; notwithſtanding I will obſerve to your Lordſhip and the Jury, whether *Lane* be guilty or not guilty does not affect us, if we were only drawn into the Contrivance.

L. C. J. Wherever *Lane*'s Teſtimony ſtands ſingly againſt *Knox*, it is no Evidence.

Mr. Juſt. *Jones.* But if he was not in the Plot at the beginning, but was drawn in, and did after proceed with them, as *Dangerfield* proves, I doubt it will not acquit him.

Mr. Juſt. *Pemberton.* Conſider a little your Caſe; you ſay here was a Contrivance of two, that *Knox* was not in the beginning, but they offered it to others with whom it would not take. Why, let *Knox* come in when he will, if he does come into the Contrivance, and takes the Papers, and manages the buſineſs to fix theſe Scandals and encourage them to carry them on, *Knox* is as guilty as all the reſt.

Mr. *Saunders.* But if theſe Men come and tell him theſe things are true, and we can ſwear them, and ſo is drawn in, it takes away the Malice of the Contrivance.

L. C. J. This is the Uſe the Defendant *Knox* his Counſel make of it: At firſt *Knox* was not acquainted with the matter; and when he did come to underſtand it, he thought it to be true, as they affirmed it was true, and, ſaid they, we will go before a Juſtice of Peace and ſwear it: He was willing, there being a Diſcovery of ſeveral Conſpiracies againſt his Lord's Life, as they ſaid, he being his Servant, he was willing to proſecute the Buſineſs; and this is the Uſe they make of it.

Mr. Juſt. *Pemberton.* Come let us hear your Witneſſes.

Mr. *Scroggs.* Call *Frances Lane* and *Mary Lane.*

L. C. J. But I'll tell you what; it will be neceſſary to clear your ſelves, as well as you can, of thoſe Papers that were delivered by *Knox* to *Dangerfield*, and went about to the Lords in the *Tower*, and afterward to *Nevil*, and by him amended, and after delivered to *Knox* again by *Dangerfield*: This does ſhew as if you were concerned in the whole Affair, and in all the matter of the Information, before it was cook'd and after it was dreſt. You muſt give ſome Account of that, for that ſticks ſtrongly upon you.

[*Then Mrs.* Frances Lane, *and her Daughter* Mary Lane, *were Sworn.*]

Mr. *Scroggs.* Mrs. *Lane*, are not you Mother to *Lane* the Defendant?

Frances Lane. Yes.

Mr. *Withins.* Pray will you give an Account what your Son ſaid to you in *February* laſt?

Mr. Serj. *Maynard.* We pray they may ask their Queſtions in general.

Mr. Juſt. *Pemberton.* Don't you point her to a Time.

L. C. J. Anſwer me: What hath your Son ſaid to you at any time concerning *Otes?*

Frances Lane. He ſpoke it about *March.*

L. C. J.

L. C. J. What did he ſay?

Frances Lane. He uſed him uncivilly, he had no mind to ſtay with him.

L. C. J. What ſaid you?

Frances Lane. I deſired him to ſtay longer.

L. C. J. How often did he tell you this?

Frances Lane. Several times.

L. C. J. He had left his Service once, had he not?

Frances Lane. Yes.

L. C. J. Was it before or after he left his Service?

Frances Lane. Before and after too.

L. C. J. If he complained he had ſo uſed him before, why would he go to him again?

Frances Lane. Becauſe the Times were hard and I perſuaded him.

L. C. J. Ay, but would you perſuade him after ſuch an Abuſe of your Son as that?

Frances Lane. I thought then he would not do ſo again.

Mr. Juſt. *Jones.* When was the firſt time he complained to you?

Frances Lane. It was about *Chriſtmas.*

Mr. Juſt. *Jones.* Was it before *Chriſtmas?*

Frances Lane. It was after.

Mr. Juſt. *Pemberton.* Conſider here you bring *Lane*'s Mother to accuſe him to excuſe your ſelf.

L. C. J. But is this material?

Mr. *Scroggs.* It is material to our Client Mr. *Knox*, who was drawn in here by a couple of Raſcals. We prove, that before this time which Juſtice *Warcup* and Sir *William Waller* have in their Informations, they offered the ſame Diſcovery to others.

L. C. J. Call them and prove it, but you will never have the better Name for calling them ill ones.

Mr. *Scroggs.* We lay all upon *Lane* and *Osborne*, who inveigled *Knox.*

Mr. *Saunders.* Pray, Mrs. *Lane*, tell the Court and Jury how and when your Son came acquainted with Mr. *Knox.*

Frances Lane. May it pleaſe you, my Lord, *Osborne* brings a Paper to our Houſe, and would have had my Son have read it, but he could not, ſo he read it himſelf; and there were ſome deſperate things in it.

L. C. J. What were they?

Frances Lane. I can't tell, they were concerning the King and the Queen and my Lord Treaſurer.

L. C. J. When was this?

Frances Lane. In *March* laſt, at our Houſe, and I deſired them they would not meddle with ſuch things, for I ſaid they were things beyond them. My Son promiſed me he would not meddle with it, but let *Osborne* alone with it; but ſaid I, pray go to one Captain *Thewer*, he is a good civil Man, and a Man of Underſtanding. So they did go as I directed them.

Mr. Juſt. *Pemberton.* Who went?

Frances Lane. Osborne did.

Mr. Juſt. *Pemberton.* Who went with him? for you ſay They.

Frances Lane. John Lane, my Son.

L. C. J. Was there any thing particular in thoſe Papers concerning Mr. *Otes* being guilty of Sodomy?

Frances Lane. I cannot ſay in particular, it is a great while ago, but he went to Captain *Thewer*, and he wiſh'd him, after he had read it, ſaid he, don't meddle with any of theſe things, for it will be the worſe for you.

L. C. J. As your Son told you, you were not by.

Frances Lane. Yes, they both told me ſo. With that ſays Mr. *Osborne*, I'll find out one Mr. *Knox*, who had been ſome Acquaintance of Mr. *Wiggins*, Mr. *Bedloe*'s Clerk; and ſo, ſaid he, I will ask Mr. *Wiggins* if he be acquainted with Mr. *Knox.*

L. C. J. Did your Son at that time know *Knox?*

Frances Lane. No, my Lord, he had never ſeen him at that time; ſo my Son went, and they found Mr. *Wiggins* and Mr. *Knox* walking in the *Abby.*

L. C. J. Was *Lane* with him then?

Frances Lane. He went with *Osborne*, and came and told me, *Knox* would not meddle with them.

L. C. J. Who came and told you ſo?

Frances Lane. Osborne came and told me ſo and my Son.

L. C. J. You were not by?

Frances Lane. No, not I; but, ſaid he, as he told me, I will go to him again; and afterwards he did meet him again, as he ſaid, and delivered them to him.

Mr. *Withins.* Did you ever ſee *Knox* in your life?

Frances Lane. I had never ſeen him then.

Mr. *Withins.* Did you ever hear your Son ſay, he did know *Knox* before that time?

Frances Lane. Never in my life.

Mr. Juſt. *Pemberton.* But you do not prove that they were not acquainted.

L. C. J. Do you believe *Osborne* ſaid true, Mr. *Saunders?*

Mr. *Saunders.* Not when he ſpoke to Sir *William Waller* to accuſe my Client of the Contrivance.

L. C. J. In that caſe, when 'tis againſt your Client he did not, but in other caſes he might, well, go on.

Mr. *Withins.* Which is *Mary Lane?*

Mary Lane. I am ſhe, Sir. I can ſay no more than my Mother hath ſaid, I was by at the ſame time.

Mr. *Saunders.* Do you know when *John Lane* came acquainted with *Knox*? Was it before *April* laſt, or after?

Mr. Juſt. *Pemberton.* How is it poſſible that any one can ſwear a Negative?

Mr. *Saunders.* If we can't prove the Negative, nor they the Affirmative, it will be preſumed they were not, becauſe it is not known.

Mr. Juſt. *Pemberton.* Nor do you prove any Informations before given to any one.

Mr. *Saunders.* Yes, To *Thewer.*

Mr. *Withins.* We will ask the Daughter about that.

Frances Lane. She can only prove it by hearing it, for ſhe was ſick.

Mr. *Withins.* Young Mrs. *Lane*, what was there in that Paper that *Osborne* brought to your Houſe?

Mary Lane. There was concerning the King, and the Queen, and my Lord Treaſurer.

L. C. J. Was there any thing in it concerning Mr. *Otes?*

Mary Lane. Yes, there was concerning his Beaſtlineſs.

Mr. Juſt. *Pemberton.* Who read it?

Mary Lane. Osborne I did hear read it.

Mr. *Saun-*

Mr. *Saunders.* Your Brother was not acquainted with *Knox* then?

Mr. Juſt. *Pemberton.* How can they tell that? 'tis impoſſible.

L. C. J. The Nature of the thing is ſuch, that it can be proved no otherwiſe. But it ſeemed to them that they were of no Acquaintance; it is hard to prove when an Acquaintance begins.

Mr. *Saunders.* And further than this we cannot go in ſuch a Caſe; for that thing of the great Sums of Money, certainly it was as little a thing as could be; there was no more in the caſe than a Guinea, and ten Shillings, and three half Crowns, as proved, and he was cheated of them, it ſeems, for they would not do the Work.

Mr. *Scroggs.* 'Tis an improbable thing that he ſhould be ſo poor as to ſell the Handle of his Sword, and yet be engaged in the Management of ſuch a Plot, and not have Money for it.

L. C. J. There is no great ſtore of Money appears to be given to *Lane*, but he was kept upon a mean Maintenance.

Mr. Juſt. *Jones.* But it was not without expectation of a Reward.

Mr. Juſt. *Pemberton.* He tells you the Wages was to be paid when the Work was done.

L. C. J. And when the Roguery was diſcovered, they had no more Money then.

Mr. Juſt. *Pemberton.* When the Buſineſs came to be controverted thus they had no reaſon to give it.

Mr. *Saunders.* Though *Lane* had Maintenance, yet our Client *Knox* was not taken ſuch care of; ſtill there was Proviſion made for him, but none for us, becauſe we were drawn in and did not contrive it.

Mr. Juſt. *Pemberton.* But remember, Mr. *Saunders*, by the ſame Hand there were forty Shillings given at one time.

Mr. *Withins.* Well, my Lord, we have done: We ſay, that we had no part in the Malice of the Contrivance, and therefore ought not to be puniſhed with them.

L. C. J. Well, Mr. *Holt*, what ſay you for *Lane*?

Mr. *Holt.* My Lord, I am aſſign'd of Counſel for the Defendant *Lane.* I have no Witneſſes at all to examine, but only ſhall make ſome little Obſervations upon the Evidence that is given for the King. As for the Indictment it ſelf, though it is not ſeveral Crimes, but one complicated Crime; yet the Evidence that is given is only to one part thereof; and therefore I ſubmit it to your Lordſhip, if the Proof be proportionable to the Charge, and whether the Defendant ought not to be found Not Guilty. There hath been great mention made of the writing Letters, yet it would be hard that the Defendant ſhould be found Guilty of ſuch an Offence, when the Proof does not come up ſo high; that would introduce a ſeverer Puniſhment than the Crime proved would juſtifie.

Mr. Juſt. *Pemberton.* Pray, Mr. *Holt*, don't go away with that; I muſt ſet you right a little there: The Crime that is laid is, To diſcountenance the King's Evidence, and to make them that they ſhould not be believed. The Means are ſeveral, partly by caſting of Crimes upon them, partly by writing Letters; that Crime is another thing, and therefore if they do not find them Guilty of every one of the particular means, yet the Crime muſt be found.

L. C. J. You are in the right thus far, Mr. *Holt*, they have laid the in Indictment, That they endeavouring to diſparage the Credit of *Otes* and *Bedloe*, have, for Money's ſake, and by Promiſes and Contrivances, and writing of Letters, wherein was ſcandalous matter againſt *Otes* and *Bedloe*; they thereby did attempt to diſcredit 'em. Now ſay you, if this matter be not proved, that there was any ſcandalous matter concerning *Otes* and *Bedloe*, then the Contrivance is not proved: But what though all the Facts in the Indictment are not proved, yet if there be enough to prove your Contrivance to Diſcredit them; and if you ſuppoſe the Evidence true that is given, it reſts, I think, plainly upon your Client, and you cannot get off from it: But if there be not ſufficient Proof to maintain the Indictment for the Crime of endeavouring to diſcredit *Otes* and *Bedloe*, unleſs they prove the Letters alſo, you ſay ſomething; but there is the Buſineſs that ſticks on you, they have proved enough without that.

Mr. *Holt.* If the Jury do not find them Not Guilty generally, may they not find them Not Guilty of writing the Letters?

L. C. J. No: For if the other part of the Evidence did not amount to a Proof of a Deſign of Diſparaging their Teſtimony, you had a very ſtrong Objection of it: But if they lay five things, and they prove but one of them upon you; if that one ſerves to the Diſparaging of *Otes* and *Bedloe*, which is the Subſtance of the Indictment, that maintains the Indictment.

Mr. *Holt.* It does ſo, my Lord, but not the Aggravations.

L. C. J. All that you ſay then is in mitigation of a Fine; but if all be true that is proved upon your Client, as I ſee no reaſon to doubt it, you will ſave but little by this Defence.

Mr. *Holt.* My Lord, as to the Matter, it all depends upon the Credit of the Witneſſes, and Credibility of the Circumſtances in themſelves, and one with another. Some of the Evidence is but very ſlight, and ſure were but produced to ſpend time.

L. C. J. Indeed there was a great deal of it to little purpoſe: for ought I ſee, this Trial needed not to have been above an Hour.

Mr. *Holt.* As for his ſaying he ſhould have a 100 *l.* a Year, and the bettering of his Fortune, it was but his Vanity and Extravagance.

L. C. J. Mr. *Holt* does argue as much for his Client as the Caſe will bear.

Mr. *Holt.* They have endeavoured to lay all upon us; now if ſo be we are affected with any ſevere Evidence, I think the ſame Evidence (to requite them) does affect them.

L. C. J. This is a kind of Battle-Royal, where every one hath two Enemies to oppoſe.

Mr. *Holt.* Here is Mr. *Dangerfield*, he comes and in his Evidence tells you, That my Lady *Powis* was ſo long upon her Knees to thank God that her Party was ſo much ſtrengthen'd by the Acceſſion of *Lane*: My Lord, I deſire the Quality of Mr. *Lane* may be taken notice of; a Footman and a young raſh Fellow, one that both for Age and Quality could not be very conſiderable.

L. C. J. But two Witneſſes are better than one, Mr. *Holt*, do you remember that? *Knox* uſed that Expreſſion, If *Lane* do but keep firm, we ſhall be too hard for *Osborne* alone, for two Witneſſes are better than one; but by that he counted *Lane* worth ſomething.

Mr. *Holt.*

Mr. *Holt.* You muſt conſider, what he was to ſwear, they could ſcarce get an Evidence ſo proper for what they would have him ſwear.

L. C. J. Mr. *Williams*, what Anſwer can you give to all the Tranſactions that Mr. *Dangerfield* tells you of about *Knox*? Beſides, take notice of this; you would have this to be a Contrivance by *Lane* and *Osborne*, to be between themſelves, and that your Client muſt be a Stranger to it; and when he comes to know it, he knows it only as a Remorſe of Conſcience that they tell him they have, and deſire him to go with him before a Juſtice of Peace to ſwear it, and he hearing ſomething that might affect his Maſter the Earl of *Danby*, and believing that always true, did encourage that matter only for his Maſter's Service, and thought he did a good Act in it: But your ſubſequent Behaviour ſhews it was a Conſpiracy rather; for, firſt, your ſecret ways of ſending your cunning Notes, *We all club'd together, and you paid two Shillings at the Sugar-loaf, tear this*; which ſhews, and does to my apprehenſion ſignifie, as if he would never own that he ſpent any thing upon them, and that he was bountiful to them. And then the giving of Money to the Man to convey Notes, that they might not betray one another; do not all theſe ſubſequent Actions, eſpecially thoſe *Dangerfield* tells you of, and receiving the Papers after they were enlarged upon, ſpeak it a Conſpiracy? What can you ſay to all this?

Mr. *Williams.* My Lord——

Mr. Juſt. *Pemberton.* Stay a little, and anſwer all together. Do but conſider with your ſelf, thoſe Informations your Client Mr. *Knox* did own he took, and before they were ſworn, and carried them to my Lord *Latimer*'s Lodgings, and he himſelf owns, that he took Lodgings for them, and lay with them, and when the Lords were in purſuit of them.

L. C. J. And then does he ſteal them from place to place, and takes Lodgings for them, and pays for them.

Mr. Juſt. *Jones.* He brings one of them to make Affidavit, and will keep it by him, is ſhy of ſhewing it: afterwards does ſhew it, this makes him a Contriver too, as well as an Executor.

Mr. *Saunders.* If your Lordſhip pleaſe——

Mr. Juſt. *Pemberton.* Conſider too the Papers that were put in too of Caution, that *Knox* and they ſhould not be found in ſeveral Tales; for *Knox* had been examined before they were, what was the meaning of thoſe Inſtructions?

L. C. J. If you have any Witneſſes to wipe your ſelves clean from the matter of receiving the Papers from *Dangerfield*, and taking Lodgings for them when they were under that Accuſation, do.

Mr. *Saunders.* I have a word to anſwer upon the Teſtimony of Mr. *Dangerfield.*

Mr. Juſt. *Pemberton.* Conſider this, that he attempted another Man upon the ſame Account; your Client did tempt *Wiggins* to do the ſame thing to his Maſter.

Mr. *Saunders.* That was in *February* before, and all that he ſaid was, that he would have had out of Mr. *Bedloe*'s Servant, what Company his Maſter kept, and what he did.

L. C. J. You do obſerve right.

Mr. Juſt. *Pemberton.* And to have betray'd his Papers to him.

L. C. J. That does not reach this Indictment indeed; but that thing that he would have tempted him to, was to have diſcovered, and to have a Tranſcript of all the Papers that concern'd my Lord of *Danby*; that he ſhould watch his Company, and know what Lords were with him, that he might make his oppoſition as well as he could, and that he ſhould have what Place he did deſire under my Lord. It does not affect the Caſe of the Indictment, but it ſhews you are a Tempter of Men, and that you are a Cautioner, that you would hire a Man to betray his Maſter's Papers, which is not fair, let the Maſter be who he will.

Mr. Juſt. *Pemberton.* It facilitates the belief of this.

L. C. J. Yes; Ay, ay, it is to make the Jury more apt to credit what the Evidence of this particular Fact is.

Mr. *Saunders.* My Lord, let me offer this Word and I ſubmit: Mr. *Dangerfield* himſelf does ſwear, that *Lane* brought him a Paper containing the ſame matter that he did falſly accuſe Mr. *Otes* of, and he read it over three times to him, and then he ſwore it before Sir *James Butler.* My Lord, I will put my Cauſe upon that Point, Whether Mr. *Dangerfield* did not believe it to be true at that time.

Mr. Juſt. *Jones.* Your Client is the more miſchievous Man, to contrive it ſo, as to make the thing to be believed when it was falſe.

L. C. J. The uſe of the Argument he makes is this; That as Mr. *Dangerfield* might be deceived into a belief that the Information was true, ſo might Mr. *Knox* as well, when he ſaw one ready to ſwear it: But hath *Dangerfield* done thoſe ſubſequent Acts which he hath done in the Confederacy, for which he is now Indicted?

Mr. *Saunders.* He ſwears in his Information, that they came to his Hands from *Lane* and *Oſborne.*

L. C. J. Well Gentlemen, you of the King's Counſel and of the Jury, you need not any ſumming up of the Evidence, I think the thing is evident.

Mr. Juſt. *Pemberton.* Gentlemen, 'tis a very clear Caſe, as clear as the Day; I think you need not go from the Bar, but do as you will.

[*Then the Jury laying their Heads together, agreed without delay, and without moving from the Bar.*]

Cl. of Cr. Gentlemen, are you all agreed of your Verdict?

Omnes. Yes.

Cl. of Cr. Who ſhall ſay for you?

Omnes. Foreman.

Cl. of Cr. How ſay you, Are the Defendants Guilty of the Offence and Miſdemeanour whereof they ſtand Indicted, or not Guilty?

Foreman. Guilty.

[*At which the People gave a great Shout.*]

Mr. Serj. *Maynard.* My Lord, I pray the Verdict may be Recorded.

Mr. Juſt. *Jones.* Let it be ſo. Come, where are theſe two young Fellows? Let us ſee if they can ſhew their Faces now.

[*And they were brought into the middle of the Court.*]

Knox. Will your Lordſhip give me leave to ſpeak one Word for my ſelf?

Mr. Juſt. *Jones.* No, no, there's no ſpeaking now; take them into your Cuſtody, Marſhal.

[*Which was done, and the Court broke up.*]

THE

THE TRYALS OF

Lionel Anderſon, alias *Munſon, William Ruſſel,* alias *Napper, Charles Parris,* alias *Parry, Henry Starkey, James Corker, William Marſhal,* and *Alexander Lumſden.* And the Arraignment of *Joſeph Kemiſh.*

On Saturday *the* 17th *of* January, 1679. *at the* Seſſions-Houſe *in the* Old-Bailey, *by Vertue of his Majeſty's Commiſſion of* Oyer *and* Terminer *and* Goal-delivery *of* Newgate, *for the County of* Middleſex *and City of* London, *the Perſons above-named were Arraigned and Tryed. And after the uſual Proclamation for Attendance was made, the Court proceeded in this manner.*

Cl. of Cr. KEEPER, ſet *David Joſeph Kemiſh* to the Bar.

[*Which was done.*

David Joſeph Kemiſh, Hold up thy Hand.

[*Which he did.*

Thou ſtandeſt Indicted by the Name of David Joſeph Kemiſh, *of the Pariſh of* St. Giles's in the Fields, *in the County of* Middleſex, *Clerk*; *for that thou being born within the Dominions of our Sovereign Lord the King, and being a Prieſt, made and ordained by Authority derived from the See of* Rome, *after the Feaſt of the Nativity of St.* John Baptiſt, *in the Firſt Year of the Reign of Queen* Elizabeth, *and before the Fifteenth of* November, *in the Thirtieth Year of the Reign of our Sovereign Lord the King that now is, the Laws and Statutes of this Kingdom of* England *not regarding, nor the Penalties in the ſame contained any ways fearing, the ſaid* 15*th day of* November, *in the* 30*th Year of the King aforeſaid, at the Pariſh of St.* Giles's in the Fields, *in the County of* Middleſex *aforeſaid, traiterouſly, and as a falſe Traitor of our Sovereign Lord the King, thou waſt and didſt remain and abide againſt the Form of the Statute in this Caſe made and provided, and againſt the Peace of our Sovereign Lord the King, his Crown and Dignity. How ſayeſt thou,* David Joſeph Kemiſh, *Art thou Guilty of this High Treaſon whereof thou ſtandeſt Indicted, or Not Guilty.*

Kemiſh. Not Guilty.

Cl. of Cr. Culprit, How wilt thou be Tried?

Kemiſh. By God and my Countrey.

Cl. of Cr. God ſend thee a good Deliverance.

Kemiſh. I cannot ſpeak, I am not able to ſtand upon my Legs a quarter of an Hour.

L. C. J. What does he ſay? Sir *William Scroggs.*

Capt. *Richardſon.* He ſays he is ſo ill and weak he is not able to ſtand.

L. C. J. Then he muſt have a Stool.

Kemiſh. I am not able to ſpeak in my own Defence, and I have had no Time to prepare my ſelf.

L. C. J. Captain, He ſhall ſpeak ſoftly to you, and you ſhall report it to the Court again.

Capt. *Richardſon.* You may ſpeak ſoftly to me, and I will give an account what you ſay.

L. C. J. How will he be Tryed? Ask him.

Kemiſh. I would deſire my Tryal might be deferr'd till I be in a Condition to anſwer for my ſelf.

L. C. J. What ſay you, Brothers, I think his Requeſt is very reaſonable; he appears not to be in a Condition of taking his Tryal now, and Mr. Attorney is willing he ſhould be ſet aſide till next Seſſions.

Mr. *At. Gen.* 'Tis, I think, very fit, if your Lordſhips pleaſe.

Mr. Juſt. *Dolben.* He muſt Plead firſt. Have you recorded his Plea?

Cl. of Cr. Yes, 'tis recorded.

L. C. J. Why then look you, Capt. *Richardſon,* you muſt take him back; the Court does think fit, and Mr. Attorney does think fit, by reaſon of his extraordinary Infirmity, that it is not ſeaſonable to Try him now. And that the World may not ſay we are grown Barbarous and Inhumane, we are all contented he ſhould be ſet by. Therefore let him be returned back, and in the mean time you muſt take care that he have that reaſonable looking to as is fit for a Man in his Condition to have.

L. C.

L. C. Baron. Acquaint him with what the Court ſays to you.

Capt. *Richardſon.* I will, my Lord.

Mr. *At. Gen.* My Lord, I deſire that the Judges may declare their Opinion in it.

L. C. J. They have done ſo already, we do all conſent to it; therefore take him, and go get him a Bed.

Cl. of Cr. Set *William Ruſſel, alias Napper*, to the Bar. Who was Arraigned upon an Indictment of the ſame Form, only the Day of the Fact differing, which was laid to be the 27*th* of *November*, in 30 *Car.* 2. To which he likewiſe pleaded Not Guilty, and put himſelf upon the Countrey.

Cl. of Cr. Set *Henry Starkey* to the Bar. Whoſe Indictment was the ſame, only the Time differing, which was the 26*th* of *January*, 30 *Car.* 2. And he alſo pleaded, Not Guilty, and put himſelf upon the Countrey.

Cl of Cr. Set *William Marſhal* to the Bar. Who being Arraigned upon a like Indictment, and the Time mentioned to be the 15*th* of *January*, 30 *Car.* 2. And being asked, Whether Guilty, or Not Guilty, anſwered thus:

Marſhal. My Lord, I do find by this Indictment, That I am Arraigned for the ſame Crime for which I was Tryed before: I do humbly deſire to know, Whether, according to Law, I can be tryed twice for the ſame Fact?

L. C. J. No, according to the Law you cannot be tryed twice for the ſame Fact, nor are you; for before you were Indicted for having an Hand in the great Conſpiracy, for being a Conſpirator in the Plot, and now you are Tryed for being a Prieſt, and abiding in *England.*

Marſhal. I was tryed before your Lordſhip as a Traytor.

L. C. J. You were ſo.

Marſhal. Now I am tryed for a Prieſt.

L. C. J. Which is another Treaſon.

Marſhal. If I am tryed for a Prieſt, I conceive I cannot be tryed unleſs as a Criminal Prieſt: And I conceive I cannot be tryed as a Criminal Prieſt, unleſs it be as a Prieſt that hath had ſome Attempt or Deſign againſt the Government.

L. C. J. Nay, you miſtake there: There may be Prieſts that have had no Hand in the Plot; if you were acquitted for the Plot, yet you remain a Prieſt ſtill. Do you ſuppoſe then that every Prieſt had a Hand in the Plot?

Marſhal. My Lord, I humbly conceive, that Prieſthood, as Prieſthood, is no Crime at all.

L. C. J. That is no Crime at all.

Mr. Juſt. *Dolben.* Come, you muſt plead without more ado; and you muſt not uſe any more Speeches.

L. C. J. You muſt be governed in all things by the Direction of the Court.

Marſhal. I do ſubmit to the Direction of this Honourable Bench: But, my Lord, give me leave to ſay, I ſuppoſe I am Indicted upon 27 *Eliz.* Now if it be made appear, that according to that Statute Prieſthood alone is not Treaſon——

Mr. Juſt. *Dolben.* Then you muſt ſpeak it afterwards, but now you muſt plead.

Marſhal. But if it be at leaſt made doubtful, then it becomes matter of Law; and I have juſt occaſion to inſiſt upon it, and pray Counſel.

Mr. Juſt. *Dolben.* You muſt plead to the Indictment firſt.

Marſhal. Why, can I ask Counſel after Plea pleaded?

L. C. J. Yes, you may if matter of Law ariſe, and you may have Counſel as to that matter.

Mr. Juſt. *Atkyns.* The Court is of Counſel for you in ſuch a Caſe.

L. C. Baron. But you muſt plead firſt.

Mr. Juſt. *Pemberton.* You cannot be heard at all till you have pleaded to the Indictment.

L. C. J. Pray take the Directions of the Court.

Marſhal. I have a great deal of reaſon to ſubmit to this Honourable Court that hath been ſo full of Mercy and Clemency, and therefore I do anſwer, That I am Not Guilty.

Cl. of Cr. How wilt thou be Tryed?

Marſhal. By the King and my Countrey.

L. C. J. No, no, that will not do.

Marſhal. By God and my Countrey.

Cl. of Cr. God ſend thee a good deliverance. Set *Alexander Lumſden* to the Bar. Whoſe Indictment being of the ſame Nature, only reciting the Fact to be 11 *Maii* 31 *Car.* 2*di*, he pleaded, Not Guilty, and put himſelf upon the Countrey.

Cl. of Cr. Set *James Corker* to the Bar; who was alſo Arraigned for the ſame Treaſon, done upon the 24 *Octobr.* 30 *Car.* 2*di.* And being asked, Whether Guilty or Not Guilty, anſwered in theſe Words.

Corker. My Lord, I humbly beg the Judgment of the Court; I humbly conceive, my Lord, I have been already tryed and acquitted for this Crime.

L. C. J. Look you, that hath been over-rul'd already in the Caſe of *Marſhal* juſt now, who is in the ſame Condition: You are not now tryed for the ſame Fact for which you were tryed before.

Corker. My Lord, I ſuppoſe there is ſomething particular in my Caſe; I was expreſly Indicted as Clerk, one that received Orders from the See of *Rome.*

Mr. Juſt. *Pemberton.* His Addition was Clerk, that is all.

L. C. J. But you were not charged in that Indictment for this Fact.

Corker. My Lord, I pleaded to that Indictment under that Qualification of Clerk.

L. C. J. So Men do when they ſay in the Indictment, Labourer, plead to it in that Qualification; but if a Man plead by the Name of Gent. the Queſtion is not whether he be a Gent. or no, but whether he be guilty of the Fact he is indicted for: And the Queſtion in your Caſe was not whether you were Clerk or were not Clerk, but whether you had a Hand in the Plot or no.

Mr. Juſt. *Atkyns.* If the Jury had found you a Prieſt at that time, it had been a void Finding, more than they were to enquire of.

Mr. *Belwood.* He was told ſo at that time, he was not tryed for a *Prieſt.*

Mr. Juſt. *Ellis.* After you have pleaded, then you may urge what you have to ſay.

Corker. Then I ſay, I am Not Guilty. And he put himſelf upon the Countrey.

Cl. of Cr. Set *Lionel Anderſon, alias Munſon*, to the Bar. Whoſe Indictment was for being a Prieſt, and abiding here the 28*th Jan.* 30 *Car.* 2. And he pleaded Not Guilty, and put himſelf upon the Countrey.

Cl. of Cr. Set *Charles Parris, alias Parry*, to the Bar. Whoſe Indictment was of the ſame nature, for abiding here 30 *Maii* 31 *Car.* 2. And he alſo pleaded Not Guilty, and put himſelf upon the Countrey.

Cl. of Cr. Set all the Priſoners to the Bar that are to be Try'd. *William Ruſſel, Henry Starkey, William Marſhal, Alexander Lumſden, James Corker, Lionel Anderſon,* and *Charles Parry.*

Capt. *Richardſon.* They are all on.

Ruſſel. My Lord, I have been confin'd, I have not had my Liberty till within theſe two or three days.

L. C. J. What then?

Ruſſel. I have not had my Friends to come to me, to adviſe me upon what Account I was to be Try'd.

Capt. *Richardſon.* He ſays, he wanted his Friends to adviſe for what he was to be Try'd.

L. C. J. Why, he knows he is to be try'd for a Popiſh Prieſt.

Capt. *Richardſon.* Here is one ſays he is ſick.

L. C. J. Who is that?

Capt. *Richardſon.* 'Tis *Anderſon.*

Mr. Juſt. *Pemberton.* Then he muſt have a Chair to ſit down on.

L. C. J. We'll try him firſt that is ſick.

Then the Priſoners were call'd to their Challenges, and the Jury of *Middleſex* appearing upon their Summons, and none of them being excepted againſt, the Twelve that were firſt called and Sworn, were the Gentlemen following:

John Bradſhaw,	Jur'	*Anthony Hall,*
Lawrence Wood,		*Samuel Jewel,*
Matthew Bateman,		*Richard Bealing,*
John Vyner,		*Thomas Hall,*
Francis Mayo,		*Richard Bromfield,*
Martin James,		*Samuel Lynne.*

Then they were number'd, and Proclamation for Information in uſual manner was made.

L. C. J. Come, begin with the ſick Man *Anderſon*; and ſet away the reſt.

Cl. of Cr. Lionel Anderſon, hold up thy Hand. You that are ſworn, look upon the Priſoner and hearken to his Cauſe. He ſtands Indicted by the Name of *Lionel Anderſon, &c.* Upon this Indictment he hath been Arraigned, and thereunto hath pleaded Not Guilty; and for his Tryal hath put himſelf upon God and his Countrey, which Countrey you are. Your Charge is to enquire, whether he be Guilty, *&c.*

Then Roger Belwood, *Eſq; of Counſel for the King in this Cauſe, opened the Indictment.*

Mr. *Belwood.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury; the Priſoner at the Bar, *Lionel Anderſon, alias Munſon,* ſtands Indicted for High Treaſon; and it is alledged in the Indictment, That he being born within the King's Dominions, and made a Prieſt, and having receiv'd Orders by pretended Authority from the See of *Rome,* he did the 28*th* Day of *January* laſt come into the Kingdom of *England,* that is, as 'tis laid, in the Pariſh of St. *Giles in the Fields,* in this County; and there he did abide contrary to the Form of the Statute. And this is laid to be Traiterouſly done. To this he hath pleaded Not Guilty, and we are to prove it upon him by the King's Evidence, whom we are now to call.

Anderſon. My Lord, for my ſtaying in the Kingdom, I had the King's expreſs Command, and an Order from the Council-Board: In the Year 71, they order'd Mr. *Peter Welſh,* and my ſelf, with four or five others, who had in Writing aſſerted his Majeſty's juſt Rights over all his Subjects, whether Proteſtant or Papiſt, againſt thoſe ſo frequently imputed Uſurpations of the Court of *Rome.* After this Plot was diſcovered I came to the King, being afraid of being involved in the general Calamity, and ſaid to him, *Sir, I deſire to know what to do?*

L. C. J. Do, Why?

Anderſon. Good my Lord hear me out. My Lord *Privy Seal* brought me an Order from the Council-board, and ſo 'tis Recorded; and I think Dr. *Otes* will be ſo juſt to me, as to acknowledge that he hath ſeen it, and this all that I have to ſay.

L. C. J. If you have an Order from the Council to protect you, you muſt apply your ſelf elſewhere; our Buſineſs is to try the ſingle Iſſue, whether you have offended againſt the Law.

Anderſon. My Lord, I that am but a poor little *Individuum,* who am born with an innate and implicit Obedience to my King, pray judge whether it lie in my power to diſpute with him and his Counſel, whether they can legally do this or no? Or that I ought to obey the King's Command. My Lord, I am put upon a hard *Dilemma*; if I (notwithſtanding his Majeſty's Command to the contrary) go out of the Kingdom, then the ſevere Imputation upon us is urged againſt me, That I have, with my Religion, renounced my Natural Allegiance: And if I ſtay, then by the Law (as you tell me) I forfeit my Life.

Mr. *Belwood.* This is not a Time for him now to inſiſt on this matter.

L. C. J. Reſerve your ſelf till the King's Counſel have done, and the Evidence given.

Mr. Juſt. *Jones.* Let him ſave his Speech till ſuch time as he comes to anſwer for himſelf.

L. C. J. Give him a Chair if he be not able to ſtand.

Then Sir John Keiling, *one of the King's Learned Counſel in the Law, purſued the Charge thus:*

Sir *J. Keiling.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *Lionel Anderſon,* otherwiſe *Munſon,* the Priſoner at the Bar, ſtands Indicted here, for that, he being a Subject born within the Dominions of the King, hath taken Orders from the See of *Rome,* and hath contrary to the Law come into *England,* and ſtaid here as a Traytor: For this Treaſon he is indicted, and the Indictment is grounded upon the Statute of the 27*th Eliz.* a Statute made almoſt an hundred Years ſince, and it was upon great occaſion: For it tells you plainly, That theſe Prieſts that had taken Orders from the See of *Rome,* were not only buſie in ſeducing and perverting the King's Subjects to the *Romiſh* Superſtition; but they had made many Attempts upon the Government, raiſing Sedition and Rebellion, and levying War againſt their Sovereign; which is evident from the Preamble of the Statute it ſelf. And it is true, the Lenity and Mildneſs of our Princes hath in a great meaſure let this Statute lie aſleep; they have not been willing to execute the Severity of the Law upon all occaſions at all times: But the occaſion being renewed at this time, for the remedying of which this Statute was principally made (that is to ſay, raiſing Seditions, and Commotions, and Rebellion againſt the King, the particulars of which I ſhall not inlarge upon, it hath been notorious in this place) that

that is the Reaſon of the preſent Proſecution of theſe Perſons. Who have not been contented to enjoy the Indulgence of our Princes, (which hath been extended to them, notwithſtanding all their former numerous Affronts that they have given) but have rais'd new Commotions, and made Attempts upon the Perſon of our King, and of our Government, and that is the Occaſion upon which theſe Perſons come to be try'd. It is not purely (tho' that is a main Ingredient) that they are try'd *quatenus* Prieſts, but as Ordain'd by the *See* of *Rome*, and coming into *England* and abiding here. For a Prieſt, if he be Ordain'd by the See of *Rome*, if he comes not here, can do no hurt; but it is his coming and abiding here, that makes him the Subject of this Puniſhment, and hath occaſion'd this Man's Proſecution. Now my Lord, we ſhall prove that this *Anderſon* alias *Munſon* hath taken Orders from the See of *Rome*, whoſe Authority conſtituted him a Prieſt, and this we ſhall prove by ſeveral Inſtances and Steps; and then we doubt not but you will take that Care for the Preſervation of the Government, and for the Peace and Quiet of the Nation, which becomes you, and give a Verdict according as your Evidence ſhall lead you.

Then Sir George Strode, *the King's Serjeant at Law, manag'd the Evidence.*

Mr. Serj. *Strode*. My Lord, we ſhall call our Evidence. The Fact is this, That this Perſon being a Subject of the King's, and having received Orders from the *See* of *Rome*, that is, being a Romiſh Prieſt, did come and abide here contrary to the Statute; not that his Prieſthood is the Crime, no, 'tis his being a Subject of the King's, and owning an Authority from Abroad, and thereby denying the Authority of his own Sovereign. To prove this, we ſhall call Dr. *Otes*, Mr. *Bedloe*, Mr. *Dangerfield*, and Mr. *Prance*. [*Who were all ſworn.*

Set up Mr. *Dangerfield* firſt. Mr. *Dangerfield*, tell my Lord and the Jury what you know of the Priſoner at the Bar, Mr. *Anderſon*.

Mr. *Dangerfield*. What I do know againſt him?

L. C. J. Yes, for being a Prieſt.

Mr. *Dangerfield*. What, that particularly?

L. C. J. Yes, that particularly.

Mr. *Dangerfield*. My Lord, about the latter end of *May*, or beginning of *June*, when I was a Priſoner for Debt in the *King's Bench*, this Perſon took occaſion to ſpeak privately to me, and deſired me to go into his Room: He told me he had receiv'd a Letter from my Lady *Powis*, and that Letter was burnt. But the next Letter that came from my Lady *Powis*, he would ſhew it me. And he did ſo; and the Contents of the Letter was, as near as I can remember, juſt thus: Sir, You muſt deſire *Willoughby* to ſcour his Kettle; which was, to confeſs and receive the Sacrament, to be true to the Cauſe. A little after, that was Saturday, and I think it was the next Day, being Sunday, I went into Mr. *Anderſon's*, *alias Munſon's* Chamber, and there I went to Confeſſion, and received Abſolution. And he ſent me to another Perſon to receive the Sacrament, who was ſaying Maſs at that time. And when I had receiv'd the Sacrament and returned to him again, he did tell me, That he, as a Prieſt, did give me free Toleration to go and be drunk, and drink with one *Stroude*; and I ask'd him, being ſomething ſcrupulous in the matter, Whether I might lawfully do it, having but juſt received the Sacrament? he told me, Yes, he gave me Authority ſo to do, being for the good of the Cauſe.

L. C. J. Were you a *Papiſt* then?

Mr. *Dangerfield*. Yes, I was.

Mr. Juſt. *Atkyns*. You went to Confeſſion to him, and received Abſolution?

Mr. *Belwood*. What was the good of the Cauſe that he meant?

Mr. Serj. *Strode*. If you pleaſe, give an Account of the whole Thing.

Mr. *Dangerfield*. That was, as I was employ'd in a general Affair for the *Catholicks*: For I was to uſe my Endeavour to bring over *Stroude* to be a Witneſs for the Lords in the *Tower*, concerning the Plot, and to invalidate Mr. *Bedloe's* Teſtimony.

Anderſon. Here I am upon my Life and Death; all the World knows me, that hath heard of my Name——

Mr. Juſt. *Pemberton*. Pray make no Speeches, if you will ask any Queſtions you may.

Anderſon. No, I won't. Pray do not interrupt me; I perceive you have a Pique againſt my Life, and it may be I am as ready to give it, as you are to deſire it; I wiſh that all the Puniſhments of Hell and Damnation may come upon me, if ever I open'd my mouth to this Rogue for one Farthing, or about any ſuch Buſineſs in the World.

L. C. J. You muſt not call him Rogue in open Court. Let us have that Reſpect ſhewn us that is fitting, and ſo ſhall you have, but this Language we muſt not ſuffer.

Anderſon. In the firſt place, I will bring all the Priſoners in the *King's Bench* Priſon to teſtifie, That I deſired to be removed to *Newgate*, for here was the greateſt Rogue come in that was in *England*.

Mr. Juſt. *Pemberton*. This muſt not be ſuffered.

L. C. J. If you will ask him any Queſtions, you may.

Anderſon. Well, come Mr. *Dangerfield*, in the firſt place, Who ever ſaw you with me? 'Tis impoſſible but ſome body muſt ſee you with me, if we were together, as you ſay.

Mr. *Dangerfield*. My Lord, there is one *Hill*, that is now a Priſoner in the *King's Bench*, that ſaw me ſeveral times go into his Chamber.

L. C. J. Was there any body by when you confeſs'd your ſelf to him?

Mr. Juſt *Dolben*. Confeſſions uſe to be in ſecret.

Mr. *Dangerfield*. No, my Lord, he was not in the Chamber, neither was it reaſonable he ſhould, but he ſaw me go in often.

Anderſon. Surely, Mr. *Dangerfield*, you and I could not be ſo well acquainted, but ſome body or other muſt take notice, that we ſpoke together ſometimes. Now if you can produce any one body that will teſtifie it, I will be bound to be hang'd, and ſay no more.

Mr. Juſt. *Atkyns*. He is not bound to bring Witneſſes to this purpoſe. He ſwears the Fact charged upon you poſitively.

Mr. *Dangerfield*. This *Hill*, my Lord, that is in the *King's Bench*, hath made Oath of it before Mr. Juſtice *Foſter*.

Anderſon. But my Lord, this one thing I have to ſay againſt this Rogue; there is a Statute, made ſince his Majeſty's happy Reſtauration,

which judges what ſhall be Treaſon during his Majeſty's Life: And after enumerating the Crimes, and directing that the Offender *ſhall be convicted by the Oaths of two Lawful*, adds, *and Credible Witneſſes*: As if the Prudence of our Legiſlators, which brings good out of evil, and meaſures the Subject's future Safety, by paſt Practices, judges that Clauſe neceſſary, and credible.

L. C. J. Pray ſpeak out, Sir, for I cannot hear you.

Anderſon. My Lord, I underſtand the Meaning applicable to me thus, That ſince the Statute does uſe the word (Credible) as well as Legal, it does judge that both would be very neceſſary. Now that he is not a credible Witneſs I can prove——

L. C. J. Why is he not credible? Certainly if he be legal he is credible.

Anderſon. No, my Lord, that does not follow. Firſt the——

Mr. *Recorder.* 'Tis not his time to make this ſort of Defence.

Mr. Juſt. *Dolben.* He ſhould have done it before the Witneſs was ſworn, if he would except againſt his Teſtimony.

L. C. J. But why is he not a good Witneſs, pray?

Anderſon. My Lord, a Man pilloried twice, that hath broke Priſon once, and committed other heinous Offences——

L. C. J. Where is the Record of any of this?

Anderſon. My Lord, I'll tell you how I prove it. That worthy Gentleman, Colonel *Manſel*, whom this Villain would have involved in——

L. C. J. You muſt not do thus, abuſe Perſons with Words, without Proof.

Anderſon. What, to prove it is day?

Mr. Juſt. *Pemberton.* He muſt not be ſuffer'd ſo to do.

Anderſon. Why, here is Captain *Richardſon*, (*taking him at the ſame time by the Shoulders*) knows what I ſay to be true: Come ſpeak, you have been familiarly acquainted with that Rogue, (*pointing at* Dangerfield.) [*Captain* Richardſon *laughing, I muſt not witneſs.*] My Lord, I will do thus no more, indulge a little to my Innocency and Infirmity.

Mr. Juſt. *Pemberton.* You don't ſeem to have ſo much Infirmity upon you.

Anderſon. My Lord, I will produce that worthy Gentleman Col. *Manſel*, whoſe innocent Blood was deſign'd to be ſhed by that Villain; who ſtood qualified then (as he doth now) with that magnificent Title of the King's Evidence; but as ſoon as Colonel *Manſel* urged, that he was pilloried twice, *&c.* our worſhipful King's Evidence was clap'd up, and Col. *Manſel* left at liberty.

L. C. J. Have you that Record here?

Anderſon. I have not.

Sir *John Keiling.* We pray we may go on then.

Mr. Serj. *Strode.* Set up Dr. *Otes.* Dr. *Otes* will you tell what you know of this Matter?

Dr. *Otes.* My Lord, he is a Prieſt. I can in ſincerity ſay it; I have heard him ſay Maſs my ſelf.

L. C. J. Where?

Anderſon. 'Tis very true, I did it; but, my Lord, I will ſhew you, Maſs is no Proof of a a Prieſt: For, 1. The Statute makes a Difference between ſaying Maſs, and being a Prieſt; in puniſhing Prieſts with Death; but ſaying of Maſs, with a pecuniary Mulct of 200 Marks, and a Year's Impriſonment.

Dr. *Otes.* He does execute the Office of a Prieſt; for I have been at Confeſſion with him as a Prieſt, and have ſeen him conſecrate the Sacrament, and I have ſeen his Letters of Orders as a Prieſt.

L. C. J. Did he wear the Habit of a Prieſt?

Dr. *Otes.* Yes, at Maſs.

Mr. *Belwood.* Pray, Sir, are you ſure you ſaw his Orders as a Prieſt?

Dr. *Otes.* Yes, I did.

L. C. J. Of what Order is he?

Dr. *Otes.* A *Dominican* Fryar he is.

L. C. J. What can you ſay to that?

Anderſon. I can ſay enough; but what can I ſay againſt the King's Evidence? Your Lordſhip ſees this makes a very fine Jingle, but there is no Proof of it.

L. C. J. We can go no further than the Evidence. He ſays, You are a *Dominican* Fryar: That he heard you ſay Maſs: That he ſaw you conſecrate the Sacrament. And I am ſure you allow none but a Prieſt to do that.

Anderſon. I underſtand by the Laws of *England*, that I am try'd upon a Statute which makes Prieſthood a Crime. Now I will ask Mr. *Otes* a Queſtion: Mr. *Otes*, Can you prove, that I received Orders from the See of *Rome*? You are to prove by this Statute three Things againſt me. I am tryed upon a Penal Statute, which ought to be conſtrued moſt in Favour of the Priſoner.

Mr. Juſt. *Pemberton.* Ask him any Queſtions, if you will, but this is not your time for arguing.

L. C. J. Look you, we muſt do with you as we have done with others, and will do with the reſt. If you mean that this Statute ſhould never have any Effect, that is, that the Prieſts ſhall not be convicted as ſuch, unleſs we can produce Witneſſes that ſaw them take Orders, then you have avoided all the Statute; but if ſo be it be plainly proved, that you have done the Acts of a Prieſt, thoſe that none are allow'd of to do, or undertake to do, but a Prieſt, is not this a Satisfaction, and a plain one too, to your ſelf and all the World, that this Iſſue, whether you are a Prieſt, or not a Prieſt, is well proved in the Affirmative?

Dr. *Otes.* My Lord, I ſaw his Letters of Orders.

Anderſon. My Lord Chief Juſtice, I would ſpeak a little to what you ſay.

Mr. Juſt. *Pemberton.* Look you, Sir, you muſt not have ſuch Liberty as this granted to you. You may, if you will, ask Queſtions, but it is not your time to diſpute.

Mr. Juſt. *Jones.* You muſt not invert the Order of Tryals. When a Witneſs is call'd, he muſt give his Evidence. If you will ask him any Queſtions, you may do it. But if you will obſerve any thing, you have time to do it when the King's Witneſſes are all heard.

Mr. Juſt. *Atkyns.* Dr. *Otes*, the Priſoner did not underſtand ſure what you ſaid. Did not he confeſs to you he had Orders from *Rome*?

Dr. *Otes.* Yes, he did confeſs ſo.

L. C. J. You confeſſed it your ſelf.

Anderſon. My Lord, how comes it to paſs, that I did not come here in a Yellow Coat, and was not arraigned for a Fool, and not for a Traytor? If I am a Prieſt, that I ſhould tell him I was ſuch an one.

L. C. J.

L. C. J. Nay, I can't tell, becauſe you did not put it on. If you would ask him any Queſtions, do.

Anderſon. Yes, Whether you do know me to be an *Engliſhman?* And whether you ſaw me take Orders from the See of *Rome?*

Dr. *Otes.* You ſaid you were an *Engliſhman*, and a Gentleman, and the Son of an *Engliſh* Gentleman.

L. C. J. Do you deny you are an *Engliſhman?*

Anderſon. I am not; nor no Man is to be try'd upon a Preſumption; 'tis but a Conceit in Law, and penal Laws are to be taken ſtrictly, and in favour of the Priſoner.

L. C. J. Methinks you ſpeak very like an *Engliſhman.*

Mr. *Belwood.* My Lord, we call now Mr. *Bedloe.* You know the Queſtion, what it is Sir, concerning the Priſoner's being a Prieſt.

Mr. *Bedloe.* He is a Prieſt, and an *Engliſhman*, if his Mother was honeſt, and he honeſtly born; for he is Mr. *Anderſon*'s Son of *Oxfordſhire*, a Gentleman of 2 or 300 *l.* a Year; I know him and his Father very well.

Anderſon. My Lord, could I but apprehend that I lay under ſo great a Guilt, as to have been acquainted with ſo great a Rogue as this Fellow is, I would have been my own Executioner, and not have expected my Sentence at this Bar.

L. C. J. Do you know him well?

Mr. *Bedloe.* Very well, both him and his Father; his Father is an *Oxfordſhire* Gentleman.

Anderſon. Now I think I ſhall prove the Rogue perjur'd: Is my Lord Chief Baron in the Court?

Court. Yes, he is.

Anderſon. Why then my Father has the Honour to be well known to his Lordſhip, who knows this to be falſe.

L. C. Baron. No, no, Mr. *Bedloe*, he is a Gentleman's Son of Quality in *Lincolnſhire.*

L. C. J. You are miſtaken, you are miſtaken, his Father is a *Lincolnſhire* Gentleman.

Anderſon. And yet this Rogue is upon his Oath; but indeed all his Life is full of ſuch miſtakes.

Mr. *Bedloe.* I don't know, my Lord Privy-Seal's Nephew told me ſo.

L. C. J. But what ſay you to him, as to his being a Prieſt?

Mr. *Bedloe.* I have heard him ſay Maſs.

L. C. J. Did you ever receive the Sacrament from him?

Mr. *Bedloe.* Never. But I have ſeen him adminiſter the Sacrament, and he was in a Prieſt's Habit.

L. C. J. Where?

Mr. *Bedloe.* I think it was at the *Venetian* Reſident's, I am ſure it was at ſome of the Ambaſſador's Houſes.

Anderſon. This matter is ſo unlikely, I know not what to ſay to it.

Mr. Juſt. *Pemberton.* Will you ask him any Queſtions?

Anderſon. Upon my Salvation I never ſaw him before.

Mr. Juſt. *Dolben.* It is a ſtrange thing, that you ſhould take upon you to ſay upon your Salvation you never ſaw him: How many might come into a Room, and you not ſee them while you are at Maſs?

L. C. J. He might ſee you tho' you did not ſee him: He might come in, and you not ſee him.

Mr. Juſt. *Atkyns.* Is that any Argument, or any thing to the purpoſe, or does that contradict the Evidence? Does the Miniſter, or ought he to know all his Congregation whilſt he is in preaching?

Anderſon. I never ſaw him, I ſay. My Lord, I'll give you but one Argument, which is call'd, *Argumentum congruentiæ.*

Mr. Juſt. *Jones.* Will you ask him any Queſtions?

Anderſon. To what purpoſe will it be for me to ask him?

Mr. *Bedloe.* When he was firſt taken I was not ſtirring; but while I was making ready they told me, There was one ſuſpected to be a Prieſt. I heard him ſpeak in the next Room, and I knew his Voice, and ſaid, That is Mr. *Anderſon.* I preſently knew his Tongue before I ſaw him.

L. C. J. You knew him very well then?

Mr. *Bedloe.* I never had any great Converſe with the Man: When he was taken they asked me, If I knew any thing of this Man about the Plot? I told them, No; but he was in Orders from the Church of *Rome*, for I heard him ſay Maſs at ſuch a place. He told me, ſaid he, I have been in Orders, but I revok'd them and turned Proteſtant.

Mr. *Belwood.* Set up Mr. *Prance.* Pray Sir tell what you know.

Mr. *Prance.* My Lord, I have heard him ſay Maſs ſeveral times at *Wild-houſe*; and he hath given the Sacrament there, and I have ſeen him take Confeſſions——

L. C. J. How often?

Mr. *Prance.* Several times.

L. C. J. Then you know him very well?

Mr. *Prance.* Yes, very well.

Anderſon. I never ſaw him in my Life.

L. C. J. But he hath ſeen you.

Anderſon. My Lord Chief Juſtice, I will bring Witneſſes to prove, That I did never ſay Maſs at *Wild-houſe*, nor went to the Chapel: For ſome (forſooth) would needs have me to have been Excommunicated for writing for the King's Temporal Juriſdiction over all his Subjects (independant of the Pope) as appears by a Letter of the Biſhop of *London* on my behalf to Sir *Clement Armiger.*

L. C. J. How long have you known him?

Mr. *Prance.* Seven Years.

L. C. J. How often have you ſeen him ſay Maſs?

Mr. *Prance.* A dozen times.

Anderſon. It may ſeem ſtrange that I ſhould have the impudence to deny what this worthy Gentleman ſays. Mr. *Prance*, dare you ſay you know me?

L. C. J. Why, were you never there?

Mr. Juſt. *Jones.* Well, well, will you ask him any Queſtions?

Anderſon. Who did I give the Sacrament to?

Mr. *Prance.* A whole Rail full hath been at the Sacrament at a time; ſeveral People I have ſeen receive it from him.

L. C. J. Did he deliver the Sacrament to you?

Mr. *Prance.* No, he did not, I commonly received at *Somerſet-houſe.*

Mr. Serj. *Strode.* We have done, my Lord.

Mr. Juſt. *Jones.* The King's Counſel have done with their Evidence, and now you may ſay what you will.

Anderſon. My Lord Chief Juſtice, may I ſpeak now?

L. C. J.

L. C. J. Yes, you may.

Anderſon. My Lord, all the World knows me, and I am known to moſt of the dignified Clergy in *England:* My Lord Biſhop of *London*, and Dr. *Lloyd*, and the Biſhop of *Durham* ſent to me to tell me, that if they knew of my Tryal they would be here. My Lord, I have lain under an ill Cenſure for ſcribbling and writing againſt the Temporal Power of the Church of *Rome*. I never ſaid Maſs in any Popiſh Church, I am confident, theſe Ten Years; that I have ſaid Maſs, I won't deny. I would not tell a Lie to ſave my own Life; nay, nor would I tell a Lie to take away the Life of the greateſt Villain upon Earth; no, not that Rogue (*pointing to* Dangerfield) But, my Lord, I proteſt there is not one Word true that hath been ſworn againſt me, but what Dr. *Otes* hath ſaid concerning my ſaying Maſs. Oh! my Lord, I would not deny it if I were to be hang'd preſently; and is not that a great Evidence of my Innocence and Sincerity? But this does not prove that I am guilty of what I am accuſed for; for I am indicted upon a Penal Statute, and three things muſt be proved ſtrictly to bring me within that Law: Firſt, that I am an *Engliſhman*———

L. C. J. 'Tis proved you are an *Oxfordſhire* Man.

Anderſon. No, my Father is *Lincolnſhire*, and my Lord Chief Baron knows him.

L. C Baron. I do know a Gentleman of that Name there.

Mr. *Bedloe.* I was told he was *Oxfordſhire.*

Mr. Juſt. *Dolben.* He ſpeaks himſelf to be an *Engliſhman.* All the World knows it by your Speech.

Anderſon. I know my Father is ſo.

L. C. J. Why do you deny it your ſelf?

Anderſon. 'Tis one thing to deny it, and another thing to have it proved ſo: I am not to prove it, they are.

L. C. J. He ſays you are ſo.

Anderſon. He talks like a Parrot: Theſe things are to be proved ſtrictly; no Man's Life is to be taken away by preſumption; which is but a Conceit in Law, and ought not to overthrow that Maxim of Law, That Penal Laws ought to be taken moſt ſtrictly in favour of the Priſoner: And I ought to be proved, *ad literam*, within the Law; and that according to the Statute made ſince his Majeſty's happy Reſtoration, by two lawful Witneſſes; and not only by two lawful, but by two credible Witneſſes too. I ſuppoſe the Gentlemen of the Jury being apprized of theſe my Exceptions to theſe Witneſſes, notwithſtanding give Credit to them, whom perhaps they would not truſt for 6*d.* in their Shops, and make themſelves their Compurgators; and, as in waging Law, do take it upon their Conſcience, that what theſe Rogues ſay is true.

L. C. J. So they do.

Mr. Juſt. *Dolben.* If theſe things are not well proved, nothing will be proved.

Mr. Juſt. *Atkyns.* Have you any Witneſſes that you would call?

Mr. Juſt. *Pemberton.* If you will call any, you may.

Anderſon. How ſhall I call them when I did not know of my Tryal.

Mr. *Recorder.* If you will ſend for any Witneſſes the Court will ſtay, if they be to any thing material.

Anderſon. My Lord, I have againſt this Gentleman Mr. *Dangerfield* almoſt all the Priſoners of the *King's-Bench* for Witneſſes.

L. C. J. Call them and name them.

Anderſon. Mr. *Adderly*, Mr. *Puller*, who can ſay that I never drunk a pot of Ale with this Man while he was there.

L. C. J. Who would you ſend for?

Anderſon. Thoſe Perſons, to prove that I had a Grudge and Prejudice againſt this Man, and that I deſired to be removed to *Newgate* for that very reaſon.

Mr. Juſt. *Dolben.* But the Queſtion is, whether you be a Prieſt, or no? And you can't ſend for any one that knows you but will ſay, That he hath taken you for a Prieſt all along.

Anderſon. But ſtill 'tis but a Preſumption, not a Proof.

Mr. Juſt. *Dolben.* The Jury is to be judge of that, how far that goes.

L. C. J. What do you expect for Proof? Do you imagine there ſhould be no Proof to convict you upon that Statute, unleſs we produce ſome Witneſſes that actually ſaw you take Orders?

Anderſon. Yes, I ſuppoſe ſo, my Lord, becauſe Penal Statutes are to be taken ſtrictly.

L. C. J. Look you then, How vain would you make a Statute of *England*, the Laws of your Countrey? How idle a thing were it to expect any poſſibility of Proof, ſuch as to Convict a Prieſt, if this be the Interpretation of the Law, That no man ſhould be convicted by a Jury upon this Statute, but one againſt whom two Witneſſes ſhould ſwear they ſaw him take Orders? Where can we find ſuch a Witneſs.

Anderſon. Admit that this Law were thus evaded, yet there would be no inconvenience, and I will prove it to your Lordſhip by Authority: It was the Opinion of all the Judges, delivered about nine Years ago to the King and Council, upon a Queſtion about Laws againſt the *Romiſh* Recuſants; they all agreed, That this Law was only made *in terrorem.*

Mr. Juſt. *Pemberton.* Look you Sir, you muſt not talk ſo, it is not to be permitted.

Mr. Juſt. *Dolben.* Will you go to Arraign the Judges here?

L. C. J. No, no; the King's Counſel did very honeſtly and prudently upon that matter: For ſaid Sir *John Keiling*, 'Tis very true, our Kings have not ſince this Law was made, put the Statute in Execution unto Rigor, till you your ſelves occaſioned it: but ſtill the Law was a good Law, and abſolutely neceſſary at its making, as neceſſary as the Preſervation of the Queen's Life, and the Quiet of her Dominions; and now 'tis become as neceſſary for the Preſervation of the Proteſtant Religion, which all your Arts are employ'd to undermine; and more neceſſary again, for the Preſervation of our King's Life, againſt which your Contrivances are ſo bent.

Mr. Juſt. *Pemberton.* Do you think that you ſhall be heard here to diſpute againſt the Law, and ſay it was no matter for the Law, it is a void Law; and ſcandalize the Judges, that they gave it for their Opinion, that it was only *in terrorem?*

Anderſon. No, I diſpute for the Law.

Mr. Juſt. *Pemberton.* You muſt employ your time otherwiſe if you intend to be heard.

Anderſon. Then this is that I require; I deſire theſe things may be proved: Firſt, That I am an

an *Engliſhman*, and then I took Orders from *Rome*, and then that I abode here contrary to the Statute, which things in this penal Statute muſt be proved.

L. C. J. You have upon the matter prov'd the firſt your ſelf in your Appeal to my Lord Chief Baron, that he knew your Father, who is a *Lincolnſhire* Man.

Anderſon. I might be bred and born beyond Sea, tho' my Father was ſo.

L. C. J. If you will give no Proof to the contray, a little Proof will ſerve the Jury's Turn, hearing you ſpeak, and knowing your Father was a *Lincolnſhire* Gentleman.

Anderſon. No Negative can be ſworn, they muſt prove the Affirmative.

L. C. J. That will turn the Proof upon you to the contrary.

Mr. Juſt. *Atkyns.* A reaſonable Proof againſt you, with ſuch Probability, will put it upon you to diſprove it.

Mr. Juſt. *Pemberton.* Look you Mr. *Anderſon*, if you have any Witneſſes to call for, or ſend for, the Court will give you Leave to ſtand by a little and ſend for them; but if you continue to argue in this manner, the Court will give their Directions to the Jury.

L. C. J. But Mr. *Anderſon*, the Court will do you all the Juſtice that can be expected. If you have any material Witneſſes to be ſent for, the Court will have Patience till they come; but then you muſt be ſure they are material Witneſſes, for we will not go to loſe time upon a bare Surmiſe. If it be only to prove this Negative, that Mr. *Dangerfield* was never in your Company in the *Kings-Bench*, it will ſignify nothing, for there are three Witneſſes without him.

Mr. Juſt. *Pemberton.* Have you any Witneſſes to prove that you were born beyond Sea, or any thing that is material, we will ſtay for them.

Mr. Juſt. *Ellis.* There is nothing now in queſtion, but whether you be an *Engliſhman* and a Prieſt; and if you can prove that you are not ſo, you ſay well. But I think you deny not now but that you are a Prieſt, only you would have us prove that you are an *Engliſhman*. Your Speech betrays you, and there is ſo much Evidence againſt you, that I have not heard in any Caſe as I know of. And all your Witneſſes will be to little purpoſe.

Anderſon. Only this I deſire to obſerve, That I have been a Man always countenanced by the beſt of Kings, and his Privy Council; and if the Parliament had not been diſſolved, I had been protected by the Parliament: Now I ſay, if your Lordſhips think me worthy of any Conſideration (as I have been a Man that have given ſeveral Teſtimonies of my Loyalty, and Obedience to the Government) I deſire your Lordſhips would pleaſe to ſtay till you know the King's Pleaſure.

L. C. J. You know where you muſt apply your ſelf for that, we are barely upon our Oaths, and ſo is the Jury too, to try the Fact, whether you be a Prieſt; and this I will tell you, and I muſt ſay to you, I dare appeal to your own Conſcience, whether this Iſſue, your being a Romiſh Prieſt, is not as plainly and evidently prov'd, to the Satisfaction of all Mankind, as any thing can be?

Anderſon. But 'tis all by Preſumption ſtill.

L. C. J. Well, Gentlemen of the Jury, the Matter that he inſiſts upon, are two things; Firſt, ſays he, you have not prov'd me to be an Engliſhman, and yet at the ſame time he appeals to ſuch as knew his Father to be an Engliſh Gentleman; and his Language, his Tongue betrays him. 'Tis true, ſome kind of Evidence is to be given, that he is an Engliſhman, he himſelf tells you, that he is born of *Engliſh* Parents; but 'tis a foreign Matter, that he ſhould be born beyond Sea. And if it were ſo really, then it comes on his ſide, if he can produce any Witneſs he ſays ſomething, otherwiſe we leave it to you, whether you are not ſatisfied in your Conſciences, by hearing him ſpeak, and underſtanding who his Father was, that he is an *Engliſhman*. The next thing is for his being a Prieſt: I do not know, nor can there be expected a plainer Proof than this that hath been given, becauſe he doth thoſe Acts which none but a Prieſt amongſt them does; he ſays Maſs, he conſecrates the Sacrament, he takes Confeſſion, he gives Abſolution, and all this proved by four Witneſſes.

Anderſon. That the Clerk does at Maſs, he gives Abſolution.

L. C. J. Does, or can any but a Prieſt Abſolve?

Dr. *Otes.* My Lord, the Clerk, he that ſerves at Maſs at that time, gives *pro forma* Abſolution to the Prieſt, without which, the Prieſt cannot approach to the Altar, after he hath made a general Confeſſion for the whole Congregation, the Clerk abſolves the Prieſt, that he may abſolve the Congregation.

L. C. J. Well, the Fact is plain upon you, we muſt never expect to convict a Prieſt upon this Statute, if ſuch Proof is not ſufficient.

Mr. Juſt. *Dolben.* He does acknowledge that Dr. *Otes* hath heard him ſay Maſs.

L. C. J. Go on to the next.

Mr. *Belwood.* The next we will try, ſhall be *James Corker*, with whom the Jury was charged as with the other.

Mr. *Belwood.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury; *James Corker*, the Priſoner at the Bar, ſtands Indicted for High Treaſon, for that being born within the King's Dominions, and made a Prieſt by Authority from the See of *Rome*, did traiterouſly come and abide in *England*, contrary to the Law. To this he hath pleaded Not Guilty.

L. C. J. Well, call your Witneſſes.

Mr. Serj. *Strode.* Dr. *Otes*, Mr. *Bedloe*, and Mr. *Prance*, (*Who were all ſworn.*) Dr. *Otes*, pray tell my Lord, and theſe Gentlemen, what you know of this Mr. *Corker*'s being a Prieſt.

Dr. *Otes.* My Lord, he hath ſaid Maſs at *Somerſet-Houſe*, and before the Proclamation and Declaration in 1674. made againſt the Catholicks, he was one of the Queen's Prieſts, he is a *Benedictine* Monk, and he hath ſaid Maſs at *Somerſet-Houſe*; and I have heard him ſay Maſs at the *Savoy*.

L. C. J. In a Prieſt's Habit?

Dr. *Otes.* Yes, I have ſeen him in a Monk's Habit.

Corker. When?

L. C. J. Have you ever ſeen him give the Sacrament?

Dr. *Otes.* Yes, I received the Sacrament from him my ſelf.

L. C. J. Where?

Dr. *Otes.* In the *Savoy*.

L. C. J. Did he Conſecrate the Sacrament?

Dr. *Otes.* Not that that I received, I cannot ſay whether he did or no.

L. C. J. Do any Adminiſter the Sacrament but Prieſts

Dr.

Dr. *Otes.* They are in Orders firſt. And 'tis againſt the Laws of the Church for any but Prieſts to do it.

L. C. J. None uſe to do it but Prieſts, do they?

Dr. *Otes.* I can't tell; but he that I took it from, I always took to be a Prieſt: Beſides, I ſaw his Patent to be Biſhop of *London*; and they don't uſe to make them Biſhops before they be Prieſts.

L. C. J. Did he ſhew it you?

Dr. *Otes.* I ſaw it.

Mr. Juſt. *Atkyns.* From whom was that Patent?

Dr. *Otes.* It was from the See of *Rome.*

Mr. Juſt. *Atkyns.* Under what Seal was it?

Dr. *Otes.* I can't tell that; but I remember that I ſaw the Patent.

L. C. J. Well, will you ask him any thing?

Corker. When was it that you heard me ſay Maſs?

Dr. *Otes.* The firſt time that I heard him ſay Maſs is near upon three Years ago; and then I heard him ſay Maſs about the laſt Winter was two Years.

L. C. J. How often have you heard him ſay Maſs?

Dr. *Otes.* Several times; a dozen times I believe.

Corker. Was there any body with you when you heard me ſay Maſs?

Dr. *Otes.* I believe there was an whole Church full at *Somerſet-houſe.*

Corker. Can you nominate any in particular?

Mr. Juſt. *Atkyns.* How can he do that? He ſays there was an whole Church full.

Mr. Juſt. *Pemberton.* Will you ask him any more Queſtions?

Corker. No.

Mr. Serj. *Strode.* Then ſet up Mr. *Bedloe.* Pray Sir, will you tell my Lord and the Jury, what you know of Mr. *Corker*'s being a Prieſt.

Mr. *Bedloe.* I have ſeen him wear the Habit of a *Benedictine Monk*, before the ſuppreſſing of the Convent in the *Savoy*; and I have ſeen him confeſſing ſeveral People in *Somerſet-houſe.*

L. C. J. And gave them Abſolution?

Mr. *Bedloe.* Yes.

L. C. J. Do they uſe to let them ſee when they confeſs?

Mr. *Bedloe.* They confeſs in publick, but they ſpeak ſo ſoftly we can't hear; but the whole Chapel ſometimes may be full of People Confeſſing.

L. C. J. When was this?

Mr. *Bedloe.* About four or five Years ſince, when Father *Lathum* was there.

L. C. J. Did you ever hear him ſay Maſs at Father *Lathum*'s?

Mr. *Bedloe.* No, I never ſaw him ſay Maſs, but only confeſs.

L. C. J. Did you never ſee him deliver the Sacrament?

Mr. *Bedloe.* No, my Lord.

Corker. When you ſaw me in my Habit, was it when you came to Father *Lathum*'s?

Mr. *Bedloe.* I judge ſo, it was ſeveral times, with ſeveral of them.

Corker. Can you nominate any one that ſaw me at the ſame time?

Mr. *Bedloe.* There were a whole Chapel full of Catholicks.

Mr. Juſt. *Pemberton.* That is no great matter whether he can or no.

Mr. Juſt. *Atkyns.* 'Tis an immaterial Queſtion, Why do you ask it?

Mr. *Bedloe.* My Lord, what I did was done ſo privately, that if I went but from *Strand bridge* to the Monks, I either took a Boat and went by Water, or a Coach and went round about to avoid ſuſpicion.

Mr. *Belwood.* Then ſet up Mr. *Prance.* Pray Sir tell what you know of this.

Mr. *Prance.* I have heard him ſay Maſs at Mr. *Paſton*'s in *Dukeſtreet.*

L. C. J. How often?

Mr. *Prance.* Never but once.

Corker. When, Sir?

Mr. *Prance.* It may be two Years ago.

Mr. Juſt. *Atkyns.* That is another Place too, Mr. *Corker.*

L. C. J. Have you any thing to ask him?

Corker. No, my Lord.

L. C. J. What have you then to ſay for your ſelf?

Corker. My Lord, this I have to ſay for my ſelf, and I do proteſt it to be true: I never in my Life did ſay Maſs or hear Confeſſions at *Somerſet-houſe.*

L. C. J. What ſay you to Mr. *Paſton*'s?

Corker. No, nor at Mr. *Paſton*'s; nor ever was in the Company of that Man, nor ever ſaw him there in my Life to my knowledge.

L. C. J. That may be.

Corker. I likewiſe proteſt, that I never ſaid Maſs in any publick Place ſince I was born.

L. C. J. It may be you count not Mr. *Paſton*'s a publick Place.

Corker. If it be a private Place, then I ſhould know who were in the Company, and who were admitted there.

L. C. J. No, you were not two or three Years ago ſo nice and cautious whom you admitted to ſee you in the Exerciſe of what you call your Religion; becauſe the Execution of the Law was not ſo ſtrict as now adays it is. And therefore 'tis very probable, and may very well be, that you were at Mr. *Paſton*'s Houſe, and yet not know all the Company.

Corker. But, I ſay, I never did ſay Maſs there.

Mr. Juſt. *Pemberton.* Here are three Witneſſes againſt you, and do you think your bare Word will be taken againſt their three Oaths?

Mr. *Recorder.* What ſay you to the *Savoy*, Mr. *Corker*? And I ask you, becauſe I would know whether you can ſpeak Truth in any thing.

Corker. I would not tell a Lie, tho' I ſhould thereby ſave my Life: And I do again proteſt before God and the Court, I never in my Life ſaid Maſs or heard Confeſſions at *Somerſet-houſe* Chapel, nor at Mr. *Paſton*'s in *Dukeſtreet.* And as to the *Savoy*, ſeeing I will be ſincere, I ſhall only ſay, that as my Denial will not clear me, ſo I beg I may not be my own Accuſer.

L. C. J. Here is one hath ſwore it.

Corker. 'Tis only *Otes*, my Lord.

L. C. J. Well Gentlemen of the Jury, you hear what is proved againſt him by three Witneſſes, that they heard him ſay Maſs and receive Confeſſions, and deliver the Sacrament. They tell you what Order he was of, and that they ſaw him do the Acts of a Prieſt.

Corker. I appeal to all the World that ever came to *Somerſet-houſe*, Whether ever any one heard me ſay Maſs there.

L. C. J. Here is one hath.

Mr.

Mr. Serj. *Strode.* We will try *William Marſhal* next. [*Who was charged upon the Jury as the others.*]

Mr. *Belwood.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *William Marſhal*, the Priſoner at the Bar, ſtands Indicted for High-Treaſon. The Offence is not for being a Prieſt barely; but that he being born an *Engliſhman*, within the King's Dominions, and having received Orders from *Rome*, did, againſt the Laws of the Kingdom, come and abide here.

Mr. Serj. *Strode.* Swear Dr. *Otes* and Mr. *Bedloe.* [*Which was done.*] Dr. *Otes*, pray ſtand up.

L. C. J. What can you ſay to Mr. *Marſhal*'s being a Prieſt?

Dr. *Otes.* I have heard him ſay Maſs in the *Savoy*, and I have ſeen him in that Poſture that the Prieſts are in when they give Abſolution.

L. C. J. Have you ſeen him in a Prieſt's Habit ſay Maſs?

Dr. *Otes.* Yes, in his Habit as a *Benedictine* Monk.

Mr. Juſt. *Jones.* Did you ever ſee him give the Sacrament?

Dr. *Otes.* Yes, and conſecrate the Hoſt.

Mr. Juſt. *Jones* Well, have you any thing to ask him?

Marſhal. When was this?

Dr. *Otes.* I have known him theſe three Years to be a Prieſt.

Marſhal. That is a Year longer than you knew me at the Tryal.

Dr. *Otes.* It is a great while ſince that Tryal.

L. C. J. Ay, that is a good while ago.

Marſhal. But where, Mr. *Otes*, and when?

Dr. *Otes.* At the *Savoy*.

Marſhal. When?

Dr. *Otes.* Within the compaſs of three Years, ſeveral times.

Marſhal. How does that afford me any occaſion of Defence? I can make no Plea, unleſs he aſcertains time.

Mr. Juſt. *Pemberton.* 'Tis good Evidence without confining himſelf to preciſe time.

L. C. J. He ſays a dozen times within that compaſs.

Marſhal. But why does he not name ſome particular time; for unleſs he name the time, how is it poſſible for us to diſprove him?

L. C. J. He tells you many times in three Years.

Marſhal. But when?

L. C. J. Why, within three Years.

Mr. Juſt. *Dolben.* What if he could tell you when?

Marſhal. Let him name the Day, then we could diſprove him; and let him name the day, and if I do not diſprove him, I'll be hang'd.

L. C. J. 'Tis an improper Queſtion that you ask.

Mr. Juſt. *Pemberton.* He is not bound to name the Day.

Dr. *Otes.* Well, I will pitch upon a Day now.

Marſhal. When was it?

Dr. *Otes.* Several times laſt Summer was Twelvemonth.

Marſhal. What, before the Plot?

Dr. *Otes.* Several times in that Summer before the Plot was diſcovered; and ſeveral times the Winter before, when I came over from *Spain*.

Marſhal. Did you hear me ſay Maſs before you went over to *Spain*?

Dr. *Otes.* Yes I did.

Mr. Juſt. *Dolben.* Call another Witneſs.

Mr. *Belwood.* Mr. *Bedloe.*

Mr. Serj. *Strode.* Pray will you tell what you know of Mr. *Marſhal*.

Mr. *Bedloe.* I know a great deal of him.

L. C. J. What of his being a Prieſt?

Mr. *Bedloe.* I have ſeen him in his Habit of a *Benedictine* Monk in the *Savoy*.

L. C. J. Have you heard him ſay Maſs?

Mr. *Bedloe.* No, my Lord, I have not: But he hath been preparing to go to take Confeſſions.

L. C. J. Did he own himſelf to be a Prieſt?

Mr. *Bedloe.* He was in the Habit of a Prieſt, but I never ſaw him execute any part of the Office of a Prieſt.

Mr. Juſt. *Pemberton.* Did you hear him declare, that he hath been going at any time to take Confeſſion?

Mr. *Bedloe.* The Monks have ſaid when he hath been gone, that he went to take Confeſſions.

L. C. J. Upon your Oath, Have you ever heard him own himſelf to be a Prieſt, or ever ſay, that he was going to take Confeſſion?

Mr. *Bedloe.* No, my Lord; but I have ſeen him in a Monk's Habit, and within half an hour he was in a ſecular Habit: For when they went abroad they took Confeſſions in their ſecular Habit.

L. C. J. How often have you ſeen him in a Monk's Habit?

Mr. *Bedloe.* I do not know whether it were more than once; and I asked then, Where is our Father going?

Mr. Juſt. *Pemberton.* And what ſaid they to you?

Mr. *Bedloe.* He was going to take Confeſſions.

Mr. Juſt. *Dolben.* Have not you your ſelf been confeſſed by *Marſhal*?

Mr. *Bedloe.* No, my Lord.

L. C. J. What ſay you to him, will you ask him any Queſtions?

Marſhal. I do not, I think, need to ask this Witneſs any Queſtions.

L. C. J. That ſhall be obſerved for you, if it be to your advantage. If you have any thing to ſay for your ſelf, pray ſpeak it.

Marſhal. If there be but one Witneſs, what need I make any Defence?

L. C. J. What ſay you to Mr. *Otes*'s Teſtimony?

Marſhal. As for Mr. *Otes*, if your Lordſhip will but promiſe, that it ſhall not prejudice me, as to the point of having but one Witneſs, I have much to ſay for my ſelf: But I think I need not trouble your Lordſhip with it.

Sir *John Keiling.* Were not you here when *Marſhal* was try'd for the Plot?

Mr. *Bedloe.* Yes.

Mr. Juſt. *Pemberton.* You muſt not ask him any Queſtions about that.

Marſhal. My Lord, I ſay, if your Lordſhip will but grant, that the Witneſſes may have free Acceſs, and go away ſafe——

Mr. *Bedloe.* I believe the Court, upon his Tryal, was ſatisfied that he was in Orders, received from the Church of *Rome*.

Sir *John Keiling.* Swear Mr. *Prance.* [*Which was done.*] What did you hear him ſay at his laſt Tryal?

L. C. J. This is hard Evidence truly.

Mr. Juſt. *Jones.* If he would do it voluntarily of himſelf, he might, we did not ask him the Queſtion.

Mr. *Prance.* My Lord, I ſtood juſt by him when he ſtood at the Bar, and I heard him ſay this to the other Man Mr. *Corker*, *Though we are Prieſts, this does not reach us.*

L. C. J. But is this good Evidence?

Mr. *Prance.* I did hear him ſay he was a Prieſt.

Mr. Juſt. *Pemberton.* We did all hear him ſay ſo, I believe.

Mr. Juſt. *Atkyns.* I dare ſay none of the Court asked him the Queſtion.

Marſhal. My Lord, I was not asked, nor had any occaſion, and certainly I ſhould not pick an occaſion to condemn my ſelf: If I did it, I did it without occaſion. Beſides, my Lord, I humbly conceive, that there muſt be Proof againſt a Man, or his Confeſſion won't make him Guilty.

Mr. Juſt. *Pemberton.* I would not have you too ſure of that.

Marſhal. Certainly if a Man do confeſs at another time, without Proof againſt him that will not do.

Mr. Juſt. *Pemberton.* I believe the Jury will take your own Confeſſion.

L. C. J. Don't be over confident of that, for we have Memories too as well as you.

Mr. Juſt. *Pemberton.* You are not bely'd by Mr. *Prance*, I believe, Mr. *Marſhal.*

Mr. Juſt. *Ellis.* If he have confeſs'd it, that is ſure Proof enough.

Sir *John Keiling.* Swear Mr. *Dugdale.* [*Which was done.*] You were at the laſt Tryal, Sir: I only ask of you, Can you remember any thing of this?

Mr. *Dugdale.* To the beſt of my remembrance, I heard him own that he was a Prieſt.

Sir *John Keiling.* Then ſay what you can for your ſelf.

Marſhal. My Lord, I have only one material Witneſs againſt me. They ſay that I ſaid ſo; if I did ſay ſo, I muſt ſay it to the Court; and if it was to the Court, it muſt be upon ſome Queſtion asked me.

L. C. J. You muſt not ſay ſo; I am afraid if you appeal to the Court, it will do you no good.

Mr. Juſt. *Dolben.* It is plain that you are ſo free of your Diſcourſe, that you might ſay things that were not pertinent.

L. C. J. 'Tis not proper for the Court to give Evidence; if we did we ſhould do you little Service in this matter.

Marſhal. I do believe I ſhall receive all Juſtice from the Court. And I have experienced it ſo already. Now as to the preſent Teſtimony againſt me, I conceive that only Mr. *Otes* is a material Witneſs; no one elſe ſwears that they ever ſaw me officiate or perform the Duty of a Prieſt. As for Mr. *Otes*, he ſays he heard me ſay Maſs ſeveral times the laſt Summer before the Plot. And Mr. *Otes* did ſay he was preſent in *June*, *July*, and *Auguſt*. Sir *William Waller*, tho' he was pleaſed to forget other things, yet did remember that, and did teſtifie that he ſaw me in *June*, *July*, and *Auguſt*. Now then I humbly conceive, if he heard me ſay Maſs at any time in that Summer, it muſt be in one of thoſe three Months. Was it in any one of them?

Dr. *Otes.* My Lord, I came over in *April* from St. *Omers*, and I did, as I remember, hear him ſay Maſs one time before I went again, and heard him ſay it ſeveral times after, which was about the middle of *June*, I think.

Marſhal. Now I ſay, if this Honourable Court will but pleaſe to promiſe, that the Witneſſes that come hither ſhall come and go ſafe, I believe there are Witneſſes that may contradict Dr. *Otes.*

L. C. J. What can your Witneſſes prove? you muſt not make Bargains with the Court.

Mr. Juſt. *Pemberton.* Why ſhould you ſuſpect that your Witneſſes ſhould not go free?

Marſhal. Becauſe ſome have received great Abuſes.

Mr. Juſt. *Atkyns.* It was ſo ſaid, but not made out.

Mr. Juſt. *Pemberton.* There was only one Perſon that came here, and affirmed ſo, but he did not prove it.

Mr. *Recorder.* And the Court did ſay that they ſhould be puniſhed that did it.

L. C. J. The Witneſſes none of them, that I know of, were abuſed.

Mr. *Bedloe.* It was only the King's Witneſſes that have been abuſed.

L. C. J. What can your Witneſſes prove.

Marſhal. He came over the *24th* of *April*, and I can prove that from the beginning of *April*, to the end of *July*, I was not within threeſcore Miles of *London.*

Dr. *Otes.* As to his Officiating as a Prieſt, I cannot ſpeak poſitively as to the time, but I think in laſt Summer was twelve Month.

Mr. Juſt. *Dolben.* He ſays, he thinks he did once in that time, but he is ſure, that he did ſee you ſeveral times that Summer.

Marſhal. But what part of the Summer?

Dr. *Otes.* From the time of my coming over again, to the time of the Diſcovery of the Plot.

L. C. J. When was it that you heard him firſt?

Dr. *Otes.* When I heard him firſt was in the Year 1677. before I went into *Spain:* I went away in the Month of *April*, and I am ſure he ſaid Maſs before I went into *Spain*; and when I came back again in the Winter, I came in *November*, and ſtay'd in Town about ten Days, and then went to the *Savoy* and heard him ſay Maſs.

Marſhal. What *November?*

Dr. *Otes.* Before the Summer I came out of *Flanders.*

L. C. J. He ſays he went into *Spain* in *April*, (77.)

Marſhal. And he heard me ſay Maſs before he went over?

Dr. *Otes.* Yes.

Marſhal. Pray look, my Lord, Mr. *Otes* will confeſs himſelf, he was but newly reconcil'd to the Church of *Rome* a little while before he went.

Dr. *Otes.* I was reconciled to the Church on *Aſh-wedneſday*, and I went in *April* following.

Marſhal. Where did you hear me ſay Maſs then?

Dr. *Otes.* In the *Savoy*, at that time, before I went into *Spain.*

Marſhal. Do you pretend to have known the *Savoy* ever before your coming back again?

Dr. *Otes.* Yes, I do.

Mr. Juſt. *Pemberton.* He does ſwear it.

Marſhal. So he does, but he can't prove it. Mr. *Otes* came over in the Company, as he ſays, of Mr. *Thimbleby* and Mr. *Hitchcock*, and by his Means he did get to be commended to be received into the Order of the *Benedictines*, and he was then ſent to Mr. *Pickering* in order to it; Now, my Lord, is it credible that Mr. *Otes* having no acquaintance with the *Savoy* before he had acquaintance with Mr. *Hitchcock*, which was

was when he came from *Spain*, ſhould hear me ſay Maſs before he went thither?

Mr. Juſt. *Pemberton.* All this is but a Story to the Court.

L. C. J. What a wild Inference do you make from this unintelligible Buſineſs?

Marſhal. Mr. *Otes* ſays ſo himſelf.

Mr. Juſt. *Dolben.* We all know you ſaid Maſs ſo openly in the *Savoy*, that any People whatſoever might come, and you did not know who they were.

L. C. J. Though he was not one of your Order, yet he might know you.

Marſhal. To my knowledge there were never three Maſſes ſaid in the World at the *Savoy*.

Mr. Juſt. *Dolben.* The World knows the contrary.

Marſhal. Let Mr. *Otes* be poſitive in any thing, and we will diſprove him.

Mr. Juſt. *Pemberton.* He hath gone as near it as is neceſſary; he tells you, after his Reconciliation, before he went over into *Spain*.

Marſhal. But I ſay, he could not be at the *Savoy* before he was acquainted there, and I can bring Witneſſes to prove, that I was not then at the *Savoy*; but I pray, My Lord, will theſe Witneſſes do me any good?

L. C. J. What will they prove?

Marſhal. That all the Summer, from the beginning of *April* to the end of the Summer, I was in the Country, threeſcore Miles from *London*.

Dr. *Otes.* I am not ſo poſitive in that, my Lord, but as near as I remember, before I went into *Spain* again. Your Lordſhips all know that I was not ſo poſitive as to any one time; but the Summer before the Plot broke out, I heard him ſay Maſs ſeveral times in the Summer.

L. C. J. Now he is poſitive that he ſaw you ſay Maſs in the Summer before the Plot was diſcovered. The Subſtance of his Depoſition was your ſaying Maſs, the time is not material: He tells of a many times within that Compaſs.

Marſhal. How ſhall I diſprove that?

Mr. *Recorder.* He hath given you one particular time from *Aſh-wedneſday*, when he was reconciled to *Rome*, till he went to *Spain* in *April*.

Marſhal. If he names times, then am I able to diſprove him: And he did name one, but when he ſaw me offer to prove by Witneſſes, that I was not then in Town, he goes off from it.

Mr. Juſt. *Pemberton.* 'Tis impoſſible for Witneſſes to be poſitive to a Day, a Week, or ſuch a thing.

Mr. Juſt. *Ellis.* How is it poſſible to be ſo, unleſs it be a thing that he had taken ſuch particular notice of, as to intend to ſwear to it, and give Evidence about it afterwards: Now, I believe Dr. *Otes* at that time had no thoughts of giving Evidence as to any ſuch matter; but this he is poſitive in, That he did hear you ſay Maſs at the *Savoy*.

Marſhal. My Lord, if Mr. *Otes* had ſaid he had ſeen me Officiate at *Somerſet-houſe* or *Wild-houſe*, it might have been ſomething like; but at the *Savoy* it is known, that none are let in but Friends, nor could Mr. *Otes* come in, but upon a particular Acquaintance.

L. C. J. How does that appear ſo?

Marſhal. By thoſe that live in the Houſe.

Mr. Juſt. *Pemberton.* You muſt not ſpend the Court's time in this manner of Diſcourſe: If you have any Witneſſes that you think in your ſelf are material, the Court will ſuffer you to call them, and pray call them preſently.

Marſhal. Here is the Houſe-keeper her ſelf that will witneſs that ſhe never ſaw Mr. *Otes* there.

L. C. J. If the Great *Turk* had come there with a pair of Beads and a Crucifix, you would have let him come in: But in the mean time, Mr. *Otes*, you have given him a pretty compaſs of time, whereby he hath an opportunity of diſproving what you ſay: And you give him one particular ſhort time; but can you give any time afterwards in the Summer you ſpeak of, within any month, or two, or three; becauſe you ſay at ſeveral times?

Dr. *Otes.* I cannot be poſitive, but I will tell you, one time was the *Sunday* before they held their Conſpiracy, which was, I verily believe, the *Sunday* before the 21*ſt* of *Auguſt*.

L. C. J. Do you believe it was in *Auguſt*?

Dr. *Otes.* Yes I do, and confine my ſelf to the Month of *Auguſt*.

Marſhal. Then call *Ellen Rigby*.

Dr. *Otes.* I was acquainted with Mr. *Pickering* ſoon after my being reconciled; and being acquainted with him, I went along with him ſeveral times to the *Savoy*.

Mr. Juſt. *Pemberton.* What do you talk of one *Hitchcock*, and I know not whom; he was acquainted with *Pickering* before.

Marſhal, When, my Lord?

L. C. J. Preſently after he was reconciled.

Marſhal. Well, but you pretend now, that ſince you came over here you were in the *Savoy*; Had you a Key to get in?

L. C. J. He was reconciled on *Aſh wedneſday*, he went in *April* to *Spain*.

Marſhal. Here is *Ellen Rigby*.

L. C. J. Well, what would you have with her?

Marſhal. I ask, Did ſhe ever ſee Mr. *Otes* in the Summer before laſt?

Mr. Juſt. *Pemberton.* Don't you lead your Witneſs with ſuch Queſtions.

L. C. J. Do you know Mr. *Otes*?

Rigby. I have ſeen him when I ſee him come to ask Charity of Mr. *Pickering*.

L. C. J. How often?

Rigby. Twice or thrice.

L. C. J. What time in the Summer?

Rigby. I cannot ſay; but I ſaw him in Summer was Twelvemonth.

Dr. *Otes.* Why then did not this Woman, when ſhe knew this Evidence that would lay a blemiſh upon me, come and give it for *Pickering*, to have ſaved him?

Mr. Juſt. *Dolben.* Will you give me leave to ask this Woman this Queſtion; Whether ſhe ever heard you ſay Maſs?

Marſhal. Ay, my Lord, with all my heart; and if ſhe ſays ſhe hath, I will be hang'd without any more ado.

Mr. Juſt. *Dolben.* Then you are ſure your Proſelytes will ſay any thing you would have them?

Marſhal. I my ſelf am a perfect Stranger to the *Savoy*, in a manner.

Mr. Juſt. *Pemberton.* Is he not acquainted with the *Savoy*?

Rigby. Yes, he was there one month when *Pickering* was taken.

Marſhal. Pray ask her whether ever, before Mr. *Otes* went over, ſhe ſaw him in the *Savoy*.

L. C. J. You ſhall have your Queſtion ask'd; but do you think you can build upon that; if ſhe did not ſee him, he did not ſee you: Did you

ever ſee Dr. *Otes* there betwixt *March* and *April*, before he went over into *Spain*?

Rigby. No, there was no body in the Houſe but Mr. *Pickering*.

L. C. J. Was there never Maſs ſaid in the Houſe?

Rigby. Yes, while her Majeſty's Servants were in the Houſe.

L. C. J. But was there Maſs never ſaid ſince in the Houſe?

Rigby. Never ſince I came out of it, which was a Twelvemonth ago.

Mr. Juſt. *Pemberton*. Was there not Maſs ſaid in three or four Years time there?

Rigby. Not in our Houſe, I lived but in one Houſe.

Marſhal. I call her to know, whether Dr. *Otes* was there? And, my Lord, here is that which I inſiſt upon; That none is let in there to hear Maſs, but thoſe that have ſome particular Acquaintance and Intimacy in the Houſe.

L. C. J. She only ſpeaks to one particular part of the Houſe; ſhe can't ſay but Maſs was ſaid in the other parts.

Rigby. There was no Maſs ſaid there that I know of.

L. C. J. Why, was there no Maſs ſaid but in that particular Houſe you liv'd in?

Rigby. I can't ſay that.

L. C. J. But the Queſtion is, whether ever you, Mr. *Otes*, ſaw him ſay Maſs in this Woman's Houſe?

Dr. *Otes*. I do not know that I ever ſaw this Woman in all my Life, before the Tryal.

Marſhal. He came there under a diſguiſed Name.

L. C. J. He tells you he went along with *Pickering*.

Dr. *Otes*. *Pickering* ſerv'd the Maſs.

L. C. J. Well, call your Witneſſes, if you have any other.

Marſhal. I can prove that I was out of Town the whole Summer, from the beginning of *April* to the end of the Summer: But if Mr. *Otes* will not ſtand to any time, I cannot be able to diſprove him: But then I'll only offer one or two things more.

L. C. J. When did you come to *London*, in *Auguſt*?

Marſhal. I will tell you as near as I can to a day. I came in the middle of *Bartholomew* Fair, which begins the 24*th* of *Auguſt*.

L. C. J. So it was the latter end.

Mr. Juſt. *Pemberton*. Well, if you have any Witneſſes, call them, and do not ſpend the Court's time in vain.

Marſhal. My Lord, I have ſomething very material, I think, to offer: The only material Witneſs that is now againſt me, was a Witneſs againſt me in my laſt Tryal: Now I do conceive, that I being found Not Guilty at the laſt Tryal, that Witneſs ought to be look'd upon as perjur'd: And I appeal to the Court, whether it were ſo or no.

Mr. Juſt. *Atkyns*. That's a falſe Collection, Mr. *Marſhal*.

L. C. J. 'Tis a ſtrange inference you make: Do you think that every Witneſs is perjur'd, becauſe the Jury don't find according to what he ſays? He is not perjur'd, for he may ſwear true, and the Jury not belive him.

Marſhal. I ground it, my Lord, upon what my Lord *Jones* ſaid to the Jury that ſat upon *Coleman*; who at their going out told them, Either they were to find him Guilty, or bring in two Men perjur'd. Thus it was his Opinion, that the finding of the Jury contrary to the Evidence, did make them perjur'd; and there was none of the Court did oppoſe him.

Mr. Juſt. *Jones*. What then?

Marſhal. And if this were the Senſe of the whole Court, That a Man muſt either be found Guilty, or the Witneſſes perjur'd; that is my Caſe, and he is not to be believ'd.

L. C. J. See how unconſequently do you talk: The Court might ſay, that you muſt believe theſe Men perjur'd, if they ſwear a poſitive thing and you find it not; but if you make uſe of it thus, that therefore they are perjur'd, 'tis falſe, for they are not ſo till they be Convicted upon Record: And tho' the Jury don't believe them, yet they may ſwear true.

Marſhal. 'Tis true.

L. C. J. Then you make no inference from it.

Marſhal. My Lord, I am before the ſame Court that I was try'd by before, and before the ſelf ſame Judges, who know that upon my Tryal he was not believed, and therefore is perjured.

Mr. Juſt. *Pemberton*. You muſt conſider, that ſometimes the Jury will go againſt the direction of the Court; but if the Witneſs be not believed by them, that does not argue that he does not ſwear Truth, or is perjur'd: I tell you my Brother *Jones* might ſay, You muſt find this Man Guilty, or think theſe Men perjur'd: Many times a Judge will ſay ſo, but the Jury often find againſt the direction of the Court; ſhall theſe Men be perjur'd then preſently?

Mr. Juſt. *Jones*. There were two poſitive Witneſſes, as poſitive as could be in the World, and nothing at all to contradict them.

Mr. *Recorder*. Will you give the Jury leave to believe you, Mr. *Marſhal*? For you your ſelf ſaid you were a Prieſt.

Marſhal. Yes, if I ſaid ſo, I humbly deſire the Jury to take notice of it, that they are the ſelf-ſame Witneſſes that brought ſuch a poſitive Teſtimony the laſt time; which if the Jury had believed, they muſt of neceſſity have brought me in Guilty: I would not ſpend the time of the Court, but I would obſerve this; it was all ſworn poſitively, That I did conſent to the King's Death, and other things.

L. C. J. You had the better luck.

Marſhal. Then they are not to be believed now.

L. C. J. This is to no purpoſe, neither is it to be ſuffer'd: For you break in contrary to all the Laws of Practice, if we ſuffer this as an Argument, That becauſe an Evidence was not believed in one Caſe, therefore he is perjur'd: And the Jury gave in a Verdict contrary to the Witneſſes, that therefore he is perjur'd in another Caſe.

Marſhal. This does invalidate the Teſtimony ſure of ſuch a Witneſs.

L. C. J. You have ſaid it often enough, come pray conclude.

Mr. Juſt. *Pemberton*. No, Mr. *Marſhal*, you muſt not be ſuffer'd in theſe Harangues to impeach the Witneſſes; if you have any thing material againſt Dr. *Otes*, or if you can ſhew any Record of his Conviction of Perjury, it may be ſomething.

Marſhal.

Marſhal. My Lord, it is for my Life, and 'tis the ſecond time that I plead for my Life, much beyond my expectation; and therefore I hope I may have the freedom to ſpeak: And though I confeſs this Jury is not obliged to proceed according to the Verdict of the former Jury; yet this Jury, as well as that, is obliged to proceed according to the appearance of Truth: And his being found falſe in his Teſtimony the laſt time, ſhould make him of no Credit here.

Mr. Juſt. *Dolben.* It is not ſo, they are not to take notice of it, unleſs you bring them a Record of Conviction.

Mr. Juſt. *Pemberton.* He gave a good Evidence then no doubt of it, though they would not believe it.

Mr. Juſt. *Atkyns.* Upon what Grounds that Jury went, is unknown to us.

Marſhal. Then, my Lord, another thing is this: The Law does except againſt all Witneſſes who are ſtrongly or rationally ſuppoſed to have a Spight or Malice againſt the Priſoner, much more where there is a manifeſt Sign that he hath a Malice. Now I will endeavour to ſhew how it comes to my Caſe: Mr. *Otes* accuſed me laſt time of Treaſon, and that in the higheſt nature; if this had been true, he had ſhewn himſelf a good Subject, and me Diſloyal: And the Jury not believing him, I was found the good Subject: Now he purſues his malice.

L. C. J. You ſhall not go on in this manner, and make ſuch notorious falſe inferences; that becauſe it was not found according to his Teſtimony, therefore he is perjur'd: The Jury did not believe it, might not he ſpeak true for all that? Hath not many a Witneſs ſworn true, yet the Verdict gone againſt their Evidence? And therefore you don't mind: Ye are all giddy-headed, if you once get a thing into your Heads, you can't get it out again.

Mr. Juſt. *Atkyns.* If the Jury did not believe it, a great many others did.

L. C. J. All you build upon is but a falſe Concluſion; becauſe the Jury found you Not Guilty, therefore they found him perjur'd.

Marſhal. My Lord———

Mr. Juſt. *Pemberton.* Pray Sir, if you will ſpeak any thing that is material and modeſt, the Court will admit of it; but if you only go to throw dirt upon the King's Witneſſes, Men of good Reputation, and Men that have ſhew'd themſelves honeſt, and that have ſpoke Truth all along; ne'er a one of their Teſtimonies but what is confirm'd by another's; ſo that not one of them ſtands ſingle, and for you to ſay they are ill Men.

Marſhal. My Lord, I do not ſay they are ill Men, I ſpeak of Matter of Fact.

L. C. J. You conclude falſly; and if you did but mind it, you would never repeat it over and over again: That becauſe the Jury did not believe his Evidence, therefore he is perjur'd: Do you ſuppoſe then that any other Jury ſhould never believe him?

Marſhal. My Lord, I reckon his Evidence is not ſo good; and if I am found Not Guilty, there muſt be malice in him to accuſe me.

L. C. J. Look you Gentlemen, The ſingle Queſtion is, Whether he be a *Romiſh* Prieſt or no? It is proved by Mr. *Otes*, that he hath ſeveral times heard him ſay Maſs, that he hath ſeen him deliver the Sacrament, and ſeen him conſecrate the Hoſt. He inſiſted upon it how often, Mr. *Otes* ſays, ten or a dozen times, in what time he cannot charge himſelf particularly with a month or two; but at laſt he did tell him poſitively, becauſe *Marſhal* ſaid, how is it poſſible I can make my Defence to generals, unleſs you fix ſome time? Therefore ſays he, I was reconciled to the Church of *Rome* on *Aſh-wedneſday*, and afterwards between that and *April*, when I went into *Spain*, I heard him ſay Maſs, that was once; but I heard him ſay in the Summer ſeveral times: Being asked what part; he ſays, I cannot ſay exactly, but I think in the month of *Auguſt*; if he had ſaid any thing as to the particular time between *Aſh-Wedneſday* and his going in to *Spain*, it had been ſomething, but againſt that he makes no pretence, as to his ſaying Maſs in the *Savoy*, that can contradict it. If he can ſtill he ſhall call his Witneſſes that can prove he did not ſay Maſs between the *Aſh-wedneſday* and the *April* he went into *Spain*: He does indeed ſay, that he was a great part of the Summer in the Countrey, in *June* and *July* to *Bartholomew* Fair, threeſcore miles off; but to that Mr. *Otes* ſays it was ſome time in *Auguſt*, and ſo he might be in the Countrey till then, and yet ſay Maſs after; he might come to Town the 26*th*, or 27*th*, or 28*th*, and he might be here in *Auguſt*: So you hear no Evidence that contradicts, ſuppoſing it proved true, what he imagines his Witneſſes can ſay; the laſt time that he charges him to have ſaid it in the Summer, may be true according to his own Word and Confeſſion when he came to Town. Then there is Mr. *Bedloe*, he only tells you he ſaw him in a Prieſt's Habit, but he did not ſee him execute the Office of a Prieſt, but he looked upon him as a Prieſt, called him Father: and that is all that he charges him with; that is concurring Evidence, and backs Mr. *Otes*, but alone perhaps it would be very weak. But they ſet up here *Prance*, and he ſays directly, that at the Tryal he did confeſs himſelf to be a Prieſt; and he ſeems to deny it, and would appeal to the Court; but his appealing to the Court would not help him in that Caſe. So I leave this to you upon this Evidence; if you believe Mr. *Otes*, that ſwears he ſaw him before he went into *Spain*, and after ſay Maſs, with the concurring Evidence of Mr. *Bedloe*, that ſaw him in his Habit, and with the ſubſequent Evidence of thoſe two more that do ſwear that he did ſay ſo, you muſt find him Guilty; and a Man's own Confeſſion is Evidence againſt himſelf; and if Mr. *Marſhal* will recollect himſelf, he would not be too poſitive in that Point. If all theſe Particulars ſatisfie your Conſcience, I ſay, that he is a *Romiſh* Prieſt, you muſt find him Guilty, if you are unſatisfied, you muſt acquit him.

Cl. of Cr. Set *William Ruſſel* to the Bar. *William Ruſſel, alias Napper*, hold up thy Hand: You that are ſworn, look upon the Priſoner and hearken to his Cauſe, *&c.*

Mr. *Belwood.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *William Ruſſel, alias Napper*, ſtands indicted for High Treaſon: The Offence charged in the Indictment is, That being born within the Kingdom of *England*, and having received Orders from the See of *Rome*, he did come and abide here. To this he hath pleaded, Not Guilty.

Mr. Serj. *Strode.* Swear Dr. *Otes*, and Mr. *Prance.* Dr. *Otes*, Will you tell my Lord and the Jury, what you know of Mr. *Ruſſel*'s being a Prieſt?

Dr. *Otes.*

Dr. *Otes*. My Lord, this *Ruſſel* went by the Name of *Napper*, and is a *Franciſcan Fryar*, and I heard him ſay Maſs ſeveral times at *Wild houſe*.

L. C. J. What in his Habit?

Dr. *Otes*. In Prieſt's Habit.

L. C. J. When was this?

Dr. *Otes*. The laſt Summer before the Plot; I have heard him twenty times ſing Maſs.

Mr. Juſt. *Jones*. Did you ever ſee him give the Sacrament?

Ruſſel. Where pray was this?

Dr. *Otes*. At *Wild-houſe*.

Ruſſel. What is his Name?

L. C. J. Otes.

Ruſſel. I do not know him I ſay, my Lord.

L. C. J. Did he do it publickly?

Dr. *Otes*. Yes, in the Chapel.

Mr. Juſt. *Jones*. Did he give the Sacrament?

Dr. *Otes*. I did receive the Sacrament from him.

Ruſſel. Why, firſt of all, I ſay I do not know him.

L. C. J. It may be ſo, more know *Jack Pudding*, than *Jack Pudding* knows.

Ruſſel. Well then if one Witneſs muſt ſtand, I have no more to ſay.

L. C. J. Will you ask him any Queſtions?

Ruſſel. He ſays he heard me a month ago.

L. C. J. No it was laſt Summer was twelvemonth.

Ruſſel. Then he muſt prove it.

Capt. *Richardſon*. He does prove it, he ſwears it.

Ruſſel. Well, I can make it appear, laſt Summer was twelvemonth I was in the Countrey.

Dr. *Otes*. And I heard him ſay Maſs, *Novemb.* 1677. he was then one of the Chaplains of *Wild-houſe*.

Ruſſel. Give me leave to recollect my Memory.

Mr. *Belwood*. Set up Mr. *Prance*. You hear the Queſtion: Sir, Is the Priſoner at the Bar a Prieſt?

Mr. *Prance*. Yes, I have heard him ſay Maſs twenty times in his Habit.

L. C. J. Did he give the Sacrament?

Mr. *Prance*. Yes, I ſaw him give the Sacrament to ſeveral, and he did hear Confeſſions; he had a great many People about him.

Ruſſel. When was this?

Mr. *Prance*. Two or three Years ago.

Ruſſel. Where?

Mr. *Prance*. At the *Spaniſh* Ambaſſador's, at *Wild-houſe*.

Mr. *At. Gen*. My Lord, here is Sir *William Waller*, that took him, with his Veſtments and all his Trinkets. [*Who was ſworn.*

L. C. J. Come, what ſay you, Sir *William*?

Sir *W. Waller*. That morning I took him, as ſoon as I came into the Room, I asked him his Name: He told me his Name was *Ruſſel*: I asked him, if he ever went by any other Name? He deny'd it for ſome time, but looking amongſt ſome of his Papers, I found ſome Letters directed to him by the Name of *Napper*; and then he did confeſs his Name was *William Ruſſel Napper*. Searching among his Cloaths, I found ſome Religious Habits; I asked him, if they were his, and he confeſſed and owned 'em to be his.

Ruſſel. It was in my Cuſtody; it was none of mine.

L. C. J. Why did you ſay ſo then?

Ruſſel. I kept it for another.

L. C. J. But you told him it was your own, What ſay you to that?

Ruſſel. I do not remember that.

Mr. Juſt. *Dolben*. Well, he ſwears it.

L. C. J. Here are two poſitive Witneſſes againſt you, what ſay you to it? What ſay you to his ſaying, He hath heard you ſay Maſs twenty times?

L. C. Baron. What ſay you to the ſaying Maſs at the time Dr. *Otes* ſpeaks of?

Ruſſel. I believe he is miſtaken, as to the Time and Year: I was entred into the Houſe in—78.

Mr. Juſt. *Pemberton*. Then you think it was at another time?

Ruſſel. He could not hear me at that time, for I was then in the Countrey.

L. C. J. Have you any thing to ſay? It ſhall be allow'd you, it was at another time, but it ſeems it is true. Look you Gentlemen, you have a very plain Buſineſs of it; here are two Witneſſes that ſwear they ſaw him give Abſolution, deliver the Sacrament, and heard him ſay Maſs, and one ſays twenty times: And Sir *W. Waller*, who ſays, that he confeſt the Prieſt's Habit to be his own.

Ruſſel. Conſider my Circumſtances, and give me a little time; I have not had any time to get my Friends near me, or to prepare my ſelf.

L. C. J. I do not ſee any Good Time would do you: I think the beſt uſe you can make of your time, is to repent.

Dr. *Otes*. My Lord, the Court here is peſter'd with Papiſts; here are a great many about here.

L. C. J. If they be Witneſſes, we can't keep them out.

Mr. *Bedloe*. Some of them may be Witneſſes, but all are not; and if they be, they come to catch Advantages.

Mr. Juſt. *Dolben*. I don't underſtand why they ſhould be turn'd out.

Mr. Juſt. *Pemberton*. Let them alone: Be at quiet.

L. C. J. No, no, they will revile us, that they had not an open and a fair Hearing; we won't have it ſaid, that we do any thing in Huggermugger; what we do is done openly and honeſtly.

Cl. of Cr. Set *Charles Parris, alias Parry*, to the Bar. Hold up thy Hand: You that are ſworn, *&c.*

Mr. *Belwood*. May it pleaſe your Lordſhip, and you Gentlemen of the Jury; the Offence for which the Priſoner at the Bar ſtands indicted, is High-Treaſon, the ſame Offence for which the reſt have been indicted———

L. C. J. Then call your Witneſſes.

Mr. Serj. *Strode*. Dr. *Otes* and Mr. *Prance*.

[*Who were ſworn.*]

L. C. J. What can you ſay againſt the Priſoner, as to his being a Prieſt?

Dr. *Otes* My Lord, he is a reputed Prieſt, and hath ſaid Maſs ſeveral times: I have heard him ſay Maſs at *Wild houſe*, not in the publick Chapel, but in another Room.

L. C. J. Where do you ſay?

Dr. *Otes*. Once at *Wild houſe*.

L. C. J. Where elſe?

Dr. *Otes*. At Mr. *Paſton*'s.

L. C. J. When was this, Winter or Summer?

Dr. *Otes*. Within the compaſs of a Year reckoning —77 and —78; it was on a *Saturday* one time,

time, and twice at Mr. *Paſton*'s, and once or twice, I can't tell which, at the other Place.

L. C. J. And in the Prieſt's Habit?

Dr. *Otes.* Yes, in the Prieſt's Habit.

L. C. J. And did you ſee him Conſecrate the Hoſt?

Dr. *Otes.* Yes.

L. C. J. And give the Sacrament?

Dr. *Otes.* Yes.

Parry. My Lord, as to that he ſpeaks of,—77, or —78, what month of —78 I deſire to know?

Dr. *Otes.* I cannot confine my ſelf to a month; I knew him to be a Prieſt, but I was little acquainted with him, but he was a reputed Prieſt.

Mr. Juſt. *Jones.* But you are ſure this is the Man?

Dr. *Otes.* Yes, this is the Man.

Parry. Am I the Man? What is my Name?

Dr. *Otes.* You went by the Name of *Johnſon*?

L. C. J. Did you never go by that Name of *Johnſon*?

Parry. No, my Lord, but by this Name of *Parry*; *Parry* is my Name, and by that Name I went, and never by any other Name than *Parry*, whatever he ſays.

L. C. J. Why by that ſame Name you are Indicted, and you are the Man that he ſaw.

Mr. Juſt. *Pemberton.* Will you ask him ever a Queſtion?

Parry. I have ask'd him already what I would ask him.

Sir *John Keiling.* Then ſet up Mr. *Prance.*

L. C. J. What do you ſay as to Mr. *Parry*?

Mr. *Prance.* I know he is a Prieſt, and have heard him ſay Maſs at the *Venetian* Ambaſſador's and at Mr. *Paſton*'s, and he went by the Name of *Johnſon.*

Mr. *Recorder.* Did you go by that Name.

Parry. No, I never went in my life but by my own Name *Parry*; that is my Name, whatever he ſays, and I am not aſham'd of it.

L. C. J. How often?

Mr. *Prance.* Once at *Paſton*'s, and two or three times at the *Venetian* Ambaſſador's.

L. C. J. And you ſaw him give the Sacrament?

Mr. *Prance.* Yes.

L. C. J. In his Habit.

Mr. *Prance.* Yes.

Parry. At what time?

Mr. *Prance.* I believe it might be half a Year before the Plot: And I know you by another Circumſtance: You brought a Chalice to my Houſe, and it was whole, and you broke it, and told me, I muſt not touch it till it was broke, and ſo you defaced it.

L. C. J. That was an holy Veſſel, was it not?

Mr. *Prance.* Yes; and he told me I muſt not touch it till it was broken in pieces.

L. C. J. If you had not been a Prieſt, he had been as holy as you, and he might have touch'd it as well as you.

L. C. Baron. His breaking was to deſecrate it.

Mr. *Prance.* He bought ſome Oil-Boxes of me about that time.

Parry. I do not know this man.

Mr. *Prance.* You were ſeveral times with me.

L. C. J. Why, have you forgot the Chalice you brought to his Houſe?

Parry. I have no reaſon to forget my ſelf, for I never did any ſuch thing, for I never bought, or ſold to him any Chalice, or any ſuch thing; and beſide, ſuppoſe I had, that doth not argue that I am a Prieſt.

L. C. J. No, but if he were ſo holy as to touch the Chalice, he would be a Prieſt. But there is no great ſtreſs laid upon that, but to ſhew you that he knows you, he did not miſtake the man. The Streſs of the Evidence lies, that he heard you ſay Maſs at the *Venetian* Ambaſſador's, and at *Paſton*'s, and then Dr. *Otes* ſpeaks of *Wild-houſe.*

Parry. I was never in my Life at the *Venetian* Ambaſſador's, nor at Mr. *Paſton*'s, nor at *Wild-houſe.*

L. C. J. Can you ſwear that he is the man?

Mr. *Bedloe.* No.

L. C. J. Then ſet him aſide.

Mr. *Bedloe.* I had Order to ſend for two Witneſſes out of *Monmouthſhire*——

L. C. J. Here is Proof enough.

Mr. Juſt. *Pemberton.* What have you to ſay for your ſelf?

Parry. I have this to ſay, and can ſhew it evidently, that is, I have Witneſſes to prove, that I never was at *Wild-houſe* to Officiate in the Years 77 and 78 before the Plot: And for theſe ſix or ſeven months that Mr. *Prance* does alledge I was in *London*, I was in the Countrey.

L. C. J. When?

Parry. Six or ſeven months before the Plot.

L. C. J. He did not confine himſelf preciſely to any ſix or ſeven months.

Parry. My Lord, I deſired him to fix upon a month.

Mr. Juſt. *Pemberton.* He cannot do it.

L. C. J. If he can, let him; we will ask him the Queſtion; When was it that you ſaw him do thus?

Mr. *Prance.* My Lord, I am not certain what time it was, but about two, or two Years and an half ago, I am not certain, 'tis impoſſible for me to remember it.

Mr. Juſt. *Pemberton.* You muſt take him in what he ſays; this he is ſure of, he did hear you ſay Maſs and give the Sacrament, but as to the time, he believes it to be about this time, but he is not poſitive, nor can be in it.

Parry. He only believes it now, becauſe he knows I have Witneſſes for that time: He hath ſworn it poſitively, it was ſix or ſeven months before the Plot, and I have Witneſſes to produce, can prove how long before the Plot I was in the Countrey.

L. C. J. Call your Witneſſes.

Parry. Call *Lanſcroon* and *Jacob.*

L. C. J. How long was it before the Plot, as near as you can tell the time, Mr. *Otes*?

Dr. *Otes.* I have heard ſo many Prieſts, that I cannot poſſibly give an account of the day.

Parry. I deſire to know of Mr. *Otes*, who was Ambaſſador at *Wild-houſe* at that time when he ſays he heard me?

Mr. *Recorder.* Were you never at *Paſton*'s?

Parry. No.

Mr. *Recorder.* Nor at the *Venetian* Reſident's?

Parry. No.

Mr. *Recorder.* Mr. *Parry* was not, but Mr. *Johnſon* was.

Parry. I know not Mr. *Johnſon*, my Name is *Parry*; I hope it is not juſt I ſhould be hang'd for another Perſon.

Mr. *Recorder.* I mean Mr. *Johnſon*, *alias Parry.*

L. C. J. Mr. *Prance*, you are ſure that is the man?

Mr. *Prance.* Yes, and I heard him confeſs himſelf to be a Prieſt.

Parry. 'Tis falſe.

L. C.

L. C. Baron. And this is the man that brought the Chalice to you.

L. C. J. Why did you never go with a Chalice to this Man, and break it?

Parry. My Lord, I never bought any thing of him, nor ſold any thing to him, nor had any Converſe with him.

Sir *John Keiling.* I do never wonder at their denying any thing, I would feign know whether he would not deny the Sun ſhines now or no?

Parry. And then for the private Room, what Room of the Houſe was it?

Prance. I took him up in the middle of *Cheapſide*, and therefore I muſt ſure know him.

Parry. He did not know me, but only took me on Suſpicion at random, becauſe I was in the Company of a Roman Catholick.

Then the Witneſs Lanſcroon *ſtood up.*

L. C. J. What would you have this Man asked?

Parry. About the Year 77 and 78, wherein Mr. *Otes* alledges he heard me, let them anſwer to that, how long I was at *Windſor*? And whether I did not dwell conſtantly there?

L. C. J. Well, you hear the Queſtion. How long was he at *Windſor?*

Lanſcroon. From what time do you ask?

Mr. Juſt. *Pemberton.* Nay, you muſt not be lead into an Anſwer. How long was he at *Windſor?*

Lanſcroon. From *Chriſtmas* 77, to *Alhallantide* 78.

Mr. Juſt. *Ellys.* And was he never at *London* all that time?

Lanſcroon. No.

Mr. Juſt. *Pemberton.* How can you tell that?

Mr. Juſt. *Atkyns.* Was he always in your ſight all the time?

Lanſcroon. Yes, he was there always.

Mr. Juſt. *Atkyns.* Were you there always your ſelf?

Lanſcroon. Yes.

L. C. J. What are you?

Lanſcroon. A Painter.

L. C. J. And was you and he always together at that time?

Lanſcroon. Yes.

L. C. J. What in a Room?

Lanſcroon. Yes.

L. C. J. Can you affirm, that for a Twelvemonth together, you ſaw him every day?

Lanſcroon. Yes.

Mr. *Recorder.* How many years ago do you ſpeak of?

Lanſcroon. From 77 to 78.

Mr. *Recorder.* I don't ask you that, but how many years ago 'tis?

L. C. J. When came he down to *Windſor?*

Lanſcroon. Chriſtmas (77.)

L. C. J. The Teſtimony of Mr. *Otes* goes to *November*, and he ſpeaks of *Chriſtmas* following.

Mr. *Recorder.* How many Years ago was it, I ask?

Lanſcroon. A Year ago laſt *Chriſtmas.*

Mr. *Recorder.* That is 78 and 79.

Mr. Juſt. *Pemberton.* Your Witneſs is underſtood, Mr. *Parry.*

Then ſtood up the other Witneſs Jacob.

L. C. J. What ſay you about Mr. *Parry*'s being at *Windſor?*

Jacob. He was a Gentleman that came along with me in the Coach to *Windſor.*

L. C. J. When?

Jacob. Before *Chriſtmas* (77.)

L. C. J. How long before?

Jacob. Ten days. He came there to take Air for his Health, he was not well.

L. C. J. How long ſtaid he there?

Jacob. He ſtaid at *Windſor* 'till *Alhallantide* after, he ſtaid there a Year.

L. C. J. Did you ſee him there every Day of that Year?

Jacob. Yes.

L. C. J. Why, what reaſon had you to ſee him every Day?

Jacob. He dined every day at our Houſe.

L. C. J. Your Houſe? What Houſe?

Jacob. The Painter's.

Mr. Juſt. *Dolben.* However, that is but from *Chriſtmas*, and he ſpeaks of *November* before.

L. C. J. Did he dine there all that time?

Jacob. Yes.

L. C. J. Did he dine there every *Friday* conſtantly?

Jacob. Yes.

L. C. J. Did he never keep a Faſt in all that time?

Jacob. No.

L. C. J. Did he dine a *Wedneſdays* and *Fridays?*

Jacob. Yes.

L. C. J. There was one *Good-Friday* in that time.

Dr. *Otes.* Pray ask this Witneſs if he never heard him ſay *Maſs?*

Mr. Juſt. *Dolben.* Then he muſt be ſworn, and may be he will deny it.

L. C. J. Did he dine of *Aſhwedneſday* and *Good-Friday*?

Jacob. Yes, my Lord.

L. C. J. So, he ſays you eat of *Good-Friday* and *Aſhwedneſday*, the Pope ſhall know it.

Mr. *Recorder.* What ſay you? Did he eat Fleſh upon thoſe Days?

Jacob. Yes, he did.

L. C. J. You can tell what he did eat, can you?

Mr. *Recorder.* Did he eat Beef or Mutton?

Mr. Juſt. *Dolben.* Go, you talk like an idle Boy.

L. C. J. He tells you, that you eat meat too, that is more.

Parry. My Lord, we eat Fiſh, and ſuch things all Catholicks do.

Mr. *Recorder.* Ay, the Prieſts do, but their Pupils do not, they will not allow it to them.

L. C. J. Well, have you done, have you any more Witneſſes?

Parry. I would ask Mr. *Otes*, and deſire him to anſwer me to it, what did he depoſe againſt me before my Lord *Shaftsbury*, *viz.* That he heard me ſay Maſs in *Wild Chapel*, and there heard Mr. *Collins*'s Confeſſion, and now he ſays, it was in a Private Room; now I have it to ſhew that I did not officiate there, nor frequent the Houſe.

L. C. J. Who is it that will prove that you did not come to the Houſe?

Parry. The Ambaſſador's Servants.

L. C. J. I do not underſtand what you mean.

Parry. I am to ask of Mr. *Otes*, and I deſire he ſhould anſwer to it, What he did depoſe before my Lord *Shaftsbury* and the Committee of Lords, touching Mr. *Collins*?

L. C. J. He cannot remember it may be.

Mr. Juſt. *Pemberton.* You muſt not ask ſuch Queſtions as theſe are, it does not refer to this matter.

Parry.

Parry. He did give in that I heard Mr. *Collin's* Confeſſion, I ask why he does not give it in now?

L. C. J. That is a foreign matter, what have we to do with it now?

Mr. Juſt. *Pemberton.* If you will prove any thing againſt him, you may, but you may not ask ſuch Queſtions as that.

Parry. I have proved that I was in 1677. and 1678. in the Countrey.

Mr. Juſt. *Pemberton.* They tell us of ten Days before *Chriſtmas*, and Mr. *Otes* ſpeaks of *November*.

L. C. J. Look you Gentlemen of the Jury, here are two Witneſſes againſt him, Mr. *Otes* and Mr. *Prance*.

Parry. My Lord, I have one thing I deſire to be taken notice of, that is, this Letter of the Ambaſſador's, who upon the Examination of all his Family does teſtifie and declare, that I did never officiate in any reſpect in his Family.

L. C. J. It cannot be read.

Mr. Juſt. *Pemberton.* It is not any Evidence.

Parry. How ſhall I clear my ſelf, if the Teſtimony of the Ambaſſador and his whole Family be not admitted?

Mr. Juſt. *Atkyns.* 'Tis a hard thing for you to clear your ſelf.

L. C. J. Why don't you bring them hither as your Witneſſes?

Mr. *Recorder.* Where is my Lord Ambaſſador, why does not he come hither?

Parry. He hath left the Kingdom.

Mr. *Recorder.* Then you may boldly ſay any thing of him, and we cannot diſprove you.

L. C. J. Is all his Family gone with him?

Parry. There is but one remaining, I think he is here.

L. C. J. Call him.

Parry. Monſieur *Rivier.* (*Who appeared and ſtood up.*)

L. C. J. What do you ask him?

Parry. Do you know this Hand, Sir?

L. C. J. It muſt not be read if he do.

Parry. He is one of the Servants to my Lord *Egmond*, and he lived in the Houſe, and he knows that by his Maſter's Order all his Domeſticks were examined, and all proteſted they neither knew nor ſaw me ever in *Wild-houſe*; all which I have under his Hand and Seal to ſhew.

L. C. J. It ſignifies nothing.

Mr. Juſt. *Pemberton.* Ask him any Queſtion, but don't tell him what he knows.

L. C. J. Why don't you ask him ſome Queſtions? Why, you have not Catechiſms in your Church, you don't know how to ask Queſtions.

Parry. Ask him whether he ever heard me ſay Maſs at my Lord Ambaſſador's Houſe?

L. C. J. It's to no purpoſe if he did not, here are ſome have.

Parry. Then my Lord, he knows that there was a ſtrict Examination at *Wild-houſe* by my Lord's Orders, whether I did frequent the Houſe, and it was reported by them all I did not, and they muſt know if ever I did officiate there, for there is none admitted to ſay Maſs there, but by Order.

Mr. Juſt. *Pemberton.* Look you, Sir, do you know that Mr. *Parry* ever ſaid Maſs at *Wild-houſe*?

Rivier. No, my Lord, I do not know it.

Mr. Juſt. *Pemberton.* It was in a private Room, Dr. *Otes* ſays.

Rivier. I never ſaw him there.

Mr. Juſt. *Pemberton.* If you ask an hundred here, they would ſay the ſame thing.

L. C. J. Come, when matters are plain 'tis in vain to contend; here is the Buſineſs, Gentlemen, here are Mr. *Otes* and Mr. *Prance*, two Witneſſes againſt Mr. *Parry*; Mr. *Otes* ſays, he hath heard him ſay Maſs one time at one place, and twice or thrice at another. Mr. *Prance* hath heard him often, and Mr. *Prance* does tell you plainly, that he cannot err, that he is not miſtaken in the Man, for he came to his Houſe with a Chalice, and broke it there, and he knew him ſo well, that meeting him by chance, he took him up in the Streets; ſo if you believe them, they ſwear it poſitively, and you muſt find it ſo.

Then the Lord Chief Juſtice went away.

Cl. of Cr. Set *Henry Starkey* to the Bar. Hold up thy Hand, &c.

Mr. *Belwood.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury. *Henry Starkey* ſtands indicted for the like Offence with the other Priſoners; that he having received Orders from the See of *Rome*, came into *England*, and this is High Treaſon; to this he hath pleaded not Guilty, we will prove it upon him. Swear Dr. *Otes* and Mr. *Prance*. (*Which was done.*)

Mr. Serj. *Strode.* Pray Sir will you tell my Lord, and the Gentlemen of the Jury, what you do know of this *Starkey's* being a Prieſt?

Dr. *Otes.* My Lord, Mr. *Starkey* is a Prieſt, and I once heard him ſay Maſs at Mr. *Paſton's*.

L. C. Baron. When was that? How long was it ago?

Dr. *Otes.* It is about three Years ago.

L. C. Baron. Did he give the Sacrament then, or at any other time?

Dr. *Otes.* None received but himſelf.

Mr. *Belwood.* Was he in Prieſt's Habit?

Dr. *Otes.* Yes.

L. C. Bar. Did he receive the Sacrament, and conſecrate the Hoſt?

Dr. *Otes.* Yes, in both Kinds.

L. C. Baron. Will you ask him any Queſtions?

Starkey. He tells me of Prieſts Habits; what are they, Sir?

L. C. Bar. What Habit had he on?

Dr. *Otes.* A thing about his Neck, and a Surplice, and a thing about his Arm; he had a Surplice girt about him.

Starkey. I know you not; and I perceive you neither know what a Prieſt's Habit is, nor the Difference between his Habit and his Ornaments. A Prieſt's Habit is a Caſſock down to the Ground, and a ſide Cloak; the Ornaments of a Prieſt are not a Surplice, (as *Otes* ſays) but an Albe that falls to the Ground, and other things beſides that.

Mr. Juſt. *Pemberton.* You are well skill'd in it I ſee.

Starkey. And how did you know that I ſaid Maſs? Did you know that I took Orders? For if I took no Orders, it was no Maſs; for it is the Prieſt makes the Maſs, and not the Maſs the Prieſt, and then if I were no Prieſt, it could be no Maſs.

Mr. Juſt. *Pemberton.* That is a pretty Argument indeed: Do any but Prieſts ſay Maſs?

Starkey. I can bring an inſtance of a Gentleman in this Town, a private Lay-man, who ſaid Maſs about this Town, and he was a Proteſtant, and at laſt he ſtole the Chalice, (his Name was *Gardener.*)

Mr. Juſt. *Pemberton.* He did well, did he not? Is that your Uſe?

Starkey. Yes, with ſuch Prieſts as he.

L. C. Baron. 'Tis a great Evidence this arguing of yours, if he did not ſwear it, that you are a Prieſt.

Starkey. I wonder that this Gentleman ſhould ſo well remember me, I don't know him.

Mr. Juſt. *Pemberton.* Do you think you know every one that hath ſeen you at Maſs?

Sir *John Keiling.* Set up Mr. *Prance.* What ſay you, Sir, to this?

Mr. *Prance.* My Lord, I heard him ſay Maſs at my Lady *Somerſet*'s in *Lincolns Inn-Fields*, and at Mr. *Duncomb*'s, that taught School in *Prince*'s *ſtreet.*

Starkey. As I hope for Mercy from Almighty God, I was never there in all my Life (except *Pantly*) her Houſe in *Glouceſterſhire.*

Mr. *Prance.* Did you know one Mr. *Duncomb* that is dead?

Stark. Yes.

Mr. *Prance.* Well, I heard you ſay Maſs at his Houſe.

Starkey. My Lord, I was never at Mr. *Duncomb*'s in my Life, but at 3 or 4 a-Clock in the Afternoon, and if I ſaid Maſs there, it was over a Pot of Ale.

Mr. *Prance.* I have heard him ſay he ſaid Maſs in the King's Army.

Starkey. I know neither of theſe two Fellows.

Mr. *Recorder.* Come, I would fain ſee whether you Prieſts and Jeſuits can ſpeak one word of Truth or no: Come, Mr. *Starkey*, did you ever ſay Maſs in the Army?

Starkey. I never did: But pray give me leave to ſpeak; I appeared for the King, when he had not above 500 Men in Appearance for him; I am but a younger Brother, (ſecond Brother to *John Starkey* of *Darley* in the County of *Cheſter*, Eſq;) and yet with an Annuity of Seven-ſcore Pounds a Year, which I bought, and other Moneys which I had, I ſpent above 4000 *l.* in the King's Service, (which I bled for before I had it) for I got it in another Monarch's Service; I loſt my Leg for him by a Cannon-ſhot, and ſo ſpent my Eſtate to that degree, that that day when I received my Sentence of Baniſhment, I had but three half Crowns in the World, which were given me that ſame Morning by two Friends.

L. C. Baron. Mr. *Starkey*, you may urge this to the King, for his Mercy and Clemency, 'tis nothing to the Point here before the Jury to be try'd. Whatſoever you have merited by your Services, you muſt apply your ſelf to the King for his Mercy, it is nothing here.

Starkey. Pray my Lord, give me leave to add ſomething more: I was baniſh'd for 14 Years into *France*, becauſe I refuſed to take an Engagement never to bear Arms again for the King: I did diſcover to this King a Plot deſign'd againſt his Life, State, and Government, I ſuffer to this Day for it; and I delivered (into his own Hand) 11 Articles of High Treaſon againſt the Plotters and their Abettors.

L. C. Baron. You may be a Prieſt for all that.

Starkey. But, my Lord, by the Civil Law it is a Concluſion, that although a Man be a Traitor, and in the ſame Plot, he is to be indemnified for diſcovering the Conſpiracy againſt his Prince; much more for diſcovering another, that I was not a Party in.

Mr. Juſt. *Pemberton.* We have nothing to do with that here, but whether you are a Prieſt or not.

Starkey. That I muſt leave to the Proof.

L. C. Baron. Well then, I'll tell you, Gentlemen, this Perſon is indicted for being a Prieſt and coming into *England.* For the Point of his being a Prieſt you have heard two Witneſſes depoſe; and they both tell you, that they have heard him ſay Maſs, as great an Evidence of it as can be, for none ſay Maſs but Prieſts. Dr. *Otes* tells you at Mr. *Paſton*'s. Mr. *Prance* ſays at Mr. *Paſton*'s, at my Lady *Somerſet*'s, and one Mr. *Duncomb*'s. If you believe this, you muſt find him guilty.

Mr. Juſt. *Atkyns.* And they ſpeak too, to his receiving the Sacraments in both Kinds.

Starkey. If I was there, ſure there was ſome body elſe beſides my ſelf, I did not ſay Maſs alone; produce but one Witneſs for you, then I'll ſubmit.

Cl. of Cr. Set *Alexander Lumſden* to the Bar. Hold up thy Hand, *&c.* Your Charge is, to enquire of him as of your firſt Priſoner, and hear your Evidence.

Mr. *Belwood.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *Alexander Lumſden* the Priſoner at the Bar, ſtands indicted for High Treaſon, for that he being a Prieſt, and receiving Orders from *Rome*, did come here into *England*, and abide contrary to the Statute.

Sir *John Keiling.* Swear Dr. *Otes*, Mr. *Dugdale*, and Mr. *Prance.* [*Which was done.*

L. C. Baron. Come Dr. *Otes*, What ſay you to this Man?

Dr. *Otes.* I heard him ſay Maſs, he is a *Dominican* Fryar, as I remember. I heard him ſay Maſs twenty times at *Wild-houſe.*

L. C. Baron. And Conſecrate the Hoſt?

Dr. *Otes.* Yes, and I receiv'd the Sacrament from him.

L. C. Baron. And ſee him take Confeſſion?

Dr. *Otes.* Yes.

Mr. Juſt. *Pemberton.* Will you ask him any Queſtions?

Lumſden. What time was this, if it pleaſe you, Sir?

Dr. *Otes.* That Summer that was before the Plot broke out. Mr. *Lumſden* knows me well enough.

L. C. Baron. Do you know him?

Lumſden. Truly I do not know that ever I ſaw him, or converſed with him in my Life.

L. C. Baron. What ſay you, Mr. *Dugdale?*

Dugdale. My Lord, I was at *White-hall* that day Mr. *Lumſden* was taken; and by the Importunity of ſome Friends I did go to him, but I did not know him, but by diſcourſe he did confeſs himſelf a Prieſt; I asked if he was a *Franciſcan*, he ſaid he was a *Dominican.*

Dr. *Otes.* He is Procurator-General of the Kingdom of *Scotland.*

Mr. *Recorder.* They have ſuch a parcel of People, and ſuch Names for them.

Mr. Serj. *Strode.* Mr. *Prance*, what do you know of *Lumſden*'s being a Prieſt?

Mr. *Prance.* I know he is a Prieſt, and have heard him ſay Maſs ſeveral times at *Wild-houſe.*

L. C. Baron. Was he there in the Habit?

Mr. *Prance.* Yes, and conſecrated the Hoſt.

L. C. Baron. How long ſince?

Mr. *Prance.* Two years ſince, I heard him twenty times.

L. C. Baron. Do you know what Countryman he is?

Mr. *Prance.* An *Iriſhman* I think.

Dr. *Otes.* No, He is a *Scotchman*, he will not deny it.

L. C. Baron. What Countryman are you?

Lumſden. A *Scotchman.*

L. C. Baron. Of what part of *Scotland?*

Lumſden. Aberdeen.

L. C. Baron. Were you born there?

Lumſden.

Lumſden. Yes.

L. C. Baron. You have no more to ſay, have you?

Lumſden. My Lord, I am not here, I think, to be my own Accuſer, I humbly conceive ſo, and whatſoever is againſt me muſt be proved, not ſimply aſſerted: They ought to give Proofs and Reaſons; but ſo it is, it is but a ſimple Aſſertion what they ſay; I deſire they may prove it.

L. C. Baron. No, they need not; it is ſufficient if they prove it by ſuch Circumſtances that the Jury are ſatisfied and convinced that it is true; but it is not to be looked for, that no Proof ſhould be given againſt the Prieſt, but by them that ſaw him receive Orders.

Mr. Juſt. *Atkyns.* 'Tis impoſſible almoſt to prove that.

L. C. Baron. But if they prove the Circumſtances, that you have executed the Office of a Prieſt by ſaying Maſs, which none does but a Prieſt, 'tis enough to guide them in their Verdict.

Mr. Juſt. *Ellis.* And they have proved that which is next to a poſitive Aſſertion.

L. C. Baron. That need not be.

Mr. Juſt. *Ellis.* But let us not leſſen our Proof neither.

Mr. Juſt. *Pemberton.* You muſt conſider that the Proof is certain; for they have ſworn an Aſſertive poſitive Thing, which thing is enough to a Jury to prove you a Prieſt, becauſe none others but Prieſts may do ſuch things in your Church as you have done: Therefore it is a good Argument and Evidence to conclude you a Prieſt, from this Evidence that hath been given.

Dr. *Otes.* I have heard him own himſelf a Prieſt twenty times.

Lumſden. The excrciſe of the Prieſtly Function is but a Penalty of 200 Marks.

L. C. Baron. Ay, that is, if the King will go no higher: But you are proſecuted upon another Law.

Mr. Juſt. *Ellis.* 'Tis Evidence, and a great Evidence, that which hath been given; for we muſt go according to the nature of the thing: 'Tis impoſſible the Act of Parliament ſhould be put in execution, if they muſt prove they received Orders from the See of *Rome:* But when they have proved thoſe things done by any man, which none ought to do but a Prieſt, it hath been in all times allow'd to be a Special Evidence.

Mr. Juſt. *Pemberton.* 'Tis a plain and ſufficient Evidence.

Mr. Juſt. *Ellis.* But if there were any need of it, and you would have any more, he hath confeſſed, upon the Queſtion asked him, Whether he was a *Franciſcan*; No, he was a *Dominican.*

L. C. Baron. Have you done? Then Gentlemen of the Jury, you muſt not at this time of the day be inſnared by that Argument, That there muſt be a poſitive Proof of this Reception of Orders from the Church of *Rome,* becauſe it hath been all along accounted, and is an undoubted Proof for your Satisfaction, if it appear he hath exerciſed the Offices of the Function; thoſe Offices that are not done but by Prieſts: Now this hath been proved by two Witneſſes, and by the Confeſſion of the Prieſt himſelf to Dr. *Otes* and Mr. *Dugdale*: So I muſt leave it upon the point of Fact to you, whether it be not ſufficient Proof. But this Caſe will differ from all the reſt, and the Court is very tender in the caſe of Life, that it ſhould be without all Queſtion what is determined; therefore as to your Enquiry for him, it muſt go only whether he be a Prieſt or no; for the others, you muſt conſider them as *Engliſhmen,* and enquire of them as ſuch: He is a *Scotchman,* as he ſays, and they ſay ſo too: Now then there are ſome Words in this Statute whereupon the Court hath conceived a Doubt, Whether his Caſe comes within them; which are the Words about the King's Dominions, which now are far more enlarged than were thoſe of the Queen when the Statute was made; if then you find him a Prieſt, you muſt find the other matter ſpecially.

Mr. Juſt. *Ellis.* Look you, Gentlemen, we are to be of Counſel for the Priſoner; and it being matter of Law, we ſhall take time to adviſe upon it before we give our Opinions in it: but for the matter of Fact, I doubt not but you will find that he is a Prieſt; and then the other matters, that he was born at *Aberdeen* in *Scotland,* and the other matters you may find ſpecially, there needs no more.

Mr. *Recorder.* Swear an Officer to keep the Jury.

Who after the Receſs of a quarter of an Hour, return'd into the Court, and having anſwered to their Names, and appointed their Foreman to give in their Verdict, he delivered it thus:

Cl. of Cr. Lionel Anderſon, alias Munſon, hold up thy Hand; look upon the Priſoner, how ſay you, is he Guilty of the High Treaſon whereof he ſtands Indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. James Corker, hold up thy Hand: How ſay you, is he guilty, *&c.*

Foreman. Guilty.

Cl. of Cr. Is *William Marſhal* guilty, *&c.*

Foreman. Guilty.

Cl of Cr. Is *William Ruſſel, alias Napper,* guilty, *&c.*

Foreman. Guilty.

Cl. of Cr. Is *Charles Parry* guilty, *&c.*

Foreman. Guilty.

Cl. of Cr. Is *Henry Starkey* guilty, *&c.*

Foreman. Guilty.

Cl. of Cr. Alexander Lumſden, hold up thy Hand. Look upon the Priſoner; How ſay you, is he Guilty of the High Treaſon whereof he ſtands indicted, or Not Guilty?

Foreman. We find he is guilty of being a Prieſt, and born at *Aberdeen* in *Scotland.*

Mr. Juſt. *Ellis.* Read the Notes to them.

Cl. of Cr. You find that *Alexander Lumſden* is a *Scotchman,* of 58 Years of Age, born at *Aberdeen* in the Kingdom of *Scotland,* being then under the Dominions of King *Charles* the Firſt, and now under the Dominions of our preſent Sovereign; and in the Reign of the ſaid King *Charles* the Firſt, and that at the time in the Indictment mentioned, he was a Prieſt in Holy Orders, by Authority derived from the See of *Rome, prout* in the Indictment: And that he came and was remaining in *England, prout* in the Indictment. But whether upon the whole matter he be Guilty of High Treaſon within this Law or not, you do not know, and crave the Opinion of the Court.

Foreman. Yes.

Cl. of Cr. Then hearken to your Verdict, as the Court hath Recorded it: You ſay, *&c.*

Mr. *Recorder.* Call for the Executioner.

Then the Judges went off from the Bench, and the Court proceeded to Judgment.

Cl. of Cr. Set *Lionel Anderſon, alias Munſon*, to the Bar: *Lionel Anderſon, alias Munſon*, thou ſtandeſt Convicted of High Treaſon; What canſt thou ſay for thy ſelf, why Judgment ſhould not paſs upon thee to Die according to the Law?

Anderſon. I can ſay this, I would have gone out of *England*, but the King kept me here, telling me, I ſhould not go; and I had a Protection from the Council-board: The Biſhop of *London*, when I was taken firſt, ſent a Letter to Sir *Clement Armiger*, that neither I nor my Books ſhould be meddled with, that I had written for the King and the Government, for which he conceived I might be excommunicated at *Rome*, and that I was then under a ſpecial Protection of his Majeſty and Council; and when I was again taken and put in Cuſtody of the Horſe-Guard, the Duke of *Monmouth* ſent Sir *Thomas Armſtrong* to have me freed again: I begg'd of the King that I might go, ſaid I, I won't expoſe the King to the worſt of Rabbles; but he told me, I ſhould ſtay in *England*, and Mr. *Peter Welſh* and I had Orders from the Council, he one and I another, to ſtay.

Mr. *Recorder.* For that matter you may be aſſured, I promiſe it you faithfully and publickly, that I will acquaint the King with what you ſay.

Anderſon. I thank you, Sir.

Mr. *Recorder.* For this Court hath nothing to do with that, the King is the proper Judge of that matter, to determine his own pleaſure as he thinks fit: Tie him up.

Anderſon. Sir, I had no notice of my Tryal but this morning: I ſent to my Lord *Bridgwater*, to know when I ſhould be Try'd, he told me, I ſhould have Ten days notice of it; now I have Witneſſes to diſprove Mr. *Prance*'s Teſtimony; for Mr. *Otes*, I own he hath heard me ſay Maſs; but for Mr. *Bedloe*'s Teſtimony, as I hope to ſee the Face of Almighty God, I know him not: When I was taken, ſaid he to me, Mr. *Anderſon*, let me ſee your Protection, and I ſhewed it him; You have two Names, ſaid he, I do not know whether it be you or no. And then beſides, theſe are not legal Witneſſes.

Mr. *Recorder.* Nay, that muſt not be allow'd you to ſay: You have been fairly heard and try'd; they were upon their Oaths, and the Jury, twelve men upon their Oaths, without any Exception made to them, they have Convicted you; therefore this is to calumniate the Proceedings of the Court.

Anderſon. I tell you this more; they are not the King's Evidence properly; for they ſwear for themſelves upon the account of Benefit, if any Prieſt be Convicted, they are to have ſo much money.

Mr. *Recorder.* The Court heard the Evidence that was given, and if you will have it of the Court, the Court does really believe them, and ſo did the Jury too.

Anderſon. I am ſatisfied.

Mr. *Recorder.* Tie him up then.

Cl. of Cr. James Corker, hold up thy Hand: You ſtand Convicted of High Treaſon; What can you ſay for your ſelf, *&c.*

Corker. Nothing, but that I refer my ſelf to God my juſt Judge and Saviour.

Mr. *Recorder.* Tie him up.

Cl. of Cr. William Marſhal, hold up thy Hand: Thou art in the ſame Condition, what ſayſt thou for thy ſelf?

Marſhal. I have very little more to ſay than what I have ſaid already: I thought the Law had not allow'd any man to have been condemned upon the Teſtimony of one Witneſs, but required two: Now there was but one poſitive Witneſs againſt me, the reſt only ſaid, I had confeſſed my ſelf to be a Prieſt; two of them did ſwear, they heard me confeſs it at my other Tryal; if it had been at this Tryal it had been another thing, and there had been ſome validity in the Proof; but to ſay, they heard me confeſs it at another time, I humbly conceive, according to the Law, bears no force. I have this further to add, his Majeſty, ſome Years ago, put forth a Declaration under the Broad-Seal, for a Toleration of Religion, and Liberty of Conſcience, whereby the Roman Catholicks had the uſe of their Religion in their private Houſes. Now I have been informed, that according to Law, whatſoever is put forth under the Broad-Seal, muſt be recalled by ſomething under the Broad-Seal, or it remains in force: which was never done as to this Declaration, and then I lie under the Protection of that Declaration.

Mr. *Recorder.* As for the firſt part, 'tis plain, to the ſatisfaction of every body, that there hath been two ſufficient Witneſſes, upon whoſe Teſtimony you are Convicted: For whether you were asked the Queſtion or not, yet if you will ſay you are a Prieſt, that Confeſſion of yours is Evidence againſt you, tho' you might poſſibly ſay ſo without being asked the Queſtion.

Marſhal. Is it credible I ſhould do ſo?

Mr. *Recorder.* Yes, the Jury believed it ſo.

Dr. *Otes.* One of the Jury ſtood by and heard the Words.

Mr. *Recorder.* And now, becauſe I will put it out of all doubt, 'tis not the Buſineſs nor the Duty of the Court to give any Evidence of any Fact that they know of their own knowledge, unleſs they will be ſworn for that purpoſe: For tho' they do know it in their own private Conſciences to be true; yet they are obliged to conceal their own Knowledge, unleſs they will be ſworn as Witneſſes. But now you are Convicted, I muſt take the liberty to tell you, that at your laſt Tryal you did own your ſelf to be a Prieſt; and I muſt put you in mind further of ſomething which you may very well remember: When I detained you after your Acquittal, and re-committed you when Sir *George Wakeman* was diſcharged, I did then tell you, you have own'd your ſelves to be Prieſts, I was bound to take notice of that Confeſſion of yours, and therefore obliged to detain you: Such a Token as that is may perhaps bring it to your memory; but as it was hinted to you before, you are a voluminous Talker, and abundance of things may drop out of your mouth, that you don't conſider before they are paſt.

Marſhal. 'Tis for my Life, and therefore I may be permitted to ſpeak ſure.

Mr. *Recorder.* That is as to the firſt Point: And then as to the King's Declaration, which was the other matter you inſiſted upon, I preſume it does not ſtick with any body that knows the matter; but leſt it ſhould, I would ſay this to it: 'Tis very well known, in the firſt place (I do not go now to determine the Law upon it, becauſe

becauſe you know what Opinions and Judgment it received afterwards) yet this I will adventure to ſay, That it was never the intention of that Declaration that ever Prieſts ſhould come and reſide here; but it was only intended for tender Conſciences, as the very Letter of the Declaration it ſelf does ſhew, not to countenance Prieſts and Jeſuits, that have caſt off all their Allegiance to the King, and endeavour both to deſtroy him and his Government.

Marſhal. Pray Sir, will you give me leave to ſpeak as to that: If ſo be the uſe of their Religion were permitted to *Roman* Catholicks, that Religion not being to be practiced without Prieſts, it is to be ſuppoſed, that the Prieſts are permitted.

Mr. *Recorder.* But if a Man were to argue with you now in your own way; Pray are there not Prieſts in *England*, beſides thoſe Prieſts that were born here? You know, of your own Acquaintance there are ſeveral *Roman* Catholick Prieſts, not *Engliſhmen* born, that are conſtantly here, who can perform the Offices.

Marſhal. Nay, I don't know that; but this I know, if they be not born in *England*, or have lived in *England*, ſo as to know the Tongue, *Roman* Catholicks will be little the better for 'em.

Mr. *Recorder.* Nay, I don't ſay much the better, but much the worſe for their coming at them: and in caſe they would only uſe the *Engliſh* Truth, I preſume they would not have ſo many Proſelytes, but you gull them with Stuff they underſtand not.

Marſhal. Pray Sir give me leave a little, I have one word more: For all matters of Treaſon, and treacherous Conſpiracy, I was freed before in this Court; now I would obſerve what the beſt Lawyers that ever were in *England* have obſerved for me; That there is no Crime in Prieſthood it ſelf: For my Lord *Coke* in his 5*th* Report, 39*th* Leaf, commenting largely upon the Statute of 27 *Eliz.* and inlarging upon the Senſe and Meaning of that Statute, and calling to mind who the Men were that were formerly executed by force of that Statute, and why, concludes thus: Hence it appears, that no Man yet hath or can be executed for his Function of Prieſthood, but becauſe there was annexed to the Prieſthood treacherous Deſigns and treacherous Attempts. And the ſame Lawyer in the 3*d* Inſtitutes, 22*d* Leaf, ſays, That in this Statute of 27 *Eliz.* 'twas very wiſely and juſtly done by the Statute-makers, to provide, that the Judges ſhould proceed in their Judgments upon that matter, only according to what is expreſſed and ſpecified in that Statute. And thoſe Words were a Sanctuary to the Judges, and put in to prevent the ſhedding of guiltleſs Blood. Now if ſo be that ſo great a Lawyer, in a Diſcourſe about Prieſthood and Treachery, does thence conclude, That Prieſthood as Prieſthood is no Crime, nor no Function belonging to it hath any Crime in it, well may I conclude ſo too: And indeed, if it had, then a great part of the World would be Traytors; nay, it would bring in Chriſt himſelf, who was a Prieſt, to be a Traytor too: Therefore Prieſthood as Prieſthood, hath no Treaſon eſſentially link'd to it. And when he ſays, that they muſt proceed according to what is ſpecified, he does in the forementioned place ſhew, that it was not ſpecified at all, that any that were Executed, were for Prieſthood Executed: And I am accuſed of nothing elſe in the World but bare Prieſthood as Prieſthood, without any Deſign or Treachery joyned to it: And if, according to Law, Prieſthood be not liable to Condemnation, then I am not to be Condemned.

Mr. *Recorder.* Now you have been heard.

Marſhal. Yes, Sir, and I thank you for it.

Mr. *Recorder.* This long Speech of yours will ſignifie but little, when you conſider the Act of Parliament upon which you are indicted: 'Tis true, ſet that Act of Parliament out of the Caſe, and then to be a Prieſt is not High Treaſon; nay, in caſe a Man be born out of the King's Dominions, and be a Prieſt, and remain here, that is not High Treaſon within this Statute, becauſe Prieſthood it ſelf does not make the Crime (God forbid any one ſhould affirm it) but when all that is granted, when an Act of Parliament hath taken particular notice of the great Miſchiefs and Inconveniences that have attended the Government, and the continual Danger that the Supreme Head hath been in, by having Perſons which were born within the King's Dominions (as you were) to wave their Allegiance, and to acknowledge a Supremacy in any Foreign Prince or Prelate, as you all do, when you take Orders from the See of *Rome*; the Wiſdom of the Nation hath thought reaſonable that ſuch ſhould be adjudged Traytors: And this Act of Parliament, upon which you ſtand Convicted, does plainly ſay, If any one born within the King's Dominions will take Orders from the See of *Rome*, and ſhall after reſide here, he is guilty of High Treaſon: And this is not only thought ſo by us that are here, but by all my Lords the Judges that were preſent at your Tryal; for God forbid we ſhould condemn you for any thing as High Treaſon, if you had not been within the compaſs of the Act of Parliament: And what is Treaſon, the Act of Parliament particularly deſcribes, which all hath been proved upon you; and becauſe you are pleaſed to ſpeak it to the Court, and lay it on the Conſciences of the Court, I diſcharge my Conſcience; the Jury having Convicted you for High Treaſon, I am very ready to paſs Judgment upon you according to the Law, and I will clear my Conſcience of that preſently. Tie him up.

Cl. of Cr. William Ruſſel, hold up thy Hand, Thou art in the ſame Caſe, what canſt thou ſay for thy ſelf? *&c.*

Ruſſel. I can ſay this, my Lord, that in my Conſcience, I do not acknowledge my ſelf Guilty of what they accuſe me for, but I muſt ſubmit to the Laws as they are made; but I do proteſt before Almighty God, and this whole Court, that I am innocent of all that is laid upon me.

Mr. *Recorder.* Why, what were you never at *Wild-houſe*, and ſaid Maſs there? I would feign hear, whether you in the State and Condition you are in (though you Jeſuits have a thouſand Tricks and Evaſions) have Confidence enough to ſay you never were, nor ſaid Maſs there?

Ruſſel. I ought not to accuſe my ſelf.

Mr. *Recorder.* You are convicted. But every thing that you ſay is but an Evaſion, and a Trick to catch and inſnare the Ignorant, but People of any ſort of Senſe will not be gull'd ſo.

Ruſſel. For my Witneſſes, you are my Witneſs, I have but one Witneſs upon that Buſineſs.

Mr. *Recorder.* The Jury have believed them.

Ruſſel.

Ruſſel. 'Tis poſſible it may be ſo.

Mr. *Recorder.* Nay, 'tis beyond poſſible, 'tis true.

Ruſſel. The Witneſſes that have depoſed againſt me, for my part, I know them not.

Mr. *Recorder.* You have heard of Dr. *Otes*, Mr. *Prance*, and of Sir *William Waller* too. Tie him up.

Cl. of Cr. Charles Parris, alias Parry, hold up thy Hand. You are in the ſame Condition, what have you to ſay?

Parry. What have I to ſay for my ſelf? I have this to ſay, That thoſe that did depoſe againſt me, did not ſay one word of Truth as to their Allegations, I take God to Witneſs for it; I am a dying man, and thank moſt heartily the Court for what they are to pronounce againſt me, and I am as ready to ſuffer, as any man may be to have me to ſuffer, for it is God's Glory and his Cauſe. Then I inſiſted upon two Parts, and complained, Firſt, of Sir *William Turner*, that being brought before him by Mr. *Prance*, and ſhewing him my Protection under an Ambaſſador, and I profeſſing my ſelf a *Frenchman*, he ſlighted it, which I held to be a manifeſt Breach againſt the Laws of Nations. Secondly, I was wrong'd by Sir *William Waller*, when (in his Examination of me with Juſtice *Warcup*) in the *Preſs-yard*, *Newgate*, he threatned me with Irons, *&c.* if I did not take my Oath I was not born in *France*, and I refuſing, (which none could be compell'd to) for 'twas my Opponent's Part to prove the contrary; and who can prove me to be other than a *Frenchman*?

Mr. *Recorder.* No body can; we believe you to be an *Engliſhman.*

Parry. If I be a *Frenchman*, I am not ſubject to the penal Laws.

Mr. *Recorder.* Why, no body does. We believe you to be an *Engliſhman.*

Parry. And if it pleaſe you, they are to prove it.

Mr. *Recorder.* Well, that is over now, Tie him up.

Parry. I am not a Subject, and as not a Subject, am not under the penal Laws.

Cl. of Cr. Set *Henry Starkey* to the Bar. *Henry Starkey*, hold up thy Hand. Thou art in the ſame Condition with him that went laſt before thee, what canſt thou ſay for thy ſelf? *&c.*

Starkey. In the firſt place, Mr. *Recorder*, here is the Man (*pointing at Mr.* Prance) hath ſworn two Lies at one Breath.

Mr. *Recorder.* I muſt not hear that, Mr. *Starkey.*

Starkey. Will you pleaſe to hear me, Sir.

Mr. *Recorder.* I will give you all the Freedom you can lawfully deſire in the World, but it muſt be that which will conſiſt with my Duty, and the Reverence you owe the Court. You ſhall not revile the King's Evidence as long as I am here, by the help of God.

Starkey. If that it were true, that I had ſaid Maſs at my Lady *Somerſet*'s and Mr. *Duncomb*'s, yet it is not ſufficient to prove a man to be a Prieſt, for any man may take the Prieſt's Garments, and do the Ceremony and the Office, becauſe there are hundreds, perhaps thouſands, that have ſuffer'd Death for it. And ſo to do theſe Acts, is not Evidence of being a Prieſt.

Mr. *Recorder.* Indeed I don't underſtand what makes a *Romiſh* Prieſt, nor do I deſire it.

Starkey. But you will give me the Letter of the Law.

Mr. *Recorder.* And the Jury hath found you a Tranſgreſſor of the Law.

Starkey. The Letter of the Law is this, *That if any one of the Queen's Subjects ſhall tranſport himſelf beyond the Sea, and ſhall in a Seminary take Orders, by Authority deriv'd from the See of* Rome, *and ſhall return into* England, *and ſhall not preſent himſelf here to the Ordinary, or elſe to ſuch a certain Number of Juſtices of the Peace within ſuch a Term, but ſhall ſeduce the King's Liege People*——

Mr. *Recorder.* No, that is another Act.

Starkey. Then he ſhall be adjudged a Traitor. Now Mr. *Recorder* I come to this, as I told you before, I had diſcover'd a Plot to the King that was deſign'd againſt his Perſon, State, and Government, and did deliver into his Hands eleven Articles of Treaſon, which I had writ with my own Hands; (and this he hath own'd, and will own.) So, Mr. *Recorder*, upon this I was threatned my Life and Liberty by the Plotters, That the King ſhould not be gone twenty four hours, but I ſhould be impriſoned. When the King went, what muſt I do? Muſt I ſtay there and hazard my Life, or truſt to the King's Mercy? I was forced to come along with the King for Protection. I came to *White-hall*, and the King roſe up and gave me his Hand to kiſs, and ſo did the Duke of *York*, and told me I was welcome. I went to my Lord Chancellor *Hyde*, who, when he ſaw me, embrac'd me in his Arms, and ſaid, thou art welcome, I am glad to ſee thee in *England*. I had occaſion to ſpeak with the Biſhop of *London*, Dr. *Shelden* about another Perſon, and when I came to him, he asked me, What is your Name? My Lord, ſaid I, my Name is *Starkey*, with that he catches me faſt by the Hand, and when he had done that, he took me in his Arms, and told me, You are welcome. And Mr. *Recorder*, I do ſuffer to this day for the Service I have done the King.

Mr. *Recorder.* Mr. *Starkey*, I can only ſay this to you, I do promiſe you faithfully, as I promiſed the other Gentleman that went before, I'll tell the King what you alledge. He is the beſt able to give an Account of it, and is the fitteſt Judge of his own Mercy. But I could recommend to you, Mr. *Starkey*, a thing that would be very acceptable, and then as far forth as 'tis modeſt for me to ſpeak, I am pretty well aſſured, I might ſay, I could prevail for Mercy to you, That is, as you did diſcover one Plot before, ſo you would diſcover this helliſh Plot that is now on foot.

Starkey. Mr. *Recorder*, I have wiſhed a hundred times, and wiſh now, that if there were any Commiſſions, as is pretended, the firſt that had delivered one to me, ſhould never have deliver'd a ſecond; for I would either have brought him to Juſtice, where he ſhould receive his Reward, or elſe I would have kill'd him in the place; tell the King, Mr. *Recorder*, that I ſay ſo.

Mr. *Recorder.* Well, the King is a Fountain of Mercy, and he is the beſt Judge of the fit Objects of it. I will, as I ſaid, tell him what you ſay.

Starkey. If the King does not own what I told you, then count me the greateſt Knave that ever you ſpoke withal.

Mr. *Recorder.* You remain now under the Conviction of the Law, what Mercy the King, who is the Fountain of Mercy as well as of Juſtice, will extend to you, is in his own Power.

Starkey. Mr. *Recorder*, I have here his Majeſty's Gracious Pardon of the 25*th* Year of his Reign.

Mr.

Mr. *Recorder*. I allow that, but you have ſtaid here ſince.

Starkey. Why then, Mr. *Recorder*, pray will you adviſe me what to have done? Nature teacheth all Men to ſhun Danger; for I was threatened with Life, &c. if I ſtaid in *France*: Whether ſhould I ſtay there, or return to my native Countrey with my King? Now, Mr. *Recorder*, I deſire to know what you would have had me done?

Mr. *Recorder*. I ſhall acquaint the King, and will do you all the kindneſs I can with him. Tie him up.

Starkey. But how ſhall I do then, when I am lame? I want a Leg, and I muſt uſe my Stick.

Mr. *Recorder*. Then let him alone.

Starkey. But I pray, good Mr. Recorder, will you be pleaſed before you give Sentence upon me, to acquaint the King with what I have to ſay for my ſelf.

Mr. *Recorder*. No, I cannot do that, the King's Pleaſure is to be known afterwards. Set *Lumſden* aſide, and ſet all the reſt to the Bar.

Then Proclamation was made for Silence, whilſt Judgment was giving.

Mr. *Recorder*. You the Priſoners at the Bar; you have been ſeverally Accuſed, Arraigned—

Starkey. Mr. *Recorder*, May I ſpeak one word? I have preſented this Year, wherein at the 26*th* of this Month I have been a Priſoner, ſeveral Petitions by my Friends to the King, and deſir'd to be Tranſported; for my Age and Infirmities, and want of a Leg did not ſtand well with my being in *England* theſe troubleſome Times. The King, I am told, hath promiſed I ſhould, but I ſee no Fruits of thoſe Petitions. And pray conſider this, that I ſhould have been impriſoned if I ſtayed out of *England*, and now to be proſecuted in *England* in this manner, and to be drawn, hang'd, and quartered, is very hard.

Mr. *Recorder*. Whether it be true or not, God knows, I ſhall acquaint the King with it. It only remains with me to take notice of it for that purpoſe. And for my part I am ſorry with all my heart to ſee ſo many Perſons brought to receive the Sentence of Death by my Mouth. But I muſt ſay this, you your ſelves have been the occaſion of it, and therefore muſt blame your ſelves for it. You have had the Benefit of the beſt Laws, the Law of *England*, which gives every Subject the liberty to make a Defence for himſelf, when ever he is accuſed of any Crime; he hath the liberty to hear the Witneſſes what they ſay againſt him; to call any Witneſſes for him, and to make defence for himſelf. And not only ſo, but he hath likewiſe Twelve Men upon their Oaths, that are his Peers, againſt whom he hath the liberty to make a Challenge without ſhewing any Reaſon, to a certain Number; and if it ſhall appear that any of them have the leaſt Prejudice or Malice againſt any Perſons that are to be tried for their Lives, to a greater Number. Such, and ſo great is the Benefit of the Laws of *England*, beyond all the Laws of any other Nation in the World. But all theſe Forms having been paſſed, and a Jury of Men, againſt whom you made no Exception, having found you guilty of the Offences for which you were indicted, there remains now nothing more with the Court, but to paſs that Judgment of Death upon you, which the Law requires, and which is the Buſineſs that lies upon me now. But before I do that, for I know you may think it a Preſumption, or at leaſt a needleſs and unneceſſary thing for me to take upon me, and give any Directions to you, the Buſineſs of whoſe Profeſſion it hath been to give Precepts. However I think it is neceſſary for the Satisfaction of ſome Perſons that are here preſent, that I ſhould give them ſome Account, why I think this Law, and the putting it in execution at this time is not unreaſonable. For it is to be known, that every Subject of this Realm by his being born within the Dominions of the King, does owe an immediate Allegiance to the King, and is to take notice by the Law, that there is not any Perſon hath any Superiority over him; for under God he is the Supream Head and Governor. And if any Perſon born within the Dominions of the King ſhall ſo far forget himſelf, and what he owes to the King by his Birth, and that Supremacy which he ſhould maintain with his Life and Fortune, as to ackowledge any other Foreign Perſon to be Supream, and to have a Power to Depoſe the King, and diſpoſe of his Dominions (as every one does, that takes Orders from the See of *Rome*) he cannot but be thought deſerving of the greateſt Puniſhment. Wherefore the Wiſdom of our Nation, the Parliament, at the time when they made the Law, found that the Religion Eſtabliſhed (that Religion which I hope in God will remain notwithſtanding all the Enemies it ever had or ſhall have) was invaded by ſuch Prieſts as you: They found the Life of the Queen at that time in great danger, by the Attempts of thoſe Perſons whom they had made their Proſelytes, into whom they had infuſed Principles, that it was no Crime for them to depoſe their Queen, ſince they had the Authority of their Pope to juſtifie the Fact. And if once Men can preach ſuch Doctrine, and alſo but prevail with their Hearers to be of ſuch a Perſwaſion, if Care were not taken, we ſhall ſoon ſee an end of all ſort of Government, and of our Religion too. But in as much as theſe Principles were not ſo viſibly endeavoured to be put in practice till of late times, though you were not permitted, but connived at; yet that is no Reaſon but the occaſion of making the Law being revived, the Execution of the Law ſhould revive with it. I ſuppoſe it is not unknown to any of us, that there hath been an helliſh Plot againſt the Life of the King, and to deſtroy our Religion, I would to God I could ſay the Plot was at an end. For I muſt ſay, ſome of you, I fear, had too great a Hand in it: And what a ſort of Monſters were prevailed upon to compaſs the ſame, by you that are Prieſts and Jeſuits, who have wrought them up to ſuch a Belief, that Murder in this World is a certain Way to Saintſhip in that which is to come. And though you ſeem to deny it, your Practices are a Proof of it beyond all Contradiction, which is the reaſon that this Law, which was a good Law at the time of the making, and thought fit to be put in Execution then, though it hath ſlept ſome time ſince, ſhould now be put in Execution againſt you, who have occaſion'd all thoſe Miſchiefs to this Nation in theſe latter Times, which occaſioned the making of the Law. And one thing more I ſhould ſay to that Man, who pretends to merit by the good Services he hath done for the Publick, that he ſhould injoyn a Man to ſcour his Kettle, as he calls it, to receive the Sacrament,

ment, and then give him a Diſpenſation to be drunk, and make another ſo, To promote a damnable Deſign, is ſuch a Power of Prieſthood, fit only for the *Pope* and his Imps to put in practice.

But to ſay no more, in Charity I am bound to compaſſionate your Condition, which with all my Soul I do, and heartily can ſay to you, I am ſorry to ſee you in that Miſery; it was in your own power to have prevented it; but ſeeing you have made your ſelves Obnoxious to the Law, the only thing required of me, is to pronounce the Sentence that that Law hath Decreed: And therefore in the Name of the Court I do pronounce this to be your Judgment——

Starkey. Mr. *Recorder*, Give me leave to ſpeak one Word: If any one ſhould have held to me that Poſition, That it is lawful to depoſe and murder Kings, I would have kill'd him in the place: Tell the King, Mr. *Recorder*, I ſay ſo.

Anderſon. It is my comfort, that no one of common Senſe can believe it.

Marſhal. May I ask one Queſtion, Mr. *Recorder*, before you pronounce Sentence?

Mr. *Recorder.* No, Mr. *Marſhal*, you can't ſpeak now; but this is your Judgment, and the Court does award it: That you the ſeveral Priſoners now at the Bar, be convey'd from hence to the Place from whence you came; and that you, and every of you, be convey'd from thence on Hurdles to the place of Execution, where every of you are to be ſeverally hang'd by the Neck; That you be ſeverally cut down alive; That your Privy-Members be cut off, your Bowels taken out and be burnt in your view; That your Heads be ſevered from your Bodies; That your Bodies be divided into four Quarters, which are to be diſpoſed at the King's pleaſure: And the God of infinite Mercy have mercy upon your Souls.

Parry. *Te Deum laudamus; Te Dominum confitemur.*

Then the Priſoners were carried away, and the Court Adjourn'd the Seſſions.

The TRYAL and Conviction of *John Taſborough* and *Anne Price.*

In Hillary-Term, Feb. 3. 1679.

This Day John Tasborough, ***and*** Anne Price ***(who were the laſt Term Indicted for the Offence in the Indictment hereafter recited, and found Guilty by the Grand Jury of the County of*** Middleſex) ***were brought to a Tryal at the Bar of the Court of*** King's Bench: ***Which proceeded thus.***

FIRST, Proclamation was made for Information in uſual Form. Then the Defendants were called, and appearing, were by the Clerk of the Crown adviſed to look to their Challenges. Then the Jurors that were ſummoned to try the Cauſe being called, and appearing, the Twelve that were Sworn, were theſe Perſons following,

Thomas Harriot,	Jur	*Edward Wilford,*
Thomas Johnſon,		*Richard Bull,*
Charles Umphrevile,		*Joſeph Radcliffe,*
Thomas Earsby,		*Richard Cooper,*
Richard Pagett,		*James Supple,*
John Greene,		*George Read.*

Cl. of Cr. Gentlemen of the Jury, you that are ſworn, hearken to the Record. The Defendants, *John Tasborough* and *Anne Price*, ſtand Indicted by the Oaths of Twelve honeſt and lawful Men of the County of *Middleſex*; which Indictment ſets forth: That whereas one *Thomas White, alias Whitebread, William Harcourt, John Fenwick, John Gavan, alias Gawen,* and *Anthony Turner*, being Popiſh Recuſants, and falſe Traytors againſt our Sovereign Lord, *Charles* the Second, by the Grace of God, of *England, Scotland, France* and *Ireland* King, Defender of the Faith, *&c.* the Thirteenth Day of *June*, in the Year of the Reign of our Sovereign Lord the King that now is, the Thirty firſt, at the Seſſions of *Oyer* and *Terminer*, and Goal-delivery, then held in the *Old-Bailey*, in the Pariſh of St. *Sepulchres*, in the Ward of *Faringdon without*, *London*, for the City of *London* and County of *Middleſex*, were lawfully indicted for certain High Treaſons in the ſaid Indictment ſpecified; and afterwards were ſeverally Tryed by a Jury of the ſaid County, and then and there were Attainted, as appears by the Record thereof to the Jurors aforeſaid in Evidence ſhewn. And whereas alſo one *Richard Langhorn*, Eſq; being a Popiſh Recuſant, the 14*th* day of *June*, in the Year of the

the Reign of our ſaid Sovereign Lord the King that now is, the 31*ſt* aforeſaid, at the Seſſions of *Oyer* and *Terminer*, then held by Adjournment at the *Old-Bailey*, in the Pariſh and Ward aforeſaid, was lawfully indicted for divers High Treaſons in the ſaid Indictment ſpecified; and being afterwards Try'd by a Jury of the County, was then and there thereof Attainted, as appears by the Record thereof, to the Jurors aforeſaid in Evidence ſhewn. And whereas one *Stephen Dugdale*, upon the ſeveral Tryals of the Indictments aforeſaid, was a Witneſs produced and ſworn on behalf of our ſaid Sovereign Lord the King that now is, and then and there in lawful manner, did give material Evidence againſt the ſaid *William Harcourt*, and the ſaid ſeveral other Traytors, to prove them guilty of the matters in the ſaid Indictment ſpecified: The ſaid Defendants, *John Tasborough* and *Anne Price*, the Premiſes aforeſaid well knowing, and being Perſons deviliſhly affected towards our Sovereign Lord *Charles* the Second, now King of *England*, *&c.* their Supreme and Natural Lord, and deviſing, and with all their Strength intending the Peace and Tranquillity of this Kingdom to diſturb, and to hinder and ſtifle the farther diſcovery of the ſaid Treaſons, and as much as in them lay, the due courſe of Law to elude, and the proſecution of Juſtice in that behalf to retard and obſtruct; as alſo to cauſe and procure that it ſhould be believed, that the Perſons aforeſaid Attainted, were unjuſtly Attainted: The ſaid *Anne Price*, before the Tryal of the ſaid *William Harcourt*, to wit, the 10*th* day of *June*, in the Year of the Reign of our ſaid Sovereign Lord the King the 31*ſt* aforeſaid, at the Pariſh of St. *Margaret Weſtminſter*, in the County of *Middleſex*, with Force and Arms, falſly, unlawfully, unjuſtly, corruptly, and againſt the Duty of her Allegiance, did ſolicit, ſuborn, and endeavour to perſuade the ſaid *Stephen Dugdale*, that he the aforeſaid *Stephen Dugdale* ſhould not be a Witneſs nor give Evidence againſt the ſaid *William Harcourt*, upon the Tryal of the ſaid *William Harcourt* for the Treaſons aforeſaid: And that the ſaid *John Tasborough* and *Anne Price*, afterwards, to wit, the 12*th* day of *October*, in the Year of the Reign of our ſaid Sovereign Lord the King that now is, the 31*ſt* aforeſaid, at the Pariſh of St. *Margaret Weſtminſter* aforeſaid, with Force and Arms, falſly, unlawfully, unjuſtly, adviſedly, corruptly, and againſt the Duty of their Allegiance, did ſolicit, ſuborn, and endeavour to perſuade, and either of them did then and there, falſly, unlawfully, adviſedly, corruptly, and againſt the Duty of their Allegiance, ſolicit, ſuborn, and endeavour to perſuade the ſaid *Stephen Dugdale*, that he the ſaid *Stephen Dugdale* ſhould retract and deny all the Evidence and Information which he the ſaid *Stephen Dugdale*, as aforeſaid, had given againſt the Traytors and Popiſh Recuſants aforeſaid; the ſaid *John Tasborough* and *Anne Price* then and there falſly, unlawfully, unjuſtly and adviſedly, corruptly promiſing, and either of them promiſing to the ſaid *Stephen Dugdale* great Sums of Money and Rewards, if he the ſaid *Stephen Dugdale* would retract and deny all the Evidence and Information by the ſaid *Stephen Dugdale*, againſt the Traytors and *Popiſh* Recuſants aforeſaid, as aforeſaid given, and would withdraw and abſent himſelf the ſaid *Stephen Dugdale*, in places unknown and beyond the Sea: And that the ſaid *John Tasborough* and *Anne Price*, their wicked Devices, Practices and Intentions aforeſaid to fulfil and accompliſh, afterwards, to wit, the ſaid 12*th* day of *October*, in the Year of the Reign of our ſaid Sovereign Lord the King the 31*ſt* aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, by Force and Arms, falſly, unlawfully, unjuſtly, adviſedly and corruptly, and againſt the Duty of their Allegiance, did produce and ſhew, and each of them did then and there produce and ſhew to the ſaid *Stephen Dugdale*, a certain Note in Writing, the Tenour of which Note follows in theſe *Engliſh* Words following: *Being touched with a true Remorſe of Conſcience, and hearty Sorrow for the great Ill I did in coming in a Witneſs againſt the Catholicks, and there ſpeaking things which in my own Conſcience I knew to be very far from the Truth: I think my ſelf bound in Duty both to God and Man, and for the ſafety of my own Soul, to make a true Declaration how I was drawn into this wicked Action. But being very well ſatisfied, that I ſhall create my ſelf many powerful Enemies upon this account, I have retired my ſelf to a place of ſafety, where I will with my own Hand diſcover the great Wrong that hath been done the Catholicks, and hope it may gain Belief. And likewiſe I proteſt before Almighty God, that I have no Motive to induce me to this Confeſſion, but a true Repentance for the Miſchiefs I have done, and hope God Almighty will forgive me.* And that the ſaid *John Tasborough* and *Anne Price*, the Day and Year aforeſaid, in the Pariſh aforeſaid, in the County aforeſaid, with Force and Arms, falſly, unlawfully, unjuſtly, adviſedly, corruptly, and againſt the Duty of their Allegiance, the ſaid *Stephen Dugdale* the aforeſaid Note in Writing, ſo as aforeſaid, to the ſaid *Stephen Dugdale* produced and ſhewn to ſign and ſubſcribe, did ſolicit and endeavour to perſuade, and each of them did ſolicit and endeavour to perſuade, and then and there falſly, unlawfully, unjuſtly, adviſedly and corruptly did promiſe, and each of them did promiſe to the ſaid *Stephen Dugdale*, that if he the ſaid *Stephen Dugdale* the aforeſaid Note in Writing would ſign and ſubſcribe, that then he the ſaid *Stephen Dugdale* great and vaſt Sums of Money ſhould have and receive; to the evil and pernicious Example of all Perſons in the like Caſe offending, and againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity, and againſt the Duty of their Allegiance. To this Indictment they have pleaded Not Guilty, and for their Tryal have put themſelves upon the Countrey, and the King's Attorney likewiſe, which Countrey you are: Your Charge is to enquire, Whether the Defendants, or either of them, be guilty of the Treſpaſs and Offence whereof they ſtand indicted, or Not Guilty: If you find them or either of them Guilty, you are to ſay ſo; if you find them Not Guilty, you are to ſay ſo, and no more, and hear your Evidence.

Cryer, Make an O Yes.

Cryer. O Yes: If any one will give Evidence on behalf of our Sovereign Lord the King, againſt the Defendants *John Tasborough* and *Anne Price*, let them come forth and they ſhall be heard.

Then Roger Belwood, *Eſq; of Counſel for the King in this Cauſe, opened the Indictment.*

Mr. *Belwood.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, the Defendants, *John Tasborough* and *Anne Price*, ſtand Indicted for Subornation of Perjury: And the Indictment

ſets forth; That whereas *Thomas Whitebread, William Harcourt*, and others, were Indicted, and that for Treaſon, in Conſpiring the Death of the King, and other Treaſons, and were legally Try'd, Convicted, and Attainted for the ſame; and that *Richard Langhorn* was likewiſe indicted and Attainted for the ſame Offence: And that upon theſe Tryals Mr. *Dugdale* was produced and examined as a Witneſs for the King, and did depoſe materially againſt the ſaid Traytors: And the Defendants knowing this, and contriving and deſigning to ſtifle the Diſcovery of the Treaſons aforeſaid, did before the Tryal of the ſaid *Harcourt*, ſolicit, ſuborn, and endeavour to perſuade the ſaid Mr. *Dugdale* not to be a Witneſs, nor to give Evidence upon the Tryal: And after the Tryal, did farther ſolicit him to retract and deny all the Evidence he had given on that behalf, and promiſed him large Rewards and great Sums of Money for it: And to accompliſh this, they did incite him to withdraw and retire himſelf, and produced a Note which he was to ſign, and which hath been read to you, wherein he was to acknowledge that he was in an Error, and had ſworn falſly, and therefore had retired himſelf; and for this they promiſed him great Rewards: And this Offence is laid to be done falſly, adviſedly, corruptly, and againſt the Duty of their Allegiance. To this the Defendants have pleaded, Not Guilty; if we ſhall prove the Fact upon them, we hope you will find it.

Then Mr. Serj. Maynard *purſued the Charge.*

Mr. Serj. *Maynard.* My Lord, and you the Gentlemen of the Jury, I am of Counſel in this Cauſe againſt the Defendants. For the Fact that is laid in the Indictment, it conſiſts of theſe Particulars: Firſt, An Attempt to prevent the Evidence before it was given. And Secondly, When it was given, and the Traytors were Convicted and Condemned, then to Diſgrace that Evidence, and the Proceedings at Law that hath been againſt the Traytors; and this in favour of the Catholicks. Thirdly, The means they uſed to perſuade him, which was by corrupt Promiſes and Engagements to him. And, Fourthly, That they had prepared a Note which hath been read to the Jury; whereby he that had ſwore the Truth, ſhould publickly own to the World that he had ſwore a Lie: and that the Catholicks had received great injury by him, and that he had withdrawn himſelf to make this Diſcovery: And this is the Subſtance of the Charge upon theſe Perſons. This Practice my Lord, is not new, it hath appeared here in ſeveral other inſtances: We remember what *Reading* did, and we have not forgotten what *Knox* and *Lane* did; and this is the third Cauſe of that kind that hath come before you. Our Evidence will be this: We ſhall produce Mr. *Dugdale*, the Perſon againſt whom this Deſign was laid, and he can teſtifie all this matter. Now he was but a ſingle Perſon againſt theſe two Tempters; and your Lordſhip remembers what was ſaid in the like Caſe, two might convince one; and therefore he thought it ſafe to acquaint, and he did acquaint Perſons of Publick Concern and Authority with this Attempt upon him; and he did not only this, but they met ſeveral times about it at the Tavern, and there we ſhall prove what they did. Part of this hath been confeſſed, for this hath had another Examination in another place: And the Gentlewoman hath confeſſed, that ſhe did offer him Sums of Money; for it we will call our Witneſſes. We ſhall not now aggravate the Fault, that will come after the Evidence given; but I think it is helliſh enough if it be proved.

Then Mr. Attorney General proceeded to open the Evidence.

Mr. *At. Gen.* My Lord, This Caſe is of the ſame nature with thoſe that Mr. *Serjeant* hath mentioned of *Reading*, and *Knox* and *Lane*; but it goes ſomewhat further: For this muſt be done in Writing, and ſubſcrib'd by the Party, to be produc'd upon occaſion, to defame all the Evidence that had been given before: And the Subſtance of the Note is to recant all that he had ſaid, and aver it to be falſe; and ſo all that have died upon that Account, muſt have been ſuppoſed to have died very unjuſtly. This was the Deſign of the matter: And it was not only in this Caſe that theſe Perſons had been endeavouring things of this nature; for we can prove, if it be neceſſary, by another Witneſs, that this Gentlewoman hath been tampering to perſuade him to retract his Evidence againſt another Perſon, one Mr. *Parſons*, a Prieſt in Cuſtody; and to bring all about, ſhe did preſume upon Mr. *Dugdale*'s old Acquaintance with her: They had been Fellow-Servants in my Lord *Aſton*'s Family, and by that means were of ancient Acquaintance; and ſhe did preſume upon theſe grounds, that ſhe could withdraw him from all his Evidence. And we ſhall prove, I think, by another Witneſs which does fortifie this Teſtimony, that both theſe Perſons have already acknowledged this Fact, and that they perſonated great Perſons in it; that is, they pretended to come in the Name of very great Perſons, as you will hear, when they had nothing to do in the thing. They pretended to go to *Windſor* for Pardon and aſſurances of Protection, and they have acknowledg'd it; and 'tis in Proof that they were never near that Perſon: That is, Mrs. *Price* did pretend ſhe ſhould go down to *Windſor* and ſpeak with the Duke of *York*, for he was the Perſon nam'd, though 'tis acknowledg'd, and was in proof by her Companion, that ſhe never came near him, that is, by Mrs. *Harris*, of whom you will hear anon. And Mr. *Tasborough* did pretend the ſame thing to Mr. *Dugdale*, and did acknowledge it to the Council, but deny'd that it was true. We ſhall call our Witneſſes, and prove the Fact as it hath been opened.

Sir *Creſwel Levins.*

Mr. Serj. *Maynard.* We will firſt prove the Indictments that are recited, and call for the Records of the Convictions.

Sir *William Scroggs.*

L. C. J. Sure they will admit that.

Mr. Serj. *Maynard.* We muſt offer our Proof; if they will admit it, ſo.

L. C. J. What ſay the Counſel for the Defendants? Do you admit the Indictments and Convictions?

Mr. *Pollexfen.* My Lord, I cannot tell in this Caſe; if we ſhould not ſtand upon it that all the Proofs be given, our Client perhaps will take it ill. I pray therefore the Evidence may be given according to Law.

L. C. J.

L. C. J. Well, if you ſtand upon it, they muſt prove it. Produce the Records.

Mr. *At. Gen.* Give Mr. *Clare* his Oath.

[*Who was ſworn.*

Mr. Serj. *Maynard.* Put in the Copy, Sir.

[*Which was done.*

Cl. of Cr. Come, Sir, is that a true Copy?

Mr. *Clare.* Yes; I examin'd it.

L. C. J. Where?

Mr. *Clare.* With Mr. *Adderley*, the Clerk of the Peace of *Middleſex*; and this other with Mr. *Tanner*, Clerk of the Peace for *London.*

Then the Copy of the Record of the Conviction of Whitebread, &c. *was begun to be read.*

L. C. J. Let them ſee it that are for the Defendants.

Mr. Juſt. *Dolben.* Don't read it all; if they have any Exception to it, let them make it: Give it over to them.

Mr. *Pollexfen.* Ay, my Lord, let us ſee it. Pray Sir, you ſay you examined this, is this a a true Copy?

Mr. *Clare.* Yes, it is.

Then alſo the Conviction of Langhorne *in* London, *was read.*

Mr. Juſt. *Dolben.* That is the Conviction at *Newgate.*

Mr. Juſt. *Pemberton.* Well, go on with the reſt now.

L. C. J. Go on with the Evidence.

Mr. Juſt. *Pemberton.* Who do you begin with? Who do you call firſt?

Mr. *Belwood.* Mr. *Dugdale*, my Lord.

[*Who was ſworn.*

Price. Stand nearer me, Mr. *Dugdale.*

Mr. *At. Gen.* He ſtands near enough.

Mr. Serj. *Maynard.* He will be near enough you by and by, Mrs. *Price.*

L. C. J. Come, Mr. *Dugdale*, What ſay you againſt Mrs. *Price* and Mr. *Tasborough?*

Mr. *Dugdale.* My Lord, Mrs. *Price* being an ancient Acquaintance of mine (for ſhe was my Fellow-Servant at my Lord *Aſton*'s, may it pleaſe your Lordſhip) I coming to Town as a Witneſs for the King, I did ſend for Mrs. *Price* as one of my ancient Acquaintance; I think it was in *January* was Twelvemonth.

L. C. J. Is ſhe a Papiſt?

Mr. *Dugdale.* Yes, I think ſhe is ſo now: We uſed to go to Maſs together in the Countrey.

L. C. J. She was one, but is ſhe?

Mr. *Dugdale.* I ſuppoſe ſhe is one; we had Familiarity together, but never till *June* laſt did ſhe endeavour to take off my Evidence.

L. C. J. When was it ſhe firſt ſet upon you?

Mr. *Dugdale.* She began to tamper firſt the Night before *Harcourt*'s Tryal.

L. C. J. But ſhe had been before with you in *London*?

Mr. *Dugdale.* Several times: For I ſent to her preſently after I came to Town; but that was the firſt time ſhe offer'd to take off my Evidence. And ſhe was then perſuading me to be out of the way, and not to give any Evidence againſt Mr. *Harcourt*, becauſe he was her Ghoſtly Father.

L. C. J. Who was by?

Mr. *Dugdale.* There was no body by, but one that was an Acquaintance of mine that heard her.

L. C. J. What is his Name?

Mr. *Dugdale. Wright.*

L. C. J. Then you two and *Wright* were together?

Mr. *Dugdale.* Yes, my Lord.

L. C. J. What ſaid you to her when ſhe made that offer to you?

Mr. *Dugdale.* I told her I could not do it; for that I was to appear the next day, and was to give my Evidence, or I muſt be forſworn: In any thing elſe I told her I would ſerve her; but that I could not do, becauſe I ſhould forſwear my ſelf; and I was ſworn next morning. It continued two or three days, or a pretty while, before I ſaw her again.

L. C. J. She was angry for a while with you, was ſhe?

Mr. *Dugdale.* She was afterwards well reconciled to me, and after ſhe deſired me that I would ſpeak to your Lordſhip, on behalf of one Mr. *Parſons*, a Priſoner in the *Gatehouſe*, that he might be bail'd out; I told her I would; I know not whether I did or no certainly, I ſuppoſe I did ſpeak to ſome of your Lordſhip's Servants; I do confeſs it was not done: But I was to go into the Countrey, into *Staffordſhire*, and juſt as I was going to take Coach, ſhe ſent a Meſſenger to me to ſpeak with me before I went. I ſaid I could not ſtay to ſpeak with her that morning, but I would remember her Buſineſs when I came to Town again: I ſuppoſed it to be this about Mr. *Parſons*. I went into *Staffordſhire*, and continued there about ſix or ſeven Weeks; I was there at the Aſſizes with your Lordſhip. Now ſhe had been ſeveral times at one Mr. *Croſs*'s (where we uſually met) to enquire when I came to Town, and did deſire ſhe might know when I came, for ſhe had important Buſineſs to communicate to me. I think this might be about the 11*th* of *September* laſt, my Lord. When I came to Town, I came to Mr. *Croſs*'s that very Night, and they told me of this, That Mrs. *Price* had been there ſeveral times to requeſt them, that whenever I came ſhe might have Notice. I deny'd it that Night; I am very weary, ſaid I, and therefore would not have her ſent for. Within two or three Days after, I came there again, and ſhe was ſent for: I cannot tell whether by my Direction, or whether they ſent for her of their own accord, they can beſt teſtifie that; when ſhe came to Mr. *Croſs*'s, the firſt thing after Salutation from my Journey, ſhe asked me if I had ſpoken to your Lordſhip about Mr. *Parſons*? I told her, No, not as yet; but I would go ſtrait up to your Lordſhip's Houſe, and ſpeak with you about it. No (ſaid ſhe) you need not now do that, for we have a greater Work in Hand; which Work was this: She told me ſhe was come from a great Perſon, whom ſhe did not then name, to tell me, that if I would retract my Evidence (this was the ſhort of it, there were more particulars) and go beyond Sea, I ſhould either be in the D. of *York*'s Court, or I ſhould be ſupported by him.

L. C. J. Did ſhe name the Duke of *York* then?

Mr. *Dugdale.* Not the firſt time; ſhe ſaid ſhe was come from a great Perſon, but named him not: The ſecond time ſhe named him, when I deſired to know who the great Perſon was.

L. C. J. But what ſaid ſhe the firſt time, if you would retract, what then?

Mr. *Dugdale.* I was to have a Thouſand Pounds paid into a Merchant's Hands to be ſecured for me till I came back to give Evidence for them. I was to take the Plot off from the Catholicks, and to lay it wholly upon the Proteſtants. I was to ſwear againſt ſome Perſons, as Mr. *Tasborough* told me, that after I was got on Shipboard, I was to do a great deal of more Service, and come to ſwear againſt a great Perſon, a Perſon of conſiderable Note whom yet they did not name.

L. C. J. But before you depart from what Mrs. *Price* ſaid to you, make an end of her Diſcourſe, when ſhe told you you ſhould have a Thouſand Pounds depoſited into what Merchant's Hand you thought fit?

Mr. *Dugdale.* I think not that, but into a Merchant's Hand.

L. C. J. Well, what ſhould you do for it?

Mr. *Dugdale.* I was to retract all my Evidence, and to be no Witneſs againſt them; but before I would much encourage this, I went to my Lord that was then Preſident of the Council, my Lord *Shaftsbury*.

L. C. J. Who was by when this Diſcourſe was; was the third Perſon by you ſpeak of?

Mr. *Dugdale.* There were others by afterwards; but there was no body but we two together, I think at that time: But I went to that Noble Lord my Lord *Shaftsbury*, and acquainted him and Mr. *Hambden*, and Mr. *Charlton* with it: For ſhe threatned, that all the King's Evidence would in a ſhort time be hang'd; and if I would come over to them, it ſhould all be turned upon the Proteſtants. The Duke had a wiſe Council, and had contrived it ſo, that if I would come over to them, there would not be a Papiſt that ſhould ſuffer more: but their Religion ſhould be eſtabliſhed in half a Year, and all the Witneſſes brought to condign Puniſhment. When I acquainted theſe Perſons I named with this, and communicated it to them, they thought fit I ſhould go on a little with her to trepan her, to ſee what kind of Plot it was they were deſigning; and I did give Encouragement; but not ſo far as to ſet my Hand to any Paper. But when it did come out, the Contrivance they ſpoke of did prove Mr. *Dangerfield*'s Plot, as appear'd afterwards. So, as I was ſaying, I did encourage this to Mrs. *Price*, to ſee what I could get out of her; for I knew their Plots were dangerous and barbarous when I was amongſt them; but I never deſign'd to proſecute them at any Bar, but only to know the Depth of their Contrivance. And theſe Gentlemen thought it very fit I ſhould have ſome Evidence to teſtifie for my Innocency, if they ſhould proſecute me: And I did get two Perſons, one Dr. *Chamberlain* and his Clerk who were to be in a private place to over-hear what was the Communication between us; and when I had placed them, I asked Mrs. *Price*, whether I firſt began the Tampering or ſhe, ſhe anſwered ſhe did, and I reckon'd up all the Heads of our former Treaties, though not the Particulars.

L. C. J. When did Mr. *Tasborough* firſt appear in this Matter?

Mr. *Dugdale.* My Lord, he never appeared but twice, and it was about the 12*th* of *October*, I think, the firſt time. We appointed to meet at the *Green Lettice*, that was with Mrs. *Price*, for I never ſaw the Face of Mr. *Tasborough* before that time, and from thence we adjourned to the *Pheaſant* in *Fuller*'s Rents.

L. C. J. There was the firſt time you met with Mr. *Tasborough* you ſay.

Mr. *Dugdale.* Yes, my Lord.

L. C. J. What Diſcourſe had you with him when you firſt met him?

Mr. *Dugdale.* My Lord, when we came there, Mr. *Tasborough* was at firſt pleaſed to open the Buſineſs to me, that Mrs. *Price* had acquainted him that I would come over to them. I ſate a good while and ſaid nothing, and when I did ſpeak, I did rather give Encouragement than ſpeak againſt it.

L. C. J. What did he tell you?

Mr. *Dugdale.* He ſaid, he was brought there to confirm what Mrs. *Price* had promiſed me.

L. C. J. Did he ſay ſo?

Mr. *Dugdale.* Yes, becauſe I would not take it upon her Word alone, but deſired to have ſome other ſufficient Perſon; and ſhe told me, he was an honeſt ſufficient Gentleman, and I might confide in him; and he ſaid, what ſhe had promiſed, ſhould be certainly made good, and that he came likewiſe from the Duke of *York*, as he ſaid, to confirm thoſe Promiſes had been made me of his Encouragement and Protection.

L. C. J. Did he expreſs particularly of what ſhould be made good?

Mr. *Dugdale.* My Lord, in general.

L. C. J. Did he mention the Money that was to be paid into the Merchant's Hands?

Mr. *Dugdale.* In general Words only, all would be made good?

L. C. J. Then he did not ſay the Money; but what had been ſaid to you by her ſhould be made good?

Mr. *Dugdale.* We had ſome particulars mentioned, but I cannot poſitively remember which.

Mr. *Attorney General.* I deſire my Lord, the Jury may take notice of this, that what ſhe had promiſed, was, if he would retract his Evidence.

Mr. Juſt. *Dolben.* Did he intimate that?

Mr. *Dugdale.* The ſecond time when he came,——

L. C. J. But before you come to the ſecond time, let us make an end of the firſt: Repeat what he told you, when he came to you. You ſay, he ſaid I am informed by this Gentlewoman, that you intend to come over to us, what then?

Mr. *Dugdale.* He told me a great many things for my Encouragement, if I did come, that it was a very charitable Act, and it was nothing but what was acted like a Chriſtian, and if I had done amiſs, I might have pardon for it; and he did ſay, he was encouraged by more than the Duke of *York*, that had taken my matter into Conſideration.

L. C. J. What was it in general Words?

Mr. *Dugdale.* It was, if I would come over and retract what Evidence I had given. And he ſaid what ever things had been promiſed me, ſhould be ſure to be made good. Then my Lord, the ſecond time, we did adjourn till *Tueſday* following; and then we met (as I think) at the *Six Cans* in *Holbourn*, and it was pretty late that time we met; ſo Mr. *Tasborough* and Mrs. *Price* did tell me it was the laſt time they were to come.

L. C. J. What, the ſecond time of *Tasborough*'s coming?

Mr.

Mr. *Dugdale.* Yes, my Lord, and they offered me this Note. I had the Note before left with me to conſider of it.

L. C. J. Who had given you the Note?

Mr. *Dugdale.* Mrs. *Price* gave me the Note.

L. C. J. Did Mr. *Tasborough* leave you before the Note was given you? For look you, when he told you about retracting your Evidence, and that this is nothing but what you may lawfully do, 'tis a Charitable Act.——

Mr. *Dugdale.* That was the firſt time, my Lord.

L. C. J. Did he produce the Note then?

Mr. *Dugdale.* He and ſhe together did?

L. C. J. Who was it had it?

Mr. *Dugdale.* Mrs. *Price* had it from me, and produced it before Mr. *Tasborough*'s Face.

L. C. J. Did ſhe give it to him to read?

Mr. *Dugdale.* Mr. *Tasborough* did read it, and reading it ſaid, this is nothing but what you may lawfully do; there is no hurt in it?

L. C. J. And then he went away and left you and Mrs. *Price* together, what became of the Note?

Mr. *Dugdale.* Then Mrs. *Price*, after ſome Importunity left the Note with me, and I delivered it to Dr. *Chamberlain* to copy out. And Mr. *Taſborough* and Mrs. *Price* at the ſecond Meeting told me, that was the laſt time of meeting, and if I did not then ſign it, it would be much to my Prejudice; and that they ſhould not be able to do any thing for my Advantage, if I did not ſign it before the Duke went into *Scotland.* He was then going, and it ſhould be much for my Benefit if I ſigned it firſt; but Mr. *Tasborough* ſaid, he could do me no more Service except I did that.

L. C. J. He ſaid, that that was the laſt time, and if you would do it, it would be for your Advantage?

Mr. *Dugdale.* Yes, my Lord.

L. C. J. What ſaid you then, did they produce the Note again?

Mr. *Dugdale.* My Lord, the Note was delivered to Mrs. *Price*, and ſhe brought it thither for me to ſign it, and laid it upon the Table, and preſſed me to ſign it.

L. C. J. I thought you had ſaid ſhe had given you the Note?

Mr. *Dugdale.* Yes, But I gave it her again before we met the ſecond time.

L. C. J. And who produc'd it then?

Mr. *Dugdale.* She again the ſecond time. But my Lord, we have miſſed one thing about Mrs. *Price.* When ſhe was perſwading me, ſhe made uſe of the Duke of *York*'s Name, and ſaid, ſhe would go down to *Windſor* to perſwade the Duke that I ſhould have my Pardon: Accordingly ſhe did go, as I believe; for ſhe took Coach at *Charing-Croſs*, and as ſhe ſaid, did go to *Windſor*, and brought me word back again, that the Duke did not ſeem to countenance it much, for fear he ſhould be drawn into a *Præmunire* himſelf; and then ſhe told me the Duke did wiſh her to acquaint the *Spaniſh* Ambaſſador with it; and ſhe did go and acquaint him with it, as ſhe told me. I asked her when I ſhould go to ſpeak with the Ambaſſador about it; ſhe told me, that the *Spaniſh* Ambaſſador could not ſpeak *Engliſh*, and it was not ſafe to truſt an Interpreter that they did not know; and ſo it was to be deferred a little longer; but ſhe ſaid, that he would protect me, and that all that ſhe ſaid that the Duke had promiſed for my Reward, and for my ſafe going beyond Sea, he would be ready to do it; and ſhe told me, that the *Spaniſh* Ambaſſador would write Letters into *Flanders.* And ſo they made uſe of the Duke of *York*'s Name; but I could never find by any thing, nor can ſay, though they made uſe of the Duke of *York*'s Name, that he did countenance any ſuch thing, or ever knew of it.

L. C. J. How long was this before the Duke went away?

Mr. *Dugdale,* It was about the twelfth or fourteenth of *October.* The Duke went the beginning of *November* from hence.

L. C. J. Sir *Thomas Doleman,* do you know when the King came to Town from *Windſor*?

Sir *Thomas Doleman.* No, I do not know.

Mr. *Dugdale.* It was before the Duke went over into *Flanders* that the King was at *Windſor.* For the King and the Duke of *York* came from *Windſor*, and then the Duke went to *Flanders* again, and then ſhe went as ſhe ſaid, to *Windſor*, and came home either the Day the Duke came from *Windſor*, or the Day after.

L. C. J. Her Diſcourſe when ſhe went to *Windſor*, was before the Duke went into *Flanders?*

Mr. Juſt. *Pemberton.* The ſecond time you mean.

Mr. *Dugdale.* Yes, my Lord, the ſecond time. For may it pleaſe your Lordſhip, I do remember now, that the Day when the Duke of *York* came back again from *Flanders*, I think it was the Twelfth of *October*, that was the time that I ſaw Mr. *Tasborough* firſt, and that was the time they produced the Note, and I ſhall produce ſome Witneſſes to prove that he had Diſcourſe with me then.

L. C. J. I would only know the time when ſhe told you ſhe went to *Windſor*, to ſpeak with the Duke of *York?*

Mr. *Dugdale.* My Lord, to the beſt of my Remembrance, and as I think, it was the Day before the King came from *Windſor*, that ſhe went down.

Mr. Juſt. *Pemberton.* He cannot ſwear to a day, 'tis hard to put him to that.

L. C. J. He is not asked to a day, but we would be at ſome Certainty about the time as near as we can.

Mr. *Dugdale.* My Lord, this I dare poſitively ſay, ſhe went down of a *Tueſday*, and that was the day before the Duke of *York* came from *Windſor.*

Mr. Juſt. *Pemberton.* He does give us the time as near as poſſibly he can.

Mr. *At. Gen.* Have you a Copy of the Note, Mr. *Dugdale?*

Mr. *Dugdale.* Yes, my Lord, I have.

Mr. Serj. *Maynard.* Now we will prove that Note.

Mr. *At. Gen.* For the Note it ſelf your Lordſhip obſerves, Mrs. *Price* had the Original back again, but your Lordſhip hears Dr. *Chamberlain* took a Copy of it, and he will prove it.

Then Dr. Chamberlain *was ſworn.*

L. C. J. Did ſhe ſhew you the Note at the time that ſhe went to the Duke to *Windſor?*

Mr. *ugdale.* The Note was produc'd when the Duke came from *Flanders*, the Day I think he came, and that was in *October.*

L. C. J.

L. C. J. When did *Tasborough* and ſhe meet with you?

Mr. *Dugdale.* When the Duke of *York* came back from *Flanders.*

L. C. J. When was that?

Mr. *Dugdale.* My Lord, I think it was the Twelfth of *October.* Mrs. *Price* had appointed Mr. *Tasborough* to come to confirm what ſhe had ſaid before, which was the time that I ſaw him firſt.

L. C. J. When was that?

Mr. *Dugdale.* The very Day the Duke came from *Flanders,* as I think.

L. C. J. Well then, ſhe talked to you of the Duke of *York,* and going to *Windſor,* before ever you ſaw *Tasborough.*

Mr. *Dugdale.* Yes, my Lord.

Mr. Juſt. *Pemberton.* And ſo his Evidence was.

L. C. J. So then here is the matter, that the Jury may underſtand the Evidence; She ſolicited him firſt the Day before *Harcourt's* Tryal: Then the next was three or four Days after the Tryal, and then ſhe endeavoured to perſwade you to retract your Evidence and go beyond Sea.

Mr. Juſt. *Pemberton.* No, my Lord, that was only to get the Man bailed that was in the *Gate-houſe.*

L. C. J. Did ſhe not the ſecond time propoſe that?

Mr. *Dugdale.* No, my Lord, not till I came forth out of the Countrey again.

L. C. J. Then you went into the Countrey before the great matter was ſpoken to?

Mr. *Dugdale.* Yes, my Lord.

L. C. J. And then ſhe left word at the Houſe, that ſhe might know when you came, and when ſhe met with you, ſhe began to tamper with you, and ſaid you ſhould have 1000 *l.* paid into ſome Merchant's Hand, and be well look'd upon, and after that ſhe ſaid ſhe would go down to the Duke to *Windſor.*

Mr. Juſt. *Pemberton.* But at that time ſhe told him, he ſhould have a place in the Duke's Court.

L. C. J. Did ſhe produce the Note the firſt time you ſaw *Tasborough?*

Mr. *Dugdale.* Yes, my Lord, the Note was produced the firſt time.

L. C. J. And *Tasborough* read it?

Mr. *Dugdale.* Yes, he read it.

L. C. J. And ſaid you might lawfully do it?

Mr. *Dugdale.* Yes, my Lord.

L. C. J. When was the ſecond time?

Mr. *Dugdale.* It was within a few Days after, about two or three Days.

L. C. J. You are not asked to a Day, was the Note produced a ſecond time?

Mr. *Dugdale.* Yes.

L. C. J. And then he was upon the ſame Matter ſtill, when you ſwear the Note was produc'd the ſecond time?

Mr. *Dugdale.* Yes, my Lord.

L. C. J. And then he ſaid, this is the laſt time we muſt offer it to you, if you do not do it now, I can do you no good.

Mr. *Dugdale.* Yes, my Lord.

L. C. J. But her Diſcourſe was before all this, that ſhe would go down to *Windſor* and get your Pardon?

Mr. *Dugdale.* Yes, my Lord.

Mr. Juſt. *Jones.* Before your Acquaintance with *Tasborough?*

Mr. *Dugdale.* Yes, before ever I ſaw him.

Mr. Juſt. *Pemberton. Tasborough* was to confirm it.

Mr. *Dugdale.* Yes, for I made ſome Scruples about it, for they ſaid before the Duke would believe me real, I muſt ſubſcribe the Note, which I would not do without further Aſſurance. She promiſed a Perſon of good Sufficiency and Quality ſhould engage for the Performance, and one Mr. *Perkins,* as ſhe ſaid, was to be ſent for, and was ſent for out of the Countrey, and 3 *l.* 10 *s.* expended in ſending for him. And I ſaid to Mrs. *Price* when 1000 *l.* was propoſed, Lord in Heaven, that is too much Money, a 100 *l.* is enough to ſerve me; ſaid ſhe, we muſt have a care how we manage this matter, for ſhe told me the Duke of *York* ſtood upon a tickle Point, and if it ſhould be known the Duke tampered with the King's Witneſſes, it would ruin him, but ſhe ſaid 1000 *l.* was prepared for me if I would go beyond Sea into *Flanders,* where I ſhould be maintained and protected. But I objected my Fear of the Inquiſition in *Spain,* which I knew to be ſo cruel a thing, therefore I would not go beyond Sea. Then ſhe asked me if I would be contented with the Protection of a Proteſtant Earl's Houſe?

L. C. J. Did ſhe tell you his Name?

Mr. *Dugdale.* She asked me if I could not be content to be in a Proteſtant Earl's Houſe, and not go beyond Sea? But ſhe named no body.

L. C. J. When you ſaid you were unwilling to go beyond Sea, for fear of the Inquiſition, ſhe offered you the Protection of a Proteſtant Earl's Houſe, and you deſired to know who it was, but ſhe named no body?

Mr. Juſt. *Pemberton.* And you ſay when Mr. *Tasborough* came to you, he told you, if you would retract your Evidence, all the Promiſes that had been made you by her ſhould be made good?

Mr. *Dugdale.* Yes, my Lord, and without I would ſign the Note, the Duke and the reſt of the Gentlemen could not be ſerviceable to me.

Mr. Juſt. *Pemberton.* And he preſſed you to do it before the Duke went into *Scotland?*

Mr. *Dugdale.* Yes, my Lord.

Mr. *Belwood.* Pray Mr. *Dugdale,* what Diſcourſe was between you and Mr. *Tasborough* concerning the Tryal of Sir *George Wakeman?*

Mr. *Dugdale.* The laſt time, the ſecond time we were together ———

L. C. J. Then you were but twice with *Tasborough?*

Mr. *Dugdale.* No, my Lord, but that ſecond time, you may ſee, ſays he, what a Progreſs hath been made by the acquitting of Sir *George Wakeman,* even that the Proteſtant themſelves are at a ſtand about their Belief, whether there be a Plot or no, and if you come over to us, it will overthrow all.

L. C. J. Had he any Diſcourſe with you about the *Spaniſh* Ambaſſador?

Mr. *Dugdale.* My Lord, I can't tell whether he had or no, ſhe had.

L. C. J. Did ſhe ſay he would undertake the making good of the Promiſes?

Mr. *Dugdale.* Said I, Mrs. *Price,* ſuppoſe I ſhould come over to you, what would it advantage you? There is Mr. *Otes* and Mr. *Bedloe,* and Mr. *Prance* when I am gone. Said ſhe, hang them Rogues,

Rogues, ſo as we do but get you over, we do not care, we can quickly do their Buſineſs.

Mr. *Sol. Gen.* And he ſaid this I obſerve by the way, That if he came over, all the King's Evidence ſhould be hang'd, and the Plot turn'd upon the Proteſtants.

Mr. Juſt. *Pemberton.* Yes, he did ſay ſo, that he was told by the Gentlewoman, if he would come over, the Plot ſhould be turn'd upon the Proteſtants, and the King's Evidence be hang'd.

Mr. *Scroggs.* Mr. *Tasborough* did not ſay ſo.

Mr. *At. Gen.* Is this a true Copy of the Note?

Mr. Juſt. *Pemberton.* But Mr. *Tasborough* perſuaded him to ſign the Note, and *Tasborough* did ſay it was a good Act, and confirmed and aſſured him, that all ſhould be made good to him that ſhe had promiſed, and deſired him to do it before the Duke went, that he might be the abler to ſerve him with the Duke.

Mr. *At. Gen.* Mr. *Dugdale*, is this a true Copy of the Note?

Mr. *Dugdale.* I have read it ſo often, that I do believe it is a true Copy: And here is the Doctor and his Clerk, who will ſwear it was a true Copy examined with the Note.

Mr. *At. Gen.* Swear Dr. *Chamberlain* and *Cleave.*
[*Which was done.*

With what did you examine that Copy?

Mr. *Cleave.* By the Paper given me by Dr. *Chamberlain.*

Dr. *Chamberlain.* My Lord, I received the Paper from Mr. *Dugdale*, my Lord, and gave him order to tranſcribe it.

L. C. J. And that is a true Copy of the Paper you had from Dr. *Chamberlain?*

Mr. *Cleave.* Yes, my Lord, it is.

L. C. J. Mr. *Dugdale*, did you deliver that very Note that Mrs. *Price* delivered to you, to Dr. *Chamberlain?*

Mr. *Dugdale.* Yes, I did, and received it back again from him.

L. C. J. And you copied it out from that Note Dr. *Chamberlain* had?

Mr. *Cleave.* Yes, I did.

L. C. J. What is your Name, Sir?

Mr. *Cleave. Cleave.*

L. C. J. Read the Note. [*Which was read as in the Indictment.*

Mr. Juſt. *Pemberton.* Was this a Copy of the Note delivered to you, that you were to ſign?

Mr. *Dugdale.* Yes, my Lord, it is a true Copy: And if I may not be too troubleſome, there is one thing more which comes into my mind that paſſed betwixt Mrs. *Price* and me: She was inſtructing me how I ſhould be convey'd beyond Sea, and ſhe mention'd the way of the Pacquet-Boat that comes from *Dover*, and goes every *Tueſday* or *Wedneſday*. I made a ſhew as if I was willing to do it, but the next time ſhe came, ſaid ſhe, We have thought it not to be ſo ſafe as to go in a Merchant Ship, which was the way we ſent all our Prieſts over.

L. C. J. When was this?

Mr. *Dugdale.* My Lord, it was before the Duke came home the ſecond time, it was while he was in *Flanders*. And being deſirous to know, I preſſed her to tell me what became of Mr. *Ewers*, my ghoſtly Father in the Countrey: It was a long time 'ere ſhe would tell me; but at laſt ſhe told me that he was convey'd over in thoſe Yachts that carry'd the D. of *York* the firſt time over into *Flanders.*

Mr. *At. Gen.* Then ſwear *Wright.*
[*Which was done.*

Mr. *Dugdale*, is this the man that you mention'd concerning the Diſcourſe about *Harcourt?*

Mr. *Dugdale.* He hearken'd, as he told me afterwards, but I did not then know it.

L. C. J. Well, what ſay you, were you preſent at any Diſcourſe between Mr. *Dugdale* and Mrs. *Price*, before *Harcourt*'s Tryal?

Mr. *Wright.* My Lord, I was walking to and fro in the Room: Mrs. *Price*, that Gentlewoman was talking with Mr. *Dugdale* at the Window, and I was very inquiſitive, I did think it was upon the account of Marriage, or ſome ſuch Buſineſs; and ſo hearkening, I did hear her ſay, That Father *Harcourt* had been very kind to her, and that ſhe had viſited him before he went to Execution, and he bid her not be troubled, he dy'd in a good Cauſe; and upon this account I asked Mr. *Dugdale* afterwards what her Deſign was, and he ſaid it was to withdraw his Evidence.

L. C. J. How often were you in the Company of Mrs. *Price* and Mr. *Dugdale*, never but that one time?

Mr. *Wright.* Yes, a dozen times, I believe, I have been with them.

L. C. J. When was the firſt time that you heard them talk concerning *Harcourt?* they were always very private, were they not?

Mr. *Wright.* Yes.

L. C. J. Well, what did you hear the firſt time?

Mr. *Wright.* It was at the *Horſeſhoe* Tavern in *Chancery Lane*; and then the great matter that ſhe did deſire of him was, to be kind to *Harcourt*, for he had been her Confeſſor: But afterwards I remember, when he was condemned, ſhe ſaid ſhe had been with him, and he had bid her be of good cheer, for he dy'd in a good Cauſe.

L. C. J. Was this the time that you were at the *Horſeſhoe* Tavern?

Mr. *Wright.* The firſt time I heard no Diſcourſe of *Harcourt* then.

L. C. J. When was this? And what ſaid ſhe when ſhe ſpoke of Father *Harcourt* the firſt time?

Mr. *Wright.* It was to deſire him to be kind to Father *Harcourt* becauſe he was her Confeſſor. They ſpoke ſo ſoftly I could hardly hear them.

L. C. J. Well, how do you know then?

Mr. *Wright.* I asked him when he came out, what it was, and he ſaid it was to take off his Evidence againſt *Harcourt*; and afterwards ſhe ſaid ſhe had been to viſit him.

L. C. J. What more did ſhe ſay at that time?

Mr. *Wright.* I could not hear any more, my Lord.

L. C. J. Then all that you did hear was, ſhe ſaid to him, pray be kind to Mr. *Harcourt*, for he is my Confeſſor; and to that effect was all their Whiſpering that you heard?

Mr. *Wright.* That is all I did hear her ſay at that time.

Mr. Juſt. *Pemberton.* But what did you hear Mr. *Dugdale* ſay at that time?

Mr. *Wright.* He ſaid it was upon the account of taking off his Evidence.

L. C. J. Well, what did you hear her ſay afterwards?

Mr. *Wright.* After ſhe was ſaying ſhe had been with him.

L. C. J. How long after?

Mr. *Wright.*

Mr. *Wright*. I do not know, I cannot ſay to the time, for I never minded it, they ſent for me ſometimes at their pleaſure; but ſhe ſaid ſhe had been to viſit Father *Harcourt*, who took her in his Arms and ſaid, Do not cry for me, for I die in a good Cauſe; and this I told Mr. *Dugdale* of again: And ſhe did further ſay, If the King ſhould command me to be burnt at a Stake, I would do it, and ſo would any of the Party. Then ſaid Mr. *Dugdale*, while you give theſe kind Expreſſions, yet you would cut off his Head if you could: Said ſhe, you are a Rogue, and I am ſatisfied.

L. C. J. What, was it before the time that ſhe ſaid, pray be kind to *Harcourt?*

Mr. Serj. *Maynard* We call this Witneſs only in Confirmation of *Dugdale*'s Teſtimony.

L. C. J. But Brother, here is the matter: He ſays at the time that ſhe told *Dugdale* he was a Rogue, and ſhe was ſatisfied; afterwards ſhe came to tamper with him to do *Harcourt* a kindneſs.

Mr. *Wright*. She ſaid many times, there were not four greater Rogues between this and Hell Gate than the King's Evidence.

L. C. J. What, was it before ſhe talked of *Harcourt?*

Mr. *Wright*. Yes, a great while.

L. C. J. That is the thing, that ſhe ſhould ſay he was a great Rogue, and yet afterwards tamper with him.

Mr. Serj. *Maynard*. There was ſome Love betwixt them, and they did keep Company together.

Mr. *Sol. Gen.* This is before ſhe began to tamper with Mr. *Dugdale*; but that we call this Witneſs to prove is, that ſhe did afterwards tamper with him, as Mr. *Dugdale* tells you.

L. C. J. And the thing I ſay is, Would ſhe go to tamper with one ſhe had that Opinion of? 'Tis not impoſſible to be ſo, but it is not likely.

Mr. *Sol. Gen.* It is not impoſſible nor improbable at all, with ſubmiſſion; who ſhould ſhe tamper with but a Rogue, or one that ſhe thought would be ſo?

Mr. Juſt. *Pemberton*. She thought as all the other Catholicks did, and did deſire to withdraw him from his Evidence againſt them.

Mr. Juſt. *Dolben*. And notwithſtanding that ſhe called him Rogue; yet ſtill the Witneſs ſays, he thought there was matter of Love between them.

Mr. *At. Gen.* Then we will call you *Croſs*, the man of the Tavern.

Mr. Juſt. *Pemberton*. It was about a matter that concerned the whole Catholick Party, and if you ask them they will call them all Rogues: But afterwards they will begin to tamper one with one, and another with another.

Mr. Serj. *Maynard*. And they take the ſame method with every one of them.

Mr. Juſt. *Jones*. But this is that that is ſaid in confirmation of *Dugdale*'s Evidence, that *Dugdale* did immediately after tell him, that her Buſineſs was to get him to retract his Evidence.

Mr. Juſt. *Pemberton*. And he overheard ſo much, that ſhe deſired of him to be kind to *Harcourt*, who was her ghoſtly Father.

Mr. *Sol. Gen.* Now, my Lord, as we have produced one Witneſs to confirm one part of Mr. *Dugdale*'s Evidence; now we ſhall produce another Witneſs to prove the ſubſequent Diſcourſes, and her perſuaſion of him to retract and to ſign the Note. And for that we call Dr. *Chamberlain*.

Mr. *At. Gen.* We will call *Croſs* firſt to prove the meetings at the Tavern, he is the man of the Tavern. [*Who was ſworn.*

L. C. J. Come ask your Queſtion now.

Mr. *Belwood*. Pray what can you ſay concerning Mrs. *Price*'s Diſcourſes with Mr. *Dugdale*?

L. C. J. Do you know Mrs. *Price* here?

Mr. *Croſs*. Yes, I do know her very well.

L. C. J. What ſay you then to her?

Mr. *Croſs*. I never heard any Diſcourſe from them but what was common.

Mr. Juſt. *Dolben*. But they have been often there only them two, have they not?

Mr. Juſt. *Pemberton*. Did ſhe ever come to your Houſe?

Mr. *Croſs*. She hath been there ſeveral times.

Mr. *At. Gen.* I would ask you this Queſtion, Sir, Whether ſhe uſed not to come there and ſend for Mr. *Dugdale* when he hath not been there?

Mr. *Croſs*. Yes, ſhe hath been there often to enquire for him.

Mr. *At. Gen.* What, frequently?

Mr. *Croſs*. Yes, a great many times.

Mr. *At. Gen.* About what time of the Year?

Mr. *Croſs*. Laſt Summer in *June*, *July*, and ſeveral months.

L. C. J. What ſay you to *September* and *October*?

Mr. *Croſs*. I can't ſay the particular months, but ſhe hath been there, and deſired me to ſend for Mr. *Dugdale*, for ſhe had earneſt Buſineſs with him.

Mr. *At. Gen.* Was it preſently after he came to Town?

Mr. *Croſs*. My Lord, ſhe ſent for him before he went out of Town, and after he came to Town; before he went to the Aſſizes, and ſince he came from the Aſſizes.

Mr. *At. Gen.* Pray did you never hear them ſpeak about a Prieſt, one *Parſons*?

Mr. *Croſs*. I have heard ſomewhat about Mr. *Parſons*, that Mrs. *Price* did ſpeak to Mr. *Dugdale*, that he ſhould not proceed further againſt him than he had done.

L. C. J. Did you hear her talk about *Harcourt?*

Mr. *Croſs*. Yes, I have heard her ſpeak ſomething, but I do not know the Particulars of it.

L. C. J. But you have heard her name *Harcourt*'s Name?

Mr. *Croſs* Yes, I have.

L. C. J. You do not pretend this man was by at the Agreement?

Mr. *At. Gen.* No, we do not: But only to prove they had frequent Diſcourſes together, and that ſhe ſent for him often about Buſineſs.

L. C. J. And 'tis to the ſame purpoſe that the other was called for, only in confirmation.

Mr. *Saunders*. My Lord, we pray he may be asked, Whether Mr. *Dugdale* did not ſometimes ſend for Mrs. *Price?*

Mr. *Croſs*. Not upon his own Account as I know of; for I have told you ſhe hath been there, and left word ſhe muſt needs ſpeak with him, and when he hath come, ſhe hath been ſent for.

Mr. *Saunders*. Do you know ſhe hath been ſent for at any other time?

Mr. *Croſs*. Not that I know of: But when he was in the Countrey, ſhe came to our Houſe,

and

and desired that when ever he came to Town she might speak with him about earnest Business, and she was sent for.

Mr. *Scroggs*. But he does not say any thing of Mr. *Tasborough*.

L. C. J. No. He came only to the *Pheasant*, and that other Place.

Mr. *At. Gen.* Now, my Lord, if your Lordship please, Mr. *Dugdale* did mention a matter that some Persons were by Direction to stand by and hear their Discourse, we have these Persons here, who will tell you how it was, Dr. *Chamlain* and his Clerk.

Dr. *Chamberlain*. My Lord, some time in *September*, Mr. *Dugdale* acquainted me, that there was a Design to draw him off from his Evidence, and he told me that the Duke of *York* was named in it. I said, if it were so, it were a thing of great moment, and if it could be confirmed it were well. He told me, if I would come to his Chamber some Morning, Mrs. Price should be there, and I should hear the Discourse; and accordingly I did come the 22*d*, or 23*d* of *September*, and was there about an hour, and went into the Closet with my Clerk, and bid Mr. *Dugdale* speak with an indifferent Voice, to see if I could hear what they said. He did so, and we did hear him. At length Mrs. *Price* came, the Gentlewoman I had never seen, but he called her by that Name, and she answered to it. They had several Discourses, I could not overhear all, but the Sum was, that the *Spanish* Ambassador was unwilling to treat with him, because it was dangerous, and he must make use of an Interpreter, and that the Duke of *York* would protect him, pardon him and give him a thousand Pound to maintain him: You know, says he, Mrs. *Price*, that I began not this Intrigue with you, but you proposed it to me. She owned it, that she had proposed it to him.

L. C. J. Now how can you tell this is the Gentlewoman?

Dr. *Chamberlain*. Nay, I don't know that, my Lord.

Mr. *At. Gen.* We don't pretend that, but will prove it by another Witness by and by.

Dr. *Chamberlain*. It was about the 22*d*, or 23*d* of *September*, a *Monday* Morning, as I remember.

Mr. Just. *Jones*. Was *Tasborough* there?

Dr. *Chamberlain*. No, my Lord, none but them two.

L. C. J. Well, go on, Sir.

Dr. *Chamberlain*. She did press Mr. *Dugdale* very much to go with her to the *Gate-House*, he would willingly have excused it, but she pressed him so earnestly, telling him she would not go without him, that they went together, and he came up afterwards to me, where I had staid all the time.

L. C. J. Did you hear her say any thing what she would have him do for that thousand Pound?

Dr. *Chamberlain*. I cannot tell truly any thing, but only to be gone.

Mr. Just. *Pemberton*. You could hear that?

Dr. *Chamberlain*. Yes, my Lord, I did.

L. C. J. Whither?

Dr. *Chamberlain*. Nay, I don't remember that.

Mr. Serj. *Maynard*. This was before the Note, my Lord.

Dr. *Chamberlain*. Yes, my Lord, for that was brought me afterwards.

Mr. *Recorder*. Call the other Witness, *Cleave*.

L. C. J. How long was this before *Harcourt's* Tryal?

Dr. *Chamberlain*. I don't know that, my Lord, it was in *September*.

Mr. Just. *Pemberton*. But the Tryal was long before that, soon after *Trinity*-Term.

Mr. *Sol. Gen.* Pray, what did Mr. *Dugdale* say to her when she pressed him to be gone, did he not make any Objection?

Dr. *Chamberlain*. Possibly he might, I did not hear all that was said.

Mr. *Cleave*. I was there the 22*d* of *September*.

L. C. J. In the Closet with Dr. *Chamberlain*?

Mr. *Cleave*. Yes, my Lord.

L. C. J. Had you ever seen Mrs. *Price*?

Mr. *Cleave*. No, never in my Life, as I know of.

L. C. J. What did you hear then?

Mr. *Cleave*. Before that Mrs. *Price* came, we shut up our selves in the Closet, and desired Mr. *Dugdale* to make a feigned Discourse to see whether we could hear him, and he did so, and we heard indifferently well. We bid him to speak a little loud that we might be sure to hear him. We staid there almost half an hour before she came. Afterwards she came up and Mr. *Dugdale* saluted her by the Name of Mrs. *Price*, to which she answer'd. He ask'd her, When shall I go to the *Spanish* Ambassador's? [This I heard distinctly; for I could see her Body, but not her Face, she stood with her Back to the Door.] 'Tis not convenient at present, said she, to go; for his Interpreter is out of Town. Then Mrs. *Price* was saying, If so be you will come over to the Church of *Rome*, and take off your Evidence, you shall have 1000 *l.* secured to you: But how, said he? Said she, I will bring to you in a Week's time a Person of Quality that shall secure and confirm it to you.

Dr. *Chamberlain*. That I heard too.

Mr. *Cleave*. That will be well, said Mr. *Dugdale*; I had rather do that way than any other. Said she, you shall have the Duke of *York's* Protection, and a Pardon not only for your Body, but for your Soul.

Mr. Serj. *Maynard*. A large Profer!

Mr. *Cleave*. And afterwards, said he, if I should come over again to the Church, what signifies my going out of the way when there is Dr. *Otes* and others to go on with the Evidence? Said she, We do not care so much for them, for the Duke's Eye is only upon you.

Mr. Just. *Pemberton*. Did you hear that, Dr. *Chamberlain*?

Dr. *Chamberlain*. No, my Lord; the Duke was named indeed, but I do not remember that particular. And she several times desired him to speak softly; and then Mr. *Dugdale* was so honest, that he repeated it over again, that if we had not heard him before, we might understand him.

L. C. J. Now prove this Gentlewoman to be the Person.

Mr. *Cleave*. She afterwards pressed him to go with her to the *Gate-house*, which he seemed unwilling to do, but went, and we have a Man here that stood below the Stairs, that saw her come in and go out.

Mr. Serj. *Maynard*. Call *Holmes* (*Who was sworn.*) What can you say about this Mrs. *Price*?

L. C. J. Do you know Mrs. *Price*?

Holmes. Yes, That is the Woman.

Mr. *Belwood.* Did you ſee her at Dr. *Chamberlain*'s?

Holmes. I ſaw her at Mr. *Dugdale*'s that morning that my maſter was there.

L. C. J. What time do you ſpeak of?

Holmes. The 22*d* of *September* I went along with my maſter.

L. C. J. Who is your maſter?

Holmes. Dr. *Chamberlain.*

L. C. J. What Day of the Week was it?

Holmes. On a monday morning between 8 and 9 a Clock.

Mr. Juſt. *Dolben.* That is the ſame time you ſpeak of, is it not?

Dr. *Chamberlain,* and Mr. *Cleave.* } Yes, my Lord, he went along with us.

Holmes. This is the Woman that came down with Mr. *Dugdale*; I took great notice of her, and know her very well again: There were ſome Words ſpoke in the ſhop, but I don't know what they were.

L. C. J. Dr. *Chamberlain,* ſhe went out of the Chamber with him, did ſhe not?

Dr. *Chamberlain.* Yes, my Lord, ſhe did.

L. C. J. How often have you ſeen her?

Holmes. I ſaw her go into the Houſe, come out with Mr. *Dugdale* to go to the *Gatehouſe,* and when they came back again from *Weſtminſter,* from the *Gatehouſe.*

L. C. J. How often have you ſeen her beſides? You took notice of her when ſhe came down ſtairs, and when ſhe came back again?

Holmes. Yes.

L. C. J. And this is the Woman upon your Oath?

Holmes. Yes, upon my Oath.

Mr. Juſt. *Pemberton.* She came down with *Dugdale,* and would have him go along with her to the *Gatehouſe.*

Mr. *At. Gen.* My Lord, we ſay that Mr. *Dugdale* did acquaint Mr. *Hambden,* and Mr. *Charlton,* and my Lord of *Shaftsbury* with the Buſineſs; we deſire Mr. *Hambden* and Mr. *Charlton* may be called, who promiſed to be here.

[*But they appeared not.*]

Mr. *At. Gen.* Then, my Lord, here are the Clerks of the Council, they will all give your Lordſhip an account, that this Woman and the Gentleman did acknowledge this matter before the Council, and there did deny what they had ſworn at firſt.

L. C. J. Who do you ſwear firſt?

Mr. *At. Gen.* Sir *Robert Southwell,*

[*Which was done.*]

L. C. J. Come, Sir *Robert,* what do you know?

Sir *Robert Southwell.* My Lord, ſhe, this Gentlewoman, Mrs. *Price,* was about the 23*d* of *October* examined before the Council, and being examined, we were commanded to take Notes, the ſeveral Clerks of the Council, and we did take Notes, which were long, and, my Lord, I muſt refer to thoſe Notes.

Mr. Juſt. *Pemberton.* Have you thoſe Notes?

Sir *R. Southwell.* Yes. 'Tis hard for me to give my Evidence, unleſs ſome particular Queſtion be asked me, becauſe they are very long.

Mr. *At. Gen.* Then I ask you, Sir, this particular Queſtion, Whether that Gentlewoman did acknowledge the Paper ſhe is charg'd with?

Sir *R. Southwell.* My Lord, I do remember Mrs. *Price,* when ſhe was asked who it was that framed the Paper for her (becauſe it ſeemed to the Lords as if it had been a thing ſo very well framed, that it was beyond a Woman's Capacity to do it) Mrs. *Price* ſaid, that ſhe ſtudied it herſelf, and indicted it her ſelf, and one Mrs. *Man,* as I think, writ it out for her; but ſhe took it upon her ſelf that ſhe had ſtudied it (that particular Word) and contrived it.

Mr. *At. Gen.* What did Mr. *Tasborough* ſay?

Sir *R. Southwell.* My Lord, I do alſo remember that Mr. *Tasborough* was cited before the Council-Board; and being asked about this Paper——

L. C. J. Was it ſhewn him?

Sir *R. Southwell.* I verily believe it was; it was read to him. Mr. *Tasborough* did ſpeak very cautiouſly, and as prudently as he could in the matter: He did not poſitively ſay he had preſſed Mr. *Dugdale* to ſign it; but did tell Mr. *Dugdale,* That unleſs he did ſign it, he could not proceed to get him any Favour, for that was to be the Foundation to teſtifie that he was a man of that ſorrow that he had expreſſed himſelf to Mrs. *Price.*

L. C. J. Did he own that to Mr. *Dugdale?*

Sir *R. Southwell.* Yes; and he added, my Lord, further (to do him juſtice in all he ſaid) in caſe Mr. *Dugdale* had ſign'd the Paper, he would preſently have carried it before a Magiſtrate.

Mr. *At. Gen.* I think we need not trouble your Lordſhip any further at preſent; we leave it here till we hear what they ſay.

Mr. *Sanders.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am of Counſel for Mrs. *Price,* that is one of the Defendants in this Indictment; which, as hath been opened, does ſet forth, That ſhe did contrive to ſuborn the King's Evidence before the Tryals of thoſe Perſons, and to ſuppreſs it; and afterwards to retract the Evidence given, and go off from what before he had ſworn, to diſparage the Juſtice of the Realm, and to make it be believed, that thoſe Perſons who were condemned and executed for this Conſpiracy, were innocent, and had wrong done them by him. Now for that matter, that which we have to offer for her is this: Mr. *Dugdale* and Mrs. *Price* were Fellow-ſervants in my Lord *Aſton*'s Family, and there they did contract a more than ordinary Familiarity; for in truth they did contract a marriage, and Mr. *Dugdale* did promiſe her marriage; but afterwards Mr. *Dugdale* having ſome other Deſign, did deſert her, and ſhe came to *London* and lived here; but afterwards when he came up to *London,* he thought fit to renew his Suit, and did not only ſend for her when he firſt came to *London*; but we have it in Proof, that from time to time he had continually ſent for her, and would not be quiet without her; and when ſhe denied to come upon his ſending in his own Name, he ſent in another Woman's Name, whom he knew to be an Acquaintance of hers: And thus there continued all along a great intimacy between them, inſomuch that ſeveral Perſons, and among them one of the King's Witneſſes, did obſerve they were ſpeaking about marrying, and did think they did intend to be married in a ſhort time; my Lord, what Diſcourſe might paſs between them I don't know; for ought I perceive ſhe is prov'd to be a Papiſt, and 'tis very like ſhe would ſolicit one with whom ſhe had that familiarity, for thoſe of her own Party, as much as ſhe could; but as far as I perceive by this Evidence that hath been given, he under colour of kindneſs and pretence that he would marry her,

her, and ſending for her from time to time, at laſt to rid his Hands of her, hath put this upon her, That ſhe ſhould ſolicit to ſuborn him againſt his Conſcience to withdraw his Evidence. She is a kind of weak Solicitrix for matter of Judgment and Reaſon; I know not what other prevalency ſhe might have with him by any other thing, but for Judgment I think——

L. C. J. If ſhe penn'd that her ſelf, as ſhe did acknowledge and avow ſhe did, ſhe was a Woman of good Judgment certainly.

Mr. *Sanders.* I perceive he was of good Judgment, to get rid of one he was weary of by this means.

Mr. Juſt. *Pemberton.* Alas! Alas! This is ſuch a Deſign indeed of counterproving the King's Evidence.

Mr. *Sanders.* Mr. *Dugdale* hath ſworn, That this was her Intrigue, and ſhe firſt began with him: If Mrs. *Price* be admitted to ſwear, who is the Defendant, as well as Mr. *Dugdale*, who is the Proſecutor, ſhe would tell you that Mr. *Dugdale* did contrive this matter himſelf.

Mr. Juſt. *Pemberton.* She would deſtroy his Evidence that way, that's very well.

Mr. Juſt. *Dolben.* Dr. *Chamberlain* and his Clerk both ſwear, That he told her, *You know it was not I begun this Intrigue, but you.*

Mr. *Sanders.* And if ſhe had had but ſo much Wit to have planted Witneſſes to have taken Advantage of his Words, ſhe had counter-worked him.

Mr. Juſt. *Pemberton.* They will learn ſuch ways ſoon enough of themſelves, you need not teach them.

Mr. *Sanders.* If you pleaſe we will go on with our Evidence, and call Witneſſes to prove, that Mr. *Dugdale* had contracted himſelf to her in marriage; and this is a very unkind ill thing in him to ſerve us thus.

Mr. Juſt. *Pemberton.* Mr *Sanders*, you ought to remember, *Publica privatis, &c.* A man ſhould prefer the publick good and ſafety of the Nation before ſuch a miſtreſs as this is.

Mr. Juſt. *Dolben.* But hitherto the Proof runs, that ſhe ſought him, and not he her.

Mr. *Sanders.* But they were contracted firſt.

Mr Juſt. *Dolben.* And you hear what the maſter of the *Horſeſhoe* ſays about her leaving meſſages for him.

Mr. Juſt. *Pemberton.* He hath very good reaſon why he ſhould not marry her, for what I can perceive.

L. C. J. 'Tis much they ſhould be contracted, when ſhe told him he was a great Rogue.

Mr. *Sanders.* It may be ſhe might, I know not what cauſe he hath now to be diſpleaſed with her; but it may be ſhe might be diſpleaſed with him then. But I beſeech your Lordſhip and the Jury to obſerve, that tho' ſhe did tell him he was a Rogue, yet it was afterwards that ſhe did ſolicit and ſuborn him.

Mr. Juſt *Pemberton.* And therefore ſhe thought plainly he was fitter for her purpoſe, becauſe ſhe took him for a Rogue.

Mr. *Sanders.* But if ſhe had a purpoſe to ſuborn him, ſhe would not call him Rogue to his Face; that was not the way to inſinuate into him. I deſire Sir *John Nicholas* may be ſworn.

[*Which was done.*]

L. C. J. What Queſtions do you ask Sir *John*?

Mr *Sanders.* I deſire, my Lord, Sir *John* would tell us, whether Mr. *Dugdale* in his hearing did not own he was contracted to Mrs. *Price*?

Sir *John Nicholas.* No truly Sir, that I know of.

Mr. *Sanders.* Pray Sir, will you pleaſe to recollect it; it was when Mr. *Dugdale* was before the Council.

Sir *John Nicholas.* Mr. *Dugdale* did then own ſome Propoſals of marriage, but nothing of a Contract.

L. C. J. 'Tis your Women-witneſſes are like to do that.

Mr. *Sanders.* That is all, Sir, you remember?

Sir *John Nicholas.* Yes.

Mr. Juſt. *Pemberton.* Have you put the beſt foot forwards, Mr. *Sanders*?

Mr. *Sanders.* Which is *Mary Benwell*? Swear *Mary Benwell.* [*Which was done.*] We will now prove he ſent for us ſeveral times; we did not go after him ſo much. What do you know concerning Mr. *Dugdale*'s ſending for Mrs. *Price*?

Benwell. He ſent for her to my Houſe ſeveral times.

L. C. J. Did he lie at your Houſe?

Benwell. No, my Lord, he did not.

L. C. J. Where is your Houſe?

Benwell. In *Brownlow ſtreet.*

L. C. J. What, is it a publick Houſe?

Benwell. It is an Alehouſe, the *Green Lattice.*

Mr. Juſt. *Dolben.* He told you ſo himſelf, that he did meet her at the *Green Lattice.*

L. C. J. What was their Diſcourſe when they met?

Benwell. I know nothing of that, I did not hear him ſay any thing; but only he would come in and ſay, Let your Boy go for Mrs. *Price.*

L. C. J. When was this?

Benwell. The laſt time was *Sunday* Sevennight before ſhe was taken.

Mr. *Recorder.* She always came when ſhe was ſent for?

Benwell. Yes, if ſhe was within.

Mr. *Sanders.* How often did he ſend for her?

Benwell. Above 20 times.

L. C. J. What great inference can you make from that? methinks 'tis as much againſt you as it is for you; for it proves there was a great familiarity and frequent meetings between them; and if it be ſo, it ſhews as if ſhe had that great confidence in him, as to attempt upon, and attack him in this affair.

Mr. Juſt. *Pemberton.* Indeed, Mr. *Sanders*, if you would have proved an Inducement to Mr. *Dugdale*'s Evidence, you could not have prov'd it better, that ſhe had great confidence in him; ſhe had an opinion, and reckon'd he was ſure to her, and ſo had a greater influence over him than another.

Mr. Juſt. *Jones.* He ſent for her to the *Green Lattice*, ſhe ſent for him to the *Horſeſhoe*; the maſter of the Houſe ſweareth that ſhe ſent for him 20 times, ſo they might ſend for one another 20 times apiece.

Mr. Juſt. *Dolben.* And he never came to ſeek for her but when ſhe had been there, and left word for him before.

Mr. *Sanders.* Now, my Lord, if you pleaſe, we will go on to prove, That when ſhe refuſed to come, he ſent for her in another Body's Name.

L. C. J. What will that do? Or what does that prove?

Mr. *Sanders.* It is not probable then that ſhe ſhould ſolicit him: And juſt at the laſt here are ſome Witneſſes planted, and ſome words are taken from her mouth, that it was her Intrigue all along.

Mr. Juſt. *Pemberton.* Mr. *Sanders*, You do not ſhew the time when thoſe frequent ſendings and comings were.

L. C. J. It ſhews that which they have prov'd, that ſhe believed he was fond of her, and ſhe was confident of him.

Mr. Juſt. *Jones.* I ſuppoſe Mr. *Sanders* means, and does drive at this, to ſhew that it was to drive on the Intrigue on his part that theſe frequent meſſages were ſent.

Then another Woman Witneſs was called and ſworn.

Witneſs. My Lord, at the time that the Proclamation was for the baniſhing of all Papiſts out of Town, ſhe came to me and ſaid, If Mr. *Dugdale* come to ask for me, don't offer to tell him where I am.

L. C. J. When was this?

Witneſs. Long before *Eaſter* Term, before the Papiſts were baniſhed out of Town.

Mr. Juſt. *Pemberton*, } This was another part of
and Mr. Juſt. *Jones.* } the Intrigue.

Witneſs. So Mr. *Dugdale* came to me, and ask'd me where Mrs. Price was? I told him I could not tell; but if you have any Letters I will convey them by a meſſenger or ſome Footboy to her.

Mr. Juſt. *Jones.* Did he ſend for her at any time in *September*?

Witneſs. The laſt time he ſent for her was the *Sunday* was ſe'night before ſhe was taken.

L. C. J. Did he frequently ſend for her a month or ſix weeks before that?

Witneſs. Yes, ſeveral times.

Mr. *Sanders.* Then ſwear *Bridget Lee.*

[*Which was done.*

Mr. *Sanders.* Pray Miſtreſs, you that ſpoke laſt, did Mrs. *Price* ever deny her ſelf to him, but that once when ſhe left that word with you?

Witneſs. Never to me, my Lord, but that time.

Mr *Sanders. Bridget Lee*, Pray tell my Lord, Whether Mrs. *Price* did deny her ſelf, and the way he uſed to get her to him?

Lee. Mr. *Dugdale* came into this Gentlewoman's Houſe, and coming into the Houſe I was in the paſſage; he asked me, Sweetheart, let me ſpeak with you; he deſired me to tell him where Mrs. *Price* was? I told him I could not tell: I wiſh, ſaid he, you would fetch her to me; no, ſaid I, I would not do it for 5 *s.* He clapp'd his Hand in his Pocket, and ſaid he, I will give you 5 *s.* No, ſaid I, I will not do it if you would give me 5 *l.* *Let every Tub ſtand upon its own bottom.*

L. C. J. What did you mean by thoſe Words, *Let every Tub ſtand upon its own bottom?*

Lee. I would not meddle nor make with any thing but my own Concerns.

L. C. J. How long was this before the Tryal of *Harcourt?*

Lee. A quarter of a Year before that.

L. C. J. It was before he went out of Town, the Circuit.

Lee. Yes, my Lord, ſo it was.

Mr. Juſt. *Pemberton.* There had been no tampering then, this was before the tampering.

L. C. J. It is no matter when the tampering was, but when Mr. *Dugdale* ſent for her, and ſhe refuſed.

Mr. *Sanders.* I wonder what they did together all the time before, if they were not tampering.

L. C. J. They made Love together.

Mr. *Sanders.* What was the occaſion that ſhe refuſed?

Witneſs I underſtand that Mr. *Dugdale* did find I was fearful of my ſelf; you may venture, ſaid he, for I would not do her the leaſt wrong, nor the leaſt Hair of her Head ſhould not periſh.

L. C. J. This was long before he went into the Countrey?

Witneſs. Yes, my Lord.

L. C. J. Before the tampering?

Witneſs. Yes, my Lord.

Mr. *Sanders.* Where is that other Witneſs, Mrs. *Holland?* [*Who was ſworn.*] What do you know of Mr. *Dugdale*'s ſending for Mrs. *Price*? I would know the laſt time, and where it was?

Holland. My Lord, I do not know what place it was he ſent for her to, nor the laſt time, but it was ſince *Chriſtmas.*

L. C. J. Since *Chriſtmas*?

Holland. No, before *Chriſtmas*, but I do not remember the Day.

L. C. J. How do you know that he ſent for her?

Holland. I was told by the People ſo, That a meſſenger was come from him for her.

L. C. J. You did not ſee him?

Holland. No, I did not.

L. C. J. She ſays nothing to the purpoſe.

Holland. I know Mr. *Dugdale* was in her Company one *Sunday* laſt *Lent*, and was there two Hours.

Mr. Juſt. *Jones.* 'Tis agreed of all ſides they were Acquaintance, and had great familiarity.

Mr. Juſt. *Pemberton.* Ay, or ſhe would never have had the confidence to have attempted upon him in this manner.

L. C. J. Well, have you any more?

Mr. *Sanders.* Here is one more, that is Mrs. *Sheldon.*

L. C. J. What do you call her for?

Mr. *Sanders.* To prove that there was a Note left to warn her to avoid Mr. *Dugdale*'s Company.

Mr. Juſt. *Pemberton.* Why did you not?

Mr. *Sanders.* It had been better for us if we had.

L. C. J. When was that Note?

Mr. *Sanders.* Lately.

L. C. J. That will do no good.

Mr. Juſt. *Pemberton.* Come, call her however, they will ſay, their Witneſſes were not heard elſe. [*And ſhe was call'd, but did not appear.*

L. C. J. Come, ſhe is not here.

Mr. *Sanders.* Then, my Lord, we offer this as Evidence, That we had no Deſign to Suborn him to retract what he had ſaid; the occaſion of our being with him we have given you an Account of.

Mr. Juſt. *Pemberton.* Why did you write your Note then?

L. C. J. Mr. *Sanders*, what you have ſaid amounts to nothing to avoid the Evidence that hath been given for the King; for all your Teſtimony ſays little more, than what he ſaid at firſt; That we were Fellow-ſervants, and well acquainted; we made frequent Viſits, and when I came to Town I went to ſee her, and ſhe came to me; They had no Diſcourſe of this ſame matter

ter of tampering till the Day before *Harcourt's* Tryal, but Sir *Robert Southwell* does say, She owned that she did study the Note, which is the great Business in the Case: For if she prepared the Note for him to sign, what can be said more?

Mr. *Sanders.* We can say no more but that Mr. *Dugdale* might Dictate it.

L. C. J. No, she own'd she Dictated it, and got Mrs. *Man* to write it for her.

Mr. *Sanders.* I do not know, my Lord——

L. C. J. But you may know if you will; for Sir *Robert Southwell* hath sworn, That she being examined at the Council-Board, the Lords of the Council had so good an Opinion of the Skill of it, that they asked her, Who fram'd it for her? And she answered, She did it her self.

Mr. Just. *Pemberton.* Mr. *Sanders,* if you be not satisfy'd, here is another of the Clerks of the Council.

Sir *John Nicholas.* All that Sir *Robert Southwell* hath said is true.

Sir *Thomas Doleman.* All that Sir *Robert* hath said I can swear to every particular.

L. C. J. Well, What say you, Mr. *Pollexfen?*

Mr. *Pollexfen.* My Lord, if you please to spare me a Word for the other Defendant Mr. *Tasborough:* There is in the Indictment two Things charg'd on the Defendants; One, That they should persuade Mr. *Dugdale* not to give Evidence against *Harcourt*: For that there is no manner of Evidence against Mr. *Tasborough,* but he ought to be found Not Guilty for that part.

L. C. J. That is true, of that he must be acquitted.

Mr. *Pollexfen.* Then for the other part of the Charge, That they should endeavour to persuade Mr. *Dugdale* to Retract the Evidence he had formerly given, for a sum of mony, and other Rewards: We do reckon, That as this Evidence stands before your Lordships, whatsoever is proved against Mrs. *Price,* will have no influence upon Mr. *Tasborough*; for altho' *Dugdale* and *Price* have had Practices and Designs amongst themselves, unless he be a Party to them, if he have not a part in them they will not affect him: Then the next thing is, we must distinguish the Evidence as it stands, or else it may not be by the Jury so well understood how they are differenced one from another; for I would not mince the Evidence, but let it stand as it is: And how far Mr. *Tasborough* is concerned in it, and how far may be done by him as an honest man in this matter, or how far it is an illegal Act, will be to be determin'd by you. Now there is only two meetings that Mr. *Dugdale* hath had with Mr. *Tasborough*; and in the next place, there is no other Witness to prove it but *Dugdale* himself, excepting only what Sir *Robert Southwell* says of the Confession at the Council, which, I think, will not be very much neither, as I shall shew when I come to that particular. Mr. *Dugdale* says, that at the first meeting, the 12*th* of *October,* at the *Green Lattice* in *Fullers Rents,* Mr. *Tasborough* did say unto him, That Mrs. *Price* had told him, Mr. *Dugdale* would Retract his Evidence, and he was come to confirm what she had said.

L. C. J. Nay, but what she had promised.

Mr. *Pollexfen.* Yes, what she had promised; and and that he came from the Duke, and that it was charitably done of him to Retract, he goes no further: And that if he had done amiss he should be sorry for it. This is the Evidence, as near as I can remember to repeat it.

L. C. J. Part of it.

Mr. *Pollexfen.* As to the first meeting——

Mr. Just. *Pemberton.* Look you, do not mistake, Mr. *Pollexfen,* but observe this: For Mr. *Dugdale* does swear he told him, If you will Retract the Evidence you have given, then all she hath promised shall be made good.

Mr. *Pollexfen.* That he came to confirm what she had promised. I would repeat it as right as I could, because, my Lord, I hope, as this Case stands, that notwithstanding all that hath been proved, yet Mr. *Tasborough* hath done nothing amiss. Then I come to the second meeting.

Mr. Just. *Pemberton.* At the first meeting the Note was produc'd.

L. C. J. No, I think not.

Mr. Just. *Dolben.* Yes, my Lord, it was.

L. C. J. Was it, Mr. *Dugdale?*

Mr. *Dugdale.* Yes, my Lord.

Mr. *Pollexfen.* Yes, he does swear so, and that he read it, and press'd Mr. *Dugdale* to sign it; and that this was the last time, and it must be done before the Duke went into *Scotland,* or something to that purpose. This, my Lord, under favour, may all stand and be very true, and yet Mr. *Tasborough* not criminal, with submission. For if so be Mrs. *Price* were so far in her intercourse with Mr. *Dugdale,* that as appears by his own Evidence he did seem to comply and treat, as if he were yielding, and to do what they would have him do, concerning his going beyond Seas, or being kept in a Protestant Lord's House, and she had such Confidence as to tell him how the Priests were sent away, and how he might be convey'd away: All this thus far comes to agree with what Mr. *Tasborough* says for his own Defence: For Mr. *Tasborough* says Mrs. *Price* did tell me, that Mr. *Dugdale* was sorry for what he had sworn, and would Retract all the Evidence he had formerly given. Thus he says: I'll apply it to our Case anon; and this appears by Mr. *Dugdale's* own Evidence: For when he does repeat what Mr. *Tasborough* told him, he says, That he said, Mrs. *Price* told him of it, and he hath not told you, that he did contradict it for false.

Mr. Just. *Pemberton.* Pray consider; He tells you, that *Tasborough* said, that Mrs. *Price* had acquainted him with what Propositions she had made of 1000 *l.* and that he was the man that was come to confirm the Promises she had made.

L. C. J. That presses you, that is the truth of it: If that had not been in the Case, perhaps you don't talk much out of the way. 'Tis true, your Observation is right.

Mr. Just. *Pemberton.* 'Tis ingenious indeed, but 'twill not hold out.

L. C. J. When *Tasborough* comes into the Company to be acquainted with Mr. *Dugdale,* at that time Mr. *Dugdale* had been advised to comply, or seem to do so to find out the Plot and Design, and what he could get out by it; and without question, to pursue that end, he did shew yieldingness, and as you observe, for ought *Tasborough* knew, she might be sincere: But was it a good way for him to tell him? There is the matter in effect he does tell him so; If you will Retract your Evidence, according to this Note that was produced by her, and read by him, you shall have

have a 1000 *l.* for your pains: Can you anſwer that?

Mr. Juſt. *Pemberton.* Or can you anſwer the other, That he ſhould ſay, She hath acquainted me with what you propoſe; that is, That you would Retract all, and go out of the way, and be no more an Evidence; and if you would do that, that ſhe hath acquainted me with her Propoſition, which I come to confirm, that ſhe would give you 1000 *l.* What can be made of that?

Mr. Juſt. *Dolben.* And withal, formerly there was a Diſcourſe of ſome Perſon of Quality that ſhould come to him; he deſired that ſome ſuch one ſhould be a Security for the money, and afterwards ſhe brought Mr. *Tasborough*, and ſaid, That was the Gentleman ſhe told him of.

Mr. Juſt. *Pemberton.* Come, Mr. *Pollexfen*, take this too: What had Mr. *Tasborough* to do to uſe the Duke of *York*'s Name? And to ſay, That he had Authority from him to propoſe theſe things; which certainly is a very great wrong to ſo great a Prince.

L. C. J. That needed not to a penitent Perſon, that was ſorry for what he had done.

Mr. *Pollexfen.* He does indeed ſay, That Mr. *Tasborough* ſhould be the man that ſhould ſecure the money.

Mr. *Sol. Gen.* And there is one thing farther, to take in all that Mr. *Tasborough* did likewiſe ſay to Mr. *Dugdale*; That there is no harm in doing this, that it is a very charitable Act, and that he would do well in it.

L. C. J. But they anſwer that by ſaying, Suppoſing it to be true, that *Dugdale* had Remorſe, then it would be a very good Action; but to talk of 1000 *l.* to be given for it, there is the Crime.

Mr. *Pollexfen.* Whether my Anſwer will take with your Lordſhip or no, I can't tell; but the Anſwer I would give is this; There are ſeveral things in that Paper, as amongſt the reſt, That he ſhould fall under great Diſlike and Danger, and therefore was forced to hide and ſecure himſelf, for fear of thoſe whom he ſhould make his Enemies by it, and that was Terror enough to any man that ſhould run into ſuch a Retraction. Therefore now he muſt live when he hath done this, and ſo we ſhould apply the other part of the Diſcourſe, whatever money ſhe had promiſed to take off his fears of want, and ſo his coming there was to make good that part of the Paper, which ſays, he muſt be protected and maintained, and preſerved, that he may ſee he hath a ſubſiſtence and proviſion for him, if he did deſerve it. And, my Lord, it will be greatly diſtinguiſhing in our Caſe, and turn much upon this Point, with ſubmiſſion, if I give or offer money to any man to ſwear a Falſhood or Retract the Truth, 'tis a very great Crime, and if we are guilty of that, undoubtedly our Crime is very bad; but in order to the bringing of Truth to diſcovery, and to have a Retraction, not of a Truth, but of a Falſhood, and to preſerve that Witneſs from periſhing, I may promiſe him protection and ſubſiſtence.

Mr. Serj. *Maynard.* Then you have found out a better way than the Devil himſelf could have ſuggeſted to uphold Subornation.

L. C. J. Upon my word, if that were a way that were allowable, then woe be to us, we ſhould eaſily have all the Witneſſes tamper'd with by the Temptation of 1000 *l.* Reward. Do you think that is a good thing for a man to ſay, This thing was raſhly ſaid, if you will unſay't, you ſhall have ſuch a Reward? People would be apt to bite at ſuch a Bait, and we do not live in ſo virtuous an Age, that 1000 *l.* will not Tempt a man to unſay what he hath ſaid at firſt, tho' what he ſaid then was true.

Mr. *Pollexfen.* It were an unjuſt and unfitting thing, if it were as you ſay.

Mr. Juſt. *Pemberton.* Nay, Mr. *Pollexfen*, conſider, theſe things muſt not be done by any one; their way, if they had been convinced of the Truth, had been to have carry'd the Complaint to a Magiſtrate, and there to detect him by what he had ſaid; not to corrupt him, and perſiſt in it, by telling him, if he would do ſo and ſo, he ſhould have 1000 *l.* By this you let in all manner of Temptations to Witneſſes, that we ſhall never know where we are.

L. C. J. Come, Mr. *Dugdale* (becauſe I will ſhew you all very fair play, I think very well of Mr. *Dugdale.*)

Mr. Juſt. *Pemberton.* He hath carry'd himſelf always well.

L. C. J. Yes truly, I know nothing to the contrary: And pray tell upon your Oath, and tell the Truth; Did Mr. *Tasborough*, when he read the Note, ask of you, Is this true? Did he inquire of you, Whether or no you were really a Convert, and, Whether your Sorrow and Repentance were true?

Mr. *Dugdale.* No, he never did.

L. C. J. Did he ask you, If you could do it with a ſafe Conſcience?

Mr. *Dugdale.* No, nothing of Conſcience was ever nam'd in it.

L. C. J. Did he ask you, Whether it was true?

Mr. *Dugdale.* He never nam'd Truth or Falſhood: It was only to get me over to Retract what I had ſaid.

Mr. Juſt. *Pemberton.* What is a Temptation, if this be not?

L. C. J. Truly I ask this Queſtion, That the World may ſee, we would find out the Truth by all the ways we can; for if he had been ſolicitous with him, and asked him, Whether he could do this ſafely, and with a good Conſcience, and whether the matter of it were true, it would have gone a great way; but now I have ask'd Mr. *Dugdale* this upon his Oath, and he ſays it was only to get him over to them.

Mr. Juſt. *Pemberton.* And then conſider all that is ſaid againſt Mrs. *Price* is turn'd upon you, except that of the contrivance to keep him from giving his Evidence againſt *Harcourt*. A very ſubtle Invention it was; but whether Mr. *Tasborough* was in the buſineſs of the Note, in contriving it, I cannot tell, and it ſignifies nothing: But ſhe having contriv'd as ill a Note as can be penn'd, he is as much guilty; for he ſolicits as well as ſhe, and countenances it ſo far, as to undertake farther, that the money and the Bribes ſhe had offered, ſhould be paid and made good.

L. C. J. Mr. *Dugdale*, Mr. *Tasborough* talked with you of going away?

Mr. *Dugdale.* Yes, my Lord.

L. C. J. Adviſed you to be gone?

Mr. *Dugdale.* Yes, he did: He told me I were beſt to abſent my ſelf for a while beyond Sea, and ſhould have convenient paſſage.

L. C. J. Did he mention the Duke of *York*? What ſaid he?

Mr. *Dug-*

Mr. *Dugdale.* Yes, he ſaid he had acquainted the Duke, and the Duke had given him Orders to preſs that Note home; for, ſaid he, the Duke will not believe you will be true, if you do not ſign this Note.

Mr. Juſt. *Pemberton.* Tis never to be endur'd, that you ſhould abuſe ſo Noble a Prince.

L. C. J. Did you tell Mr. *Tasborough* then, If I come over, there is *Otes*, and *Bedloe*, and *Prance* ſtill left?

Mr. *Dugdale.* I did ſay ſo to Mrs. *Price*, but never to him.

Mr. Juſt. *Pemberton.* You ſee then what he would have this Note ſign'd for, to ſtrengthen the Catholick Cauſe.

Mr. *Thompſon.* My Lord, Will you pleaſe to ſpare me one Word for Mr. *Tasborough*: I confeſs the Evidence does ſeem by Mr. *Dugdale* to preſs us very hard, and particularly upon that matter of the money; but as Mrs. *Price* had manag'd the Buſineſs, Mr. *Tasborough* might have been very innocent: But, my Lord, we muſt make that Defence for our ſelves that we can in a caſe of this Nature; and therefore it will be, I hope, no Reflection to ſay, We muſt counterprove Mr. *Dugdale*, and diſprove him as far as we can, to acquit our ſelves. My Lord, it is a very great Crime that we are here charg'd with, and the Crime being ſo heinous, ought to be well proved, and with unqueſtionable Evidence: Mr. *Tasborough*, if he be guilty of what he is here accuſed of, is a very ill man; but men are not drawn up to great degrees of illneſs ſo ſoon, as at the firſt Act to attempt ſuch heinous Offences: And 'tis not probable, that at his firſt ſlip he ſhould be guilty of a Fault of ſo high a Nature, and ſo very ill as this is. My Lord, we ſhall call ſome Perſons that ſhall make it appear to your Lordſhip, that after Mrs. *Price* had given us Information of this Repentance of Mr. *Dugdale*'s, we did make application to a Perſon of very great Honour, no leſs than my Lord Privy Seal, that Mr. *Dugdale* might receive the Diſcouragement which it was fitting he ſhould in ſuch a matter. My Lord, we muſt call our Witneſſes, to prove Mr. *Tasborough* to be a man of a very good Reputation, that he never did any ſuch thing before; and I hope we ſhall give your Lordſhip ſuch an Account of him, that the Jury will have reaſon to believe, That Mr. *Tasborough* is not ſo guilty as he is repreſented, but was drawn into this matter, whatever it is. Pray call a Witneſs to ſhew that Mr. *Tasborough* acquainted any Lord of the Privy Council.

Then my Lord Chief Juſtice went off the Bench, to ſit on Writs of Error in the Exchequer-Chamber.

Mr. Juſt. *Pemberton.* If Mr. *Tasborough* be drawn in, 'tis by Mrs. *Price*, but not by Mr. *Dugdale*.

Mr. *Thompſon.* Is my Lord Privy Seal in Court?

Mr. Juſt. *Jones.* You know he is not here.

Mr. Juſt. *Pemberton.* You toſs great Names about, and make great noiſe with them, when you know they are not here.

Mr. *Thompſon.* If he had not fallen ill, ſure he would have been here, What ſay you, Mr. *Tasborough*?

Tasborough. My Lord, I was to attend my Lord Privy Seal Yeſterday, and I deſired him to do me the Honour to be here to Day, becauſe I was to come to my Tryal: He told me he had Buſineſs that would hinder him from coming; but, ſaid he, if the Attorney-General will inform himſelf of me, I am ready to teſtifie, that you gave me Information firſt of Mr. *Dugdale*'s Recantation, before it came before the Council.

Mr. Juſt. *Pemberton.* We will do your Client this Right, Mr. *Thompſon*, as to ask whether my Lord Privy Seal was at the Council, and ſaid ſo much then.

Mr. *Scroggs.* He was not that Day, but we acquainted my Lord Privy Seal before that; but Sir *Robert Southwell* does him this Right, as to ſay, that he did declare, if Mr. *Dugdale* had ſign'd that Note, he would have gone with it immediately to a Magiſtrate.

Mr. Juſt. *Pemberton.* How does that appear he ſaid ſo?

Sir *R. Southwell.* My Lord, he did further ſay, after he had ſaid, that he would have carried it to a Magiſtrate in that caſe, he did ſay, he had been once or twice with my Lord Privy Seal.

Mr. Juſt. *Pemberton.* Ay, he did ſay ſo; but there was no Evidence but his Allegation.

Mr. Juſt. *Jones.* Was my Lord Privy Seal at Council at that time?

Sir *R. Southwell* No, I think not, my Lord.

Mr. *Scroggs.* 'Tis a very ſtrange thing we ſhould be ſo forward to promiſe for Mrs. *Price*, if we had not thought Mr. *Dugdale* real.

Mr. Juſt. *Pemberton.* 'Tis a ſign you had a great inclination to the thing: Well, call your Witneſſes.

Mr. *Thompſon.* Call Sir *Richard Aſhfield* and Alderman *Barker*.

Mr. Juſt. *Dolben.* 'Tis a fine thing this to make a long Brief with to no purpoſe.

Mr. *Scroggs.* We have a ſwinging Brief here indeed.

Mr. Juſt. *Dolben.* Ay, you come with a great Brief, but no Witneſſes.

Mr. *Thompſon.* If we do not call the Witneſſes nam'd in our Brief, our Client will take it ill; if they do not appear, we can't help it.

Mr. Juſt. *Pemberton.* You have forgot what you moved the Court about *Tempeſt*.

Mr. Juſt. *Dolben.* But we have not forgotten, that about ten Days ago you mov'd to put off this Tryal, becauſe Mr. *Tempeſt* was your material Witneſs; and being ask'd what he could prove, you ſaid it was how you were brought acquainted with Mr. *Dugdale*: But becauſe the Court did not think fit to put off the Tryal, Mr. Attorney did ſay, he would ſee if he had been examined, and what he had depoſed, and report it to us; and afterwards did ſo, and did conſent here that at the Tryal you ſhould make uſe of his Examination if you pleas'd; but we do not ſee that you make any uſe at all of it.

Mr. *Thompſon.* We that are of Counſel muſt make uſe of our Client's Witneſſes as we have them in our Brief.

Mr. Serj. *Maynard.* We deſire they ſhould call their Witneſſes, and not name Names.

Mr. *Scroggs.* We deſire that Examination may be read.

Mr. *At. Gen.* Produce it then.

Mr. *Thompſon.* We have it not.

Mr. *Recorder.* And we for the King do not uſe it as Evidence.

Mr. *At. Gen.* Come, if it be here you ſhall have it read, though I believe Mr. *Tempeſt* ſwears

ſwears little to your purpoſe; for as I take it he ſays he does not know Mr. *Dugdale* at all.

Mr. Juſt. *Dolben.* But I told you that Mr. *Tasborough* puts you upon Trifles.

Mr. Juſt. *Pemberton.* But whatſoever they put you upon, you ſhould not trifle with us.

Mr. *Thompſon.* Do you deſire they ſhould be read, Mr. Attorney?

Mr. Juſt. *Pemberton.* We can't read them without the Conſent of both Parties. Do you conſent to them firſt for whom they are produced?

Mr. *Tasborough.* I only deſire to know by them how I came acquainted with Mrs. *Price.*

Mr. Juſt. *Dolben.* Well, you hear what Mr. Attorney ſays is in them; will you have them read?

Mr. *Scroggs.* 'Tis to no purpoſe then, if that be all.

Mr. Serj. *Maynard.* I deſire to ſpeak but a few words, and I am bound to ſpeak them.——

Mr. Juſt. *Jones.* Brother, they have more Witneſſes.

Mr. *Pollexfen.* Theſe we ſhall now call are to this purpoſe, to prove Mr. *Tasborough*'s Reputation, that he is a very honeſt man.

Mr. Juſt. *Dolben.* I don't ſee but that he may be a fair-condition'd man in all other things.

Mr. Juſt. *Pemberton.* Look you, thoſe that are in their Dealings ſometimes honeſt fair men, yet when they come to be of that Religion, there they are debauched, and there they are brought to do as wicked things as can be, in favour, and to ſupport that Religion.

Then Alderman Barker *was ſworn.*

Mr. *Thompſon.* Do you know Mr. *Tasborough?*

Mr. *Barker.* Yes, I have known him ſeveral Years.

Mr. *Thompſon.* How long?

Mr. *Barker.* Fourteen or Fifteen Years.

Mr. *Thompſon.* How have you look'd upon him?

Mr. *Barker.* I have looked upon him as an honeſt peaceable man.

Mr. Juſt. *Pemberton.* You have known him to be a Catholick?

Mr. *Barker.* Yes, that I have.

Mrs. *Price.* May I beg the Favour of this Honourable Court, that I may ſpeak for my ſelf here?

Mr. Juſt. *Dolben.* Well, come Mrs. what will you ſay? But we muſt tell the Jury before-hand it ſignifies nothing for Evidence.

Mrs. *Price.* I deſire to ſpeak the truth.

Mr. Juſt. *Dolben.* But they muſt not believe a Word you ſay.

Mrs. *Price.* Be pleaſed to give me leave to ſpeak however.

Mr. Juſt. *Jones.* Well, go on.

Mrs. *Price.* Sir, Mr. *Dugdale* does here accuſe me of ſuborning him to retract his Evidence. I do proteſt 'tis ſo far from it, that he importuned me, and ſolicited me to go to the Duke of *York*, and he told me if I would go, he would pay my Coach-hire. Is it not ſo, Mr. *Dugdale?*

Mr. Juſt. *Pemberton.* You muſt not interrogate him.

Mr. Juſt. *Dolben.* The very firſt thing you have ſaid hath diſcredited all you would ſay; for if Mr. *Dugdale* (as you ſay) had importuned you that you would do this thing for him, how comes it to paſs that afterwards you ſhould promiſe him a Reward of 1000 *l.* and bring a Gentleman to make it good?

Mrs. *Price.* I aſſure you, my Lord, I never did.

Mr. Juſt. *Dolben.* 'Tis moſt apparent *Tasborough* does not deny that.

Mrs. *Price.* But that which is the real Truth, that you ſay muſt not be believed.

Mr. Juſt. *Pemberton.* Did he ſolicit you to draw your Note?

Mrs. *Price.* Yes, he did, upon the word of a Chriſtian.

Mr. Juſt. *Jones.* You did confeſs that you did ſtudy it, and draw it your ſelf.

Mrs. *Price.* I did ſo, but he importun'd me to do it.

Mr. Juſt. *Pemberton.* How do you prove that?

Mrs. *Price.* I deſire to know by what Words I took off his Evidence at *Harcourt*'s Tryal?

Mr. Juſt. *Dolben.* You deſired him to be kind becauſe he was your Confeſſor.

Mrs. *Price.* I deſire to ask him the Queſtion by what Words it was.

Mr. Juſt. *Jones.* Well, you may ask him, but 'tis little to the Purpoſe. Can you remember the Words, or the Effect of the Words that ſhe ſpoke to you in the Behalf of *Harcourt?* The Night before his Tryal, I think it was.

Mr. *Dugdale.* Yes, it was the Night before, to deſire me I would not be an Evidence againſt him, in regard he was her Ghoſtly Father.

Mrs. *Price.* You know you came to me, Mr. *Dugdale,* and told me you rid Poſt to Town.

Mr. Juſt. *Pemberton.* We muſt have no more of theſe interlocutory Diſcourſes.

Mr. *Dugdale.* Mrs. *Price,* I would not do you the leaſt Injury in the World.

Mr. Serj. *Maynard.* Mr. Juſtice *Jones,* I deſire a Word.

Mr. Juſt. *Jones.* If you will produce any Witneſſes, do.

Mrs. *Price.* I deſire I may ſpeak for my ſelf.

Mr. Juſt. *Dolben.* 'Tis but Reaſon ſhe ſhould ſpeak for her ſelf.

Mr. Juſt. *Pemberton.* But I hope if ſhe ask unreaſonable Queſtions ſhe is not to be heard.

Mrs. *Price.* I only ſpeak the Truth.

Mr. Juſt. *Dolben.* But we muſt not take your Evidence of it, produce your Witneſſes.

Mr. Juſt. *Jones.* If you have any to prove what you ſay, call them.

Mrs. *Price.* Whether you will take my Evidence or not, pray let me ſpeak for my ſelf.

Mr. Juſt. *Dolben.* We cannot believe you, nor muſt the Jury believe you, I'll tell you that before-hand.

Mr. Juſt. *Pemberton.* We tell you, you muſt not be heard. If you have any Queſtions to ask, let your Counſel propoſe them.

Mr. Juſt. *Dolben.* If you apply to the Jury, you are not to tell the Matter of Fact, but to prove it to them by Witneſſes

Mrs. *Price.* I deſire, however, I may be heard my ſelf.

Mr. Juſt. *Jones:* If any thing hath been omitted by your Counſel, which is material for your Defence, and you have Witneſſes to prove it, they ſhall be called.

Mr. Juſt. *Pemberton.* Mrs. *Price,* you muſt know the Courſe of the Court, and the way of Evidence is, we are not to hear the Perſons indicted make long Speeches to the Court, or to the Jury, or come with great Confidence to deny the thing

thing that is prov'd againſt them; if you have any thing material to ſay, we will hear you by your Counſel; you muſt not trouble us.

Mrs. *Price.* My Lord, I have Matter enough to to ſay, but it can't be heard.

Mr. *Sauders.* We deſire *Wright* may be call'd again.

Mr. Juſt. *Jones.* To what purpoſe?

Mrs. *Price.* To prove that you, Mr. *Dugdale*, would ſuborn him.

Mr. *Dugdale.* Call him, if you will, if you can prove any Practices upon me.

Mrs. *Price.* You have good Practices we know; you are a man of excellent Practices; you had need commend your Practices. You know very well, Mr. *Dugdale*, that you told me you were perjured.

Mr. *Recorder.* 'Tis not Language fit for you to give.

Mr. Serj. *Maynard.* Is that Liberty of Speech fit to be given? She tells Mr. *Dugdale* that he ſaid himſelf he was perjured.

Mr. Juſt. *Pemberton.* You are an impudent Woman to talk ſo.

Mr. Juſt. *Dolben.* Your mouth muſt be ſtopped if you can uſe your Tongue no better.

Mr. Juſt. *Jones.* What would you ask him when he does come?

Mrs. *Price.* I have told my Counſel.

Mr. *Sanders.* She ſays ſhe would ask him whether Mr. *Dugdale* did not offer him Money to ſuborn him in this Caſe. You are ſworn already, Sir, are you not?

Mr. *Wright.* Yes.

Mr. *Sanders.* Then pray anſwer the Court this Queſtion, Did Mr. *Dugdale* at any time offer you any Money to take an Oath, or give Evidence?

Mr. *Wright.* Offer me Money?

Mr. *Sanders.* Yes you. Anſwer upon your Oath.

Mr. *Wright.* No, my Lord.

Mr. *Saunders.* Or any thing elſe did he offer?

Mr. *Wright.* No, my Lord, he hath often ſent to me to come, and when I did come, hath ſaid, I am glad you are come, I'll do you as great a Kindneſs, but he did not know of my coming becauſe his Meſſengers had not met with me.

Mr. *Sanders.* Did any one on his Behalf offer you any thing?

Mr. *Wright.* No, I think not; if it was, I think it was in vain.

Mr. *Sanders.* But did he, or did he not?

Mr. *Wright.* No.

Mr. *Recorder.* If Mrs. *Price* hath any more ſuch Witneſſes, ſhe may call them.

Mr. Serj. *Maynard.* Sir, under your Favour, here hath been a ſtrange way of Defence. Conſider what a Crime we are upon, and in what times we are. That there is a Plot of a very high and tranſcendent Nature under Queſtion, that divers Witneſſes have been ſuborned, and perſons tryed in this Place and convicted for it, 'tis undeniable. Now after Tryals for ſo high a Crime in the moſt publick Way, here come *Price* and *Tasborough*; What to do? She indeed before, but both *Tasborough* and ſhe afterwards, by Rewards, and ſuch Temptations, endeavours to diſgrace his Evidence, but there is not only that, but the great thing looked after by their Party, was, the Iſſue of it; upon this all the King's Evidence were to be hang'd. What hath been ſaid is only to make a Jeſt, and make the Company merry, that there was a Contract of Marriage between them, but what will be the Conſequence of that? He that ſpoke it, has unqueſtionably proved the Probability of our Charge, we have made it probable, and he hath proved it; and the Inference drawn by them is, She certainly did not tempt him, becauſe ſhe had an Intereſt in him, which concludes very naturally. But then for the other, Mr. *Tasborough*, Alderman *Barker* comes in, and ſwears the Gentleman is a very honeſt Man, I hope he did hear the Evidence, and then I wonder how he could ſwear it; but do we come to prove whether he be an honeſt man in his Life? 'Tis not at all our Queſtion; if we ſhould have offered to have diſparaged him in another way, we had not, I think, done our Duty, and the Court would juſtly have reproved us for it; but there is one thing, which if it had not been ſpoken, I would have held my Peace: How is *Tasborough* concerned in the Caſe? Divers have been queſtioned and executed for High Treaſon, upon Mr. *Dugdale*'s Evidence; and after ſuch an Execution, what is Mr. *Tasborough*'s Duty? It hath been repreſented as if he had been perſwaded by her, and drawn in that way, and he thinking that it was a Falſity that had been ſworn before, and that Mr. *Dugdale* repented of the Injury he had done them, he ſhould help to make this Diſcovery. But what was he concerned? Did he go to a Juſtice of Peace, or any juſt way? Did he not contrive with the Devil rather than the Juſtice? 1000*l.* muſt be paid to draw off a man, and corrupt him, to make him own himſelf perjur'd, in a truth that had been ſpoken. And this is not the firſt time that they have done it; for we remember the Caſe of *Reading* very well. I ſhall ſay no more, but this, under favour, it is not well to ſay, That a man may perſwade another to deny his Teſtimony, that is nothing concerned in the Caſe, in a Caſe of this publick Nature eſpecially, and for Money too, that was never meant by the Law, and I hope is not meant ever to be countenanced here. I hope the Court will give that Caution to all that hear it, as will diſcourage any Attempts of this Nature for the future. And that it ſhall not be enough to excuſe it, for him to ſay he was perſwaded, and thought his Sorrow was real, and thereby to put the King's Witneſſes to prove that thing to be true that they had proved already. What had Mr. *Tasborough* to do, as if he were a Judge of the Proceedings of the Court, and Witneſſes? Nothing at all, under favour, but is a very ill man, and as ſuch I hope ſhall be puniſhed.

Mr. Juſt. *Jones.* Gentlemen, you of the Jury; theſe two Perſons have been Indicted for a very great Offence. The Indictment ſets forth (that which we all know to be true) that *Whitebread*, and divers others, have been Tryed and Condemned for a very Execrable, Helliſh, Popiſh-Plot: That upon theſe Indictments, Mr. *Dugdale* did give material Evidence; but that, when ſome other of the Conſpirators were to be Tryed, and brought to Puniſhment, theſe two Perſons did endeavour to make Mr. *Dugdale* abſent himſelf, and retract his Evidence. And not only ſo, when *Harcourt* was to be brought to his Tryal, (for whom it ſeems Mrs. *Price* had a particular Kindneſs) but likewiſe it was endeavoured, he

ſhould be gone, and not give any further Evidence at all, and he ſhould have 1000 *l.* for a Reward. This is the Indictment.

The Inducement to the Indictment (that is, the Tryals of the Conſpirators) is all well known: And there have been Copies of the Records produc'd, which have been inſpected and peruſed by the Counſel on the Defendants parts; and they cannot ſay, but that the Records agree with the matter in that reſpect: So that there is nothing at all but the bare matter of Fact that you are to inquire into.

I ſhall diſtinguiſh the Perſons: Mrs. *Price*, according to the Evidence, hath gone thro' the whole Charge of the Indictment; and indeed, hath committed ſome further Crimes than have been mention'd in the Indictment.

Firſt, It hath been prov'd to you by Mr. *Dugdale*, That ſhe did not only deſire kindneſs to *Harcourt*, who was her *Ghoſtly Father*; but ſhe did deſign, as much as in her lay, that he ſhould not come in at all to give Evidence againſt him: This is prov'd by Mr. *Dugdale*, and another Perſon that was by, that did hear Mrs. *Price* ſay, She would have him be kind to Mr. *Harcourt*, becauſe he was her *Ghoſtly Father*: Withal tells you, That immediately after *Dugdale* did tell him, that ſhe did perſuade him he ſhould abſent himſelf, and not give Evidence againſt *Harcourt*.

She is likewiſe Charg'd (as they are both) that ſhe did treat with Mr. *Dugdale* for to Retract all that he had ſaid, to be gone, and to leave a Paper behind him, which ſhould ſignify, That there was trouble of mind upon him, and that he had done wrong in his Teſtimony given againſt the Catholicks: Therefore he would be gone, and leave a Teſtimony of it in Writing, when he was gone. And ſhe provides for his Security abroad, and he ſhould have 1000 *l.* Reward.

Dugdale is the Perſon with whom the firſt Treaty was: But becauſe he knew, and it was obſerved, that it was unſafe to deal with Perſons that were tampering with him in ſuch a nature as this was, and upon a matter of this kind, he does acquaint Perſons of very great Quality, as he ſwears, my Lord of *Shaftsbury*, and two other Perſons: They do adviſe him that he ſhould get ſome Perſons to be by when they ſhould come to ſome further Treaties concerning this buſineſs; and to that purpoſe he ſhould hold up a Correſpondence, and condeſcend to a kind of Agreement and Compliance, that he might be able to have further Teſtimony to confirm his Evidence. Whereupon Dr. *Chamberlain* and his Servant are plac'd in a Cloſet in Mr. *Dugdale*'s Chamber, in ſuch a Place, that they might hear what was diſcourſed in the Chamber; in comes Mrs. *Price*, they being in the Cloſet, Mr. *Dugdale* and ſhe diſcours'd about the Buſineſs ſo loud, that Dr. *Chamberlain* and his Servant (as both of them tell you) heard their Diſcourſe upon it: The Queſtion was ask'd and put to Mrs. *Price*: *Mrs.* Price, *I hope you know you are the Perſon that firſt mov'd this Intrigue; it began from you, and not from me*: And this was confeſt by her. So that you have in confirmation of Mr. *Dugdale*, the Teſtimony both of Dr. *Chamberlain*, and of his Servant, to that part of the Charge againſt her. And withal, 'tis added, not only that he was to go beyond Sea, to retract what Evidence he had given; but likewiſe it was thought expedient he ſhould come over again, and ſwear againſt all the reſt of the Evidence that had been given, or ſhould be given for the King. And when it was ſaid by Mr. *Dugdale*, What will it avail you, if I do Retract my Evidence? There is Mr. *Otes* and Mr. *Prance* to teſtifie the ſame thing: She ſaid, No matter for that; if we get you on our ſide for the Catholick Cauſe, to be our Friend, we ſhall be ſure to baffle all they can ſay or do; and we ſhall not only ſave the *Catholicks*, but turn the Plot upon the Heads of the *Proteſtants*, and all the King's Witneſſes ſhall be hang'd. That you may remember was teſtify'd by ſome of the Witneſſes.

Mrs. *Price* deals frequently with Mr. *Dugdale* to this purpoſe.

Dugdale, that he might know (and 'tis very like with that honeſt intention, and no other, he did it) and that he might diſcover the bottom of this buſineſs, tells her, This is a thing of dangerous Conſequence, and it is fit that I have better Security than your Promiſe of this 1000 *l.* I will have ſome ſubſtantial Perſon that ſhall come and confirm what you promiſe. And thereupon ſhe tells him, He ſhould have a ſubſtantial Perſon brought, and he ſhould have Thanks from very great Perſons, naming the Duke of *York*; for he it was, as they ſaid, that would take care to protect him, and procure a Pardon for him.

Now Gentlemen, this is the Evidence againſt Mrs. *Price*. In Defence of this what doth ſhe offer, but that ſhe hath been acquainted with Mr. *Dugdale*, and there hath been great Familiarity between them. If there had not been ſuch a Familiarity, would there have been ſuch an Intrigue? Is this a matter to be communicated to a Stranger? If there were a Doubt before, whether there were this Contrivance, Does not this give us a better Aſſurance that it was ſo, becauſe there was ſuch an Acquaintance between them?

Then, as to Mr. *Tasborough*: He indeed is not in the beginning of the Deſign at all: There is no Evidence againſt him for that part of the Charge, *That he ſhould abſent himſelf, and not give Evidence againſt* Harcourt. He comes not in at that time; nor can I perceive by Mr. *Dugdale*, that he had any Acquaintance with him at all till the 12*th* of *October*; and he ſays he was but twice in his Company.

Now, Gentlemen, What does Mr. *Tasborough* do? Firſt, *Dugdale* is told by Mrs. *Price*, That a man of Quality ſhould come to him, and confirm all the Promiſes ſhe had made him. *Tasborough* does come to him, and tells him, He hath had ſome Diſcourſe with Mrs. *Price*, what ſhe had propos'd; and he is now come to make good and confirm, That all ſhall be effected that ſhe had propos'd to him. Ay! but it is ſuppos'd, that Mr. *Tasborough* is a very honeſt man, and a conſcientious man, and does come for nothing in the World, but to perſuade Mr. *Dugdale* to do the Office of a Chriſtian; it was a charitable thing of him, to take off the Scandal that was upon the Innocent. But you do not hear him charge it upon Mr. *Dugdale*'s Conſcience, that he had given a falſe Evidence againſt any of thoſe Perſons, nor urge him much to Repent. But he muſt be gone; he muſt give no more Evidence againſt the Catholicks: And, What if he do comply with this deſire? Then he tells him he ſhall have a Reward: What Reward? A Thouſand Pound; which was made known before,

fore, and Protection, and Pardon, and Security: And he comes to him in the Duke of *York*'s Name, to inforce it the more ſtrongly upon him, and make him do it: Whereas, indeed, the Duke of *York* (as he himſelf and Mrs. *Price* have ſince confeſs'd) never knew any thing at all of the Buſineſs.

Now, Gentlemen, to move by honeſt Chriſtian means, any one that hath done an Injury of any ſort, to Repentance, and Contrition, and Recantation, that is a very good thing; but to do it with promiſe of a Reward of 1000 *l.* can't be juſtify'd: What way is there to inſinuate into any Perſon an intention of doing a miſchief, but ſuch a way as this? Will any one come to another, and ſay, forſwear your ſelf; whereas you know ſuch a thing to be true, ſwear it to be falſe, or Retract the Evidence you have given about it, and I will give you 1000 *l.* No, but ſerve the *Catholick* Cauſe; a great many have ſuffer'd, and by your Teſtimony; Retract, be gone, be ſecure, you ſhall have a certainty, that you ſhall be ſecure in another Kingdom; or elſe you ſhall have it in a *Proteſtant* Family, tho' neither that *Proteſtant*, nor any *Proteſtant* was nam'd.

Is not this a Bait to tempt a man to all the Villany in the World? If 1000 *l.* be offer'd, who can reſiſt? Such People as theſe are will not eaſily reſiſt ſuch a Temptation.

But Mr. *Tasborough* is a very honeſt man in his Life and Converſation; he produceth thoſe that tell you his Reputation is good, and the like: There is no doubt of it, and if he had produc'd 20 Witneſſes, do you think he would produce any one that ſhould ſpeak againſt himſelf? He chuſes out thoſe certainly as would ſpeak as much in his Favour as they can: But if a man hath been an honeſt man in his Converſation, may he not be intic'd or ſeduc'd? Eſpecially when it will be told him, If you do this you ſhall merit Heaven, you ſhall be Sainted and Canoniz'd, you do the greateſt Service in the World to the *Catholick* Cauſe.

Theſe Temptations may work upon a man, perhaps, that is morally honeſt, when he is infatuated with this Principle, That any thing may be done for the *Catholick* Cauſe; as it is a *Catholick* Doctrine too often inſtill'd into them, that any thing is become ſanctified when it tends to that end; 'tis eaſy then to prevail upon them in Things of this Nature.

I ſhould have told you (which I omitted before) one Circumſtance concerning matter of Proof againſt Mrs. *Price* more than *Tasborough*: Two Witneſſes ſaid they were in the Cloſet, and heard a Woman diſcourſe, but neither of them did ſee her Face; but afterwards it is proved by another, that he was deſired to obſerve who came into or went out of the Houſe; and he ſwears he ſaw Mr. *Dugdale* and her come out of the Houſe; That they went to the *Gatehouſe*, and he ſaw her come again from the *Gatehouſe* with Mr. *Dugdale*, and he is ſure this is the Perſon. And you remember that part of their Diſcourſe was of going to the *Gatehouſe*.

Mr. Juſt. *Pemberton.* They do not deny it neither.

Mr. Juſt. *Jones.* I don't ſee they do.

Mr. Juſt. *Pemberton.* 'Tis a very ſtrong and plain Evidence as can be given.

Mr. Juſt. *Jones.* There is nothing can be ſaid for Mrs. *Price*, little for Mr. *Tasborough*.

Mr. Juſt. *Pemberton.* I ſee nothing that can do him any good.

Mr. Juſt. *Dolben.* Come Gentlemen, lay your Heads together and conſider of the matter.

Which the Jury did at the Bar: And being asked by the Clerk of the Crown, Whether they were agreed? They anſwer'd, Yes.

Cl. of Cr. Who ſhall ſay for you?

Omnes. Foreman.

Cl. of Cr. Do you find the Defendants Guilty of the Treſpaſs and Offence whereof they ſtand Indicted, or Not Guilty?

Foreman. Guilty.

Mr. *Pollexfen.* As to part only for Mr. *Tasborough*.

Foreman. Guilty of the Indictment.

Mr. Juſt. *Jones.* We all know he is not found Guilty of one part, and that muſt be conſider'd at the ſetting of the Fine.

Mr. *At. Gen.* Mr. *Tasborough* hath been upon Bail, but I ſuppoſe he muſt not go upon Bail now; we pray that he may be committed.

Mr. Juſt. *Pemberton.* They muſt both be committed, take them both.

Mr. *Sanders.* Mrs. *Price* is ſtill in the *Gatehouſe*.

Mr. Juſt. *Pemberton.* We have her here now, ſhe is in our Cuſtody.

Mr. *Sanders.* If you pleaſe, Sir, we deſire ſhe may be remanded back.

Mr. Juſt. *Pemberton.* No, they ſhall go both into the *Marſhal*'s Cuſtody.

Mrs. *Price.* I beg of your Lordſhips I may go back to the *Gatehouſe*.

Mr. Juſt. *Pemberton.* What! Theſe are not things to be trifled with.

Mr. Juſt. *Dolben.* No, we muſt not ſhew you any Favour at all.

Mr. Juſt. *Pemberton.* No, we muſt have no Favour for you that would deſtroy us all.

Then the Priſoners were taken into Cuſtody by the Marſhal, *to be kept till their Judgment.*

THE TRYAL OF *BENJAMIN HARRIS.*

On Thurſday, *the Fifth of this Inſtant* February, *at the* Guild-Hall, *in the City of* London, *there was an Information exhibited by the King's Counſel before my Lord Chief Juſtice* Scroggs, *againſt* Benjamin Harris, *Bookſeller, to this purpoſe,* viz. *That he the ſaid* Benjamin Harris, *did maliciouſly and deſignedly to ſcandalize the King and Government, cauſe to be Printed, and Sold, a late ſeditious Book called,* An Appeal from the Countrey to the City, for the Preſervation of His Majeſty's Perſon, Liberty, Property, and the Proteſtant Religion: *And after it was read, Mr. Recorder made a Speech to the Jury, and the whole Court, to this effect.*

Gentlemen,

I Hope, this being a Matter to be tryed in the City of *London*, Perſons coming here in great Multitudes, come to bluſh rather than to give Incouragement to it; and if we can give your Lordſhip and this Jury, Satisfaction that this Perſon is guilty of the Offence, according as it is laid in the Information, I hope that both you, and all others that ſhall hear it, (for I perceive there is a great Expectation this Day from this Cauſe) I hope, I ſay, you will abominate any man that ſhall offer at any ſuch like thing. Indeed we live in an Age where all ſorts of Faction and Rebellion is countenanced, Magiſtrates reviled, and ſcandalized by ſome Perſons, who think they have Authority ſo to do. It is juſt like ſuch another kind of Religion, which ſome have now of late taken up, that rather than they will be thought to turn Phanaticks, they will turn plain Atheiſts, and others, who ſcorn to be either, downright Rebels. This Book is as baſe a Piece as ever was contrived in Hell, either by Papiſts, or the blackeſt Rebel that ever was: It ſeems to carry with it a fine Character, and has a Figure of all plauſible Obedience to the Crown, to wit, *An Appeal*, &c. *for the Preſervation of his Majeſty's Perſon, Liberty, Property, and the Proteſtant Religion.* But if any of you have ſeen it, I hope you will be ſo far from giving any Countenance to it, as that you will, with me, think, 'tis ſo far from tending well to the Government, that it is only deſign'd to rake up all Sedition and Rebellion, and the very worſt of all Rebellion. I muſt confeſs, I would rather have believed that it was only the ſake of Lucre made him do what he did, for that would have ſomewhat extenuated his Crime, if he had not read it firſt; but then to go and have it printed, and expoſed to Sale, *&c.* this is a great Aggravation.

If the ſame ſort of Inſinuation had been uſed towards any private Tradeſman, as hath been offered to the King and Magiſtrates, I believe there is no man but would ſay, that e'er this time he might have hid his Head.

But Diſſemblances of Pretences for the ſake of the Proteſtant Religion now adays in his Shop will paſs well enough, and Perſons can tell you there how far you may go from hence to *Rome* with Safety; and after they have blackened their Mouths with Tobacco and Smoke, and do not rail againſt the Church and the Government, they are look'd upon ſtrait as no Proteſtants.

But ſtill as to this Perſon, the farther to urge it, by way of Aggravation upon him, he could vauntingly make his Boaſts, when it was put home to him, Why he would venture to do ſuch things, *&c?* That he had above a Thouſand Perſons who would ſtand by him in whatſoever he did.

L. C. J. There was hardly ever any Book more pernicious to ſet us together by the Ears than this, nor any thing a greater Incendiary; one can hardly write a worſe ——— Sir *William Scroggs.*

Says he, *We in the Countrey have done our Parts in Chooſing, for the generality, good Members to ſerve in Parliament; but if (as our Two laſt Parliaments were) they muſt be Diſſolved, or Prorogued, whenever they come to redreſs the Grievances of the Subject, we may be pitied, but not blamed. If the Plot takes effect, (as in all probability it will) our Parliaments are not then to be Condemned, for that their not being ſuffered to Sit occaſioned it.*

So

So that here is a fly way of casting it upon the King himself. And if it be not down-right Treason, I am sure, it is just upon the heels of it. 'Tis a most abominable Piece.

Then were called the Witnesses, to prove that the Books were sold in his Shop, and after they were all sworn, first of all Mrs. Grover, *a Printer's Wife, stood up, who confessed she had half a Dozen of them, but not of him; for he was either gone out, or not in the way, but she had them of his Man.*

Then stood up one Mary Darby, *and she said, she had four of them.*

After her, Mr. Benjamin Tooke, *at the Ship in St.* Paul's Church-yard, *Bookseller, was Examined, who said he saw several Quires of them in the Shop. And being asked by Mr.* Harris, *How he knew they were all those Books? He answered, That he turned over a great many of them, and found them all the same.*

Mr. *Recorder.* My Lord, he was so mighty zealous of this Book, of so great Importance, no doubt, to his Party, that for fear he should be disappointed in time, he gave somewhat to hasten it.

Mr. *Recorder.* Call—the Printer's Man, and swear him. [*Who stood up, and was sworn.*

Mr. *Recorder.* What did Mr. *Harris* give you, ha?

Printer's Man. He laid me down Six-pence.

L. C. J. And what, that was for hastening the Book, was it not?

Printer's Man. I cannot tell, Sir, not I, but he gave me Six-pence.

Mr. *Recorder.* And what, did you do it in the Day-time, was you not at it in the Night?

Printer's Man. Yes, I was upon it in the Night.

Mr. *Recorder.* Ay, it was a deed of Darkness, and so fit for Night-Work.

Mr. Serj. *Strode.* My Lord, if it can be made out to your Lordship and this Jury, that he designed maliciously to scandalize the King and the Government by it, we must acquiesce, but that, my Lord, he absolutely denies; but seeing it running up and down the Town, he gets some of them, and suffers them to lie up and down in his Shop, and this only as a common thing to get Money, so that we suppose it may not lie within the Information, because it does not intentionally scandalize the King and the Government.

Mr. *Williams.* He in his Trade sold this Book, and that we admit; but my Lord, it is a material Part of the Information, that it was done with a malicious Design, *&c.* and we do not take it so, but for the other matter we submit to it.

L. C. J. Then you do admit, that he did sell some of these Books.

Mr. *Williams.* We do, my Lord, that he did sell one.

Mr. *Ollibear.* My Lord, this Book was publickly sold in other Booksellers Shops before we had it, and so we thought in a way of Trade, we might do the like; but as soon as ever we heard there was any thing ill in the Book, we suppress'd the selling of it.

Mr. Serj. *Strode.* They say, my Lord, the Printer had Six-pence given him by Mr. *Harris.*—Friend, does not he come, and give you some Money at other times? Have you never had any of him before?

Printer's Man. No, Sir, I never Printed any thing for him before.

Mr. Serj. *Strode.* Was not this Printed before you saw it?

Printer. Not to my Knowledge.

Mr. Serj. *Strode.* Pray ask the first Witness. Was not this in Print before you saw it in his Shop?

Mrs. *Grover.* Yes, my Lord,

Mr. *Williams.* My Lord, he is a Man of other Principles than to do such things.

L. C. J. There is scarce any but *Smith*, that is so factious a Seller of Books, as *Harris*: All your Domestick Intelligences are so; for which, you know, you have forfeited your Recognizance almost in every Book.

A Neighbour was called by Mr. Williams, *to give an Account of Mr.* Harris.

Neighbour. My Lord, I have known him about a Twelve-month; and I have always looked upon him, to be a fair-conditioned, quiet, peaceable Man: He is, and has been so reputed among his Neighbours. And I have never seen any thing from him, but what was very quiet and peaceable.

Mr. *Recorder.* A Book-seller, that causes a Factious Book to be Printed, or Re-printed, if it was Printed before, is a factious Fellow.

L. C. J. You say right.

Mr. *Goodhall* (another Neighbour of Mr. *Harris*'s) said, upon his being asked, if he were acquainted with him? And, if he were wont to oppose, or to scandalize the King or Government? That he never heard such a like thing of him.

Mr. *Recorder.* I presume, that none of these do stand by him in any such thing: But he, being advertised of it, and being asked, Why he would offer to expose to Sale such a Book as this? He answered and said, That he had a Thousand Persons that would stand by him.

Call Robert Stevens.

L. C. J. What can you say?

Robert Stevens. My Lord, I have seen this Book several times in his Shop, and others too. And I have asked him, Why he would so publickly vend them? (I did not indeed buy one of them my self, but I caused a Man to buy one for me) and he said, He had several Thousands to stand by him: And he is accounted an Anabaptist. He said so before the Master and Wardens of the Company; who question'd him, why he sold such scandalous things? And he said he had several Thousands to stand by him.

Then spake the Lord Chief Justice to this purpose.

Because my Brother shall be satisfied with the Opinion of all the Judges of *England*, what this Offence is, which they would insinuate, as if the meer Selling of such a Book was no Offence. 'Tis not long since, that all the Judges met, by the King's Command; as they did some time before too: And they both times declared unanimously, That all Persons that do Write, or Print, or Sell any Pamphlet, that is either scandalous to Publick, or Private Persons; such Books may be seiz'd, and the Person punish'd by Law: That all Books, which are scandalous

to

to the Government may be ſeiz'd; and all Perſons ſo expoſing them, may be puniſh'd. And further, That all Writers of News, though not ſcandalous, ſeditious, nor reflective upon the Government or the State; yet if they are Writers (as there are few others) of falſe News, they are Indictable and Puniſhable upon that Account.

So that your Hopes of any thing of that kind, will be vain; for all the Judges have declared this Offence, at the Common-Law, to be puniſhable in the Seller, though in the way of his Trade: The Books may be ſeized, and the Perſon puniſhed.

As for this Book, in particular; you can hardly read a more baſe, and pernicious Book, to put us all into a Flame: It gives you ſuch Incitements, and ſuch baſe Incouragements, with ſuch Reflections upon all ſorts of Perſons, (for I have read it upon this Account) that I think, there can ſcarce be a worſe made. He would ſet up another Man, that has no Title to the Crown: For (ſays he) *the greateſt Danger accruing to your Perſons, as well as to the whole Kingdom, upon the King's untimely Death, will proceed from a Confuſion, and want of ſome Eminent and Intereſted Perſon, whom you may truſt to lead you up againſt a* French *and* Popiſh *Army: For which purpoſe, no Perſon is fitter than his Grace the Duke of* Monmouth; *as well for Quality, Courage, and Conduct, as for that his Life and Fortune depends upon the ſame Bottom with yours. He will ſtand by you; and therefore, you ought to ſtand by him. And remember the old Rule is,* He who hath the worſt Title, ever makes the beſt King; *as being conſtrained by a Gracious Government, to ſupply what he wants in Title: That inſtead of,* GOD and my Right; *his Motto may be,* GOD and my People. He ſays, *Such a one would make a better a King; for, as you ſee, the Worſe the Title, the Better the King. A King with a Bad Title, makes a Better King, than he that hath a Good One; for, he ſhall be obliged to comply with, and will humour the People, for want of a Title.* A thing, which is of the baſeſt Nature that can be: And yet this Man muſt give Money, to haſten the Printing of ſuch a Book; and he had ſeveral Quires of them in his Shop. Except the Writer of it, there cannot be a worſe Man in the World; who, for trival Profit, will neglect the Peace and Quiet of his Countrey, and ſet us all together by the Ears for a Groat. And, Mr. *Harris*, if you expect any thing in this World, of this kind of Favour, you muſt find out the Author: for he muſt be a Rebellious, and a Villainous Traytor: For, though he ſeems to inveigh againſt Popery, it is only to be a Rebel. And certainly, he has rejected all the Laws of God, and all Obedience that Man requires; and prophaned all Holy Writ. He is ſome Body, whoſe Fortune does not ſuit with his Condition; and who, becauſe he is not at eaſe and quiet himſelf, will let no body elſe be ſo neither.

Speaking to the Jury, who preſently withdrew.

You have nothing more to do, but to give your Verdict:

If there be any thing in Law, let me know it, becauſe you go out.

Then one of the Jury asked my Lord, if they might not have the Book with them, which was there in the Court, and it was anſwered in the Negative.

Before the Jury went out, Mr. *Harris* would fain have ſpoke to them for himſelf, but it was not permitted him.

Then, after a little while tarrying, they returned to the Bar.

And being, as is uſual, asked if they were agreed on their Verdict, and who ſhould ſpeak for them; they anſwered yes, and appointed their Foreman, who ſaid he was guilty of Selling the Book.

At which there was a very great and clamorous Shout.

Lord Chief Juſtice ſaid, that was not their Buſineſs, they were only to determine whether barely Guilty, or not Guilty.

The Recorder would have had them given their Verdict by the Poll, but they all unanimouſly cryed out, they were all agreed, and then the Foreman gave the Verdict again, Guilty.

Mr. *Recorder* then prayed, that he being for the King, Mr. *Harris* might ſtand Committed; who was thereupon preſently delivered to a Tipſtaff to be carry'd to the King's Bench.

Mr. *Harris* earneſtly beſeeched his Lordſhip, that he might be ſent to any other Priſon, and named *Newgate* three or four times, but it was not granted him: Thereupon he ſaid, I hope God will give me Patience to go through it.

Then my Lord Chief Juſtice ſpake to the Jury to this Effect.

I am ſorry you gave Countenance to this Cauſe ſo much, as to ſtir from the Bar, when the Evidence was ſo full, and when I told you plainly, not only my Opinion, but likewiſe that of all the Judges of *England*, that ſelling this Book was an Offence at the Common Law, for which they ought to be puniſhed: And yet with your Scruples, you give the Party (with their Hollows, and Shoutings) to take Advantage; though you did mean upon the matter the ſame thing then you do now: Yet you ſee, upon every little Occaſion, when a thing ſhall ſeem to thwart the Government, how ready they are to ſend up their loud Hollowings. It was not ſo prudently done as might have been done.

We had need look about us, for if at ſuch a time, and for ſuch a baſe Book, ſuch clamorous Noiſes ſhall be made, what ſhall become of us? Our Lives and Fortunes are at ſtake. Would I knew ſome of thoſe Shouters, I would make them know, I would puniſh them: I am incenſed in the Behalf of the Government, and of all our Lives and Fortunes, that ſuch ſhall go unpuniſhed.

THE

THE TRYAL OF *FRANCIS SMITH.*

On Saturday *the Seventh of this Inſtant* February, 16$\frac{79}{80}$. *at the* Guildhall *in the City of* London, *there was an Information between our Sovereign Lord the King, and* Francis Smith, *Bookſeller, brought before Mr. Juſtice* Jones, *one of the Judges of the* King's-Bench: *And after the Jury was Sworn, Mr.* Holt *began after this manner.*

Mr. *Holt.* MAY it pleaſe your Lordſhip, here is an Information preferr'd in behalf of the King againſt *Francis Smith, Bookſeller*: And it ſets forth, That after Sir *George Wakeman, Will. Marſhal, Will. Rumley,* and *James Corker,* were Indicted and Try'd on the 18*th* of *July,* 1679, for divers High Treaſons at the Seſſions Houſe in the *Old Bailey,* before Sir *James Edwards,* then Lord-Mayor of *London,* and the Lord Chief Juſtice *Scroggs,* and others; the Defendant, *Francis Smith,* publiſh'd a ſcandalous Libel relating to the late Tryals, which was intitled, *Some Obſervations upon the late Tryal, &c.* the Words are particularly ſet forth in the Information; to which the Defendant pleads Not Guilty: But if we prove it upon him, you of the Jury are to find for the King; and if you find he is not guilty, you are to ſay ſo, and no more, *&c.*

Then Mr. Recorder *ſpake to this Effect.*

Mr. *Recorder.* My Lord, I am of Counſel againſt the Defendant for the King, who ſtands inform'd againſt for a very great Offence. The Information particularly ſets forth, That whereas ſome certain Perſons were indicted at the Seſſions Houſe in the *Old-Bailey,* before the then Lord-Mayor, Sir *James Edwards,* and other Perſons then in Commiſſion of *Oyer* and *Terminer,* and *Gaol-delivery* for that Place, and particularly my Lord Chief Juſtice *Scroggs*; and after the Tryal was over, and the Perſons thereupon acquitted, there was a Book, which is mentioned in the Information, printed and publiſh'd, and it is a Book that is known by the Name of *Tom Ticklefoot*; a very abuſive thing; but Perſons now begin to grow wonderful witty in the beginning of their Books, in hopes to inſnare People to read them, and to prevail upon them ſo far as to make them believe there is ſomewhat extraordinary by the Title. You ſee, Malice finds out all the ways in the World to inſnare and gain upon the People, to ſo bad an Age are we come.

But I confeſs, it is the ſecond time ever ſince I had the fortune or happineſs to know this City of *London,* that I have known ſuch Expectations, as have been upon two Cauſes in this place: The firſt was but two Days ago, the ſecond is at this time; wherein is truly a ſort of Countenance, I am afraid, too much given by Perſons that dare pretend to be no other ſort of Proteſtants, but can impudently outface all ſort of Governours. Now, as all Perſons ought to abhor and deteſt that damnable Doctrine, That men hope to be Saints in another World, becauſe they may commit murders in this; ſo this ought too as much to be condemn'd by all Proteſtants as the other, That men ſhall endeavour to rebel, and be factious in this World, that ſo they may be reckon'd good Subjects; the one are as far from being good Saints, as the others from being good Subjects. I take this occaſion to ſpeak all this before your Lordſhip and this Court, becauſe I hope the City of *London* will never be corrupted by the baſe inſinuating of ſome idle Buſy-bodies in it; men, who cannot, or will not be pleas'd becauſe (forſooth) every thing does not go according to their mind and fancy; and tho' by no means they will allow the *Pope* to be *infallible,* yet every factious Fellow will expect, that every one ſhould pay him that Tribute as *infallibly,* as

if he were the only fit Person to give measures to *Government* and *Governours*.

When we come to have extraordinary Cases and Persons, extraordinary Occasions ought to be taken to inflict due and just Punishments upon them.

And when they shall dare to come to disparage *Great Men* that act by *Supreme Authority*, men that act by their *Consciences*; and because they cannot be steer'd by the Humours of these sort of People, therefore they must be look'd upon as *Papists*, or at least as *Brib'd*, because they cannot comply with that base Humour which some sort of Persons have.

I take notice of this to your Lordship, because one that is intrusted in as great a Place for the Welfare of this Nation, as any whosoever, is extremely concern'd in the Affair of this Day; I mean, the *Lord Chief Justice of the King's Bench*; who being assisted with several other Judges, because, as far forth as it did appear to him, he did deliver the Sense of the whole Court; who, for acting according to his Conscience, and as he ought to do, hath been *Libelled* and *Reproached* with as base a *Book* as ever was written against any Magistrate whatsoever: If such things as this shall be permitted, then there will be an end of your Lordship's sitting here, or any where else, or of any other that shall act as a Magistrate ought to act, and that shall not be afraid to do his Duty. But such is the happiness of this *City*, in this *Jury*, that, I must confess, I receive so much the greater Satisfaction that it comes before them; for as I know the men to be men of Loyalty and Affection to the Government, and will be so just to him, that if they do not find him Guilty of the matter of the Information, they will acquit him: So, on the other side, they will not think themselves to be aw'd by a *Multitude*, or inslav'd by private insinuations, to debauch their Consciences, either in respect to God above, or to the King his Vicegerent here on Earth; therefore observe your Duty to both, that you may render to *Cæsar* the things that be *Cæsar's*, as well as to God the things that are God's.

Now as the King is God's Vicegerent, so is every Magistrate the King's Vicegerent, in that particular.

I would not take up so much of your Lordship's Time, but that I see this is a matter of great Expectation; and I know that every Word is taken in Short-hand, to be commented upon as Persons Humours shall steer them. I do think, as being the *Mouth of the City of London*, it is my Duty to speak thus much, that I hope, nay, I may dare confidently affirm, that the generality of the City of *London*, all good men, and men of Abilities, *&c.* are for the King, and the Government as it is now Establish'd by Law.

[*At which there was a general Hem thro' the Court.*

Having said thus much against this Person, Mr. *Francis Smith*, I must say, That if the way of common Report were Evidence enough to convict a man, he would be convicted without any more ado: But such is the happiness of our Laws, that they expect Testimony, besides common Fame.

I would rather a great deal it might be a caution to Mr. *Smith*, if there had not been many before, and that he could not be convicted, and the Evidence not plain in Proof against him.

Well, he printed this *Book* in the Name of another Person, one Mrs. *Brewster*: He sold several of them in Quires to several People; and *Brewster* questioning wherefore he should put her Name to this Book: Truly, he said, he intended no harm to her, for he was resolved to save her harmless; and this we will prove to you; and likewise that several Books have been taken in his Shop; and he justifying himself in what he had done, and his further Resolution to expose them still to sale. And if we shall prove this to you, there will be an end of all sort of Justice, if in case that you, who are the only means of bringing men to Justice, will not contribute to have Justice executed where it ought to be: None can be legally punished, unless they be legally convicted; and I doubt not your Honesty and Loyalty, but that you will do your part by Conviction, and by Justice too.

Against all Libellers, I am sure, there is Law enough, and every honest man will endeavour to have it put in execution against them, as far forth as it lies in his way: I hope the generality of those that are here, do come to shew an Abhorrency against this Person inform'd against, and not to give any Countenance to such base Actions.

Mr. *Williams*, *Counsel for the Defendant*. My Lord, the Libel is sufficiently infamous, we must needs own; and I do not come to justify the thing, neither Mr. *Smith* my Client, nor any body else that shall be guilty of it: The Question is, Whether he be Guilty of, *&c.* as it is laid in the Information.

Mr. *Recorder*. Sir, do you admit the *Record*?

Mr. Just. *Jones*. If you do not admit it, you must call in your Witnesses, and prove what you can.

Whereupon Robert Stevens, Anne Brewster, *and* Margaret Clark *were call'd into Court, and stood up behind the Jury.*

Mr. *Williams*. Sir, if you will give me leave, you shall hear what we will admit.

Mr. *Recorder*. Come, come, Sir, if you do not admit the *Record*, we will have none of your Anticipations.

Mr. *Williams*. What call you your Speech but Anticipation?

My Lord, the poor man, my Client, is a languishing, sick and dying man, and one that is almost ruin'd; if any Submission will serve the Turn, he will give all the Submission that is fit for a man to give: All that we say is this, that he did not order this to be printed, as it is laid in the Information.——But I think we may admit——

Mr. *Fettiplace* said (*who was Counsel on the same side*) he had no such Order given him by his Client, as to admit the *Record*.

Then they were just going on to swear the Witnesses, but Mr. Just. Jones *said, It would be very well if they would admit, &c. Defendant come to Submission.*

Mr. *Recorder*. Ay, that it is your best way, for it would be a great means to testifie, that your Submission is really intended as a Submission: But if it be to prepare you to think that you are innocent, then we will not have your Submission——And I am for a Sinner's Repentance with all my Heart.

Mr.

Mr. Juſt. *Jones.* If your Client be willing to ſubmit, let the King have a Verdict in Law, and then he will find my Lord Chief Juſtice *Scroggs* full of pity and compaſſion; and if I can ſee any ſigns of Repentance, I will promiſe you to intercede to my Lord for him.

Mr. *Williams.* One that came from my Client told me, that if he had offended, he would ſubmit to any thing: And now here is his Wife come.

Mr. Juſt. *Jones.* I would ſave him if I can, if he will throw himſelf into mercy.

Well, what do you ſay, Miſtreſs, for your Husband?

Mrs. *Smith.* My Lord, my Husband is very ſick and weak, and is not able to come himſelf, or elſe he would have done it; but I ask'd Mr. *Williams* if it were not beſt to ſubmit to the Court.

Mr. Juſt. *Jones.* Are you content to own it ſhall be ſo?

Mrs. *Smith.* I leave it to the Gentlemen, my Counſel, I ſhall acquieſce in what they think fitting.

Mr. *Williams.* Then I preſume to admit the *Record.*

Mr. Juſt. *Jones.* Then you are to find for the King: [*Speaking to the Jury.*] 'Tis the Cauſe of the King, altho' only my Lord Chief Juſtice be concern'd. 'Tis a high Scandal; a great Scandal againſt a great Officer and Magiſtrate of the King. I will ſay nothing more to aggravate the Offence at this time, becauſe I would invite Repentance in all Perſons that have offended in this, or the like Caſes.

Then the Jury being asked, Whether they were agreed on their Verdict, ſaid, Yes; and chuſing their Foreman to ſpeak for them, he gave the Verdict, Guilty.

Mr. Juſt. *Jones.* Well, Miſtreſs, you have done very well; if, now you for your Husband came here to make a publick Acknowledgment of his Guiltineſs, hereafter he ſhall go, and ingeniouſly make Submiſſion to my Lord; I know he is a Perſon of that pity and compaſſion, that he loves no man's Ruin, but delights rather in the univerſal Welfare of all People: And I promiſe this, that I will be an Interceſſor to my Lord in your Husband's behalf.

Mr. *Recorder.* And as far forth as I can contribute to it, I will do the ſame.

The Tryal of *Jane Curtis.*

Mr. *Holt.* MAY it pleaſe your Lordſhip, and Gentlemen of the Jury, here is an Information brought againſt *Jane Curtis*; and it ſets forth, That the Defendant did publiſh and put to ſale a ſeditious Libel againſt my Lord Chief Juſtice *Scroggs*: The Defendant pleads Not Guilty; if we prove it upon her, you are to find for the King, and if not, you are to ſay ſo, and no more.

Mr. *Williams* ſaid (*who was a Counſel for the Defendant*) he would admit the Record: Whereupon they proceeded no further to Tryal, but the Woman being call'd, ſhe ſaid:

Mrs. *Curtis.* I was ignorant in the matter, and knew no ſuch thing; my Lord, my Husband, an't pleaſe your Lordſhip, was in the Countrey a hundred miles off of me, in *Lincolnſhire.*

Mr. Juſt. *Jones.* You did it ignorantly and ſimply, without any malice, and, I ſuppoſe, you are heartily ſorry for it. You ſee your Neighbour there, Mrs. *Smith*, hath ſhew'd good Diſcretion in the behalf of her Husband; ſhe has ingeniouſly declar'd, that he ſhall come and make ſubmiſſion; and if I find you as ſubmiſſive, and as ſorry for what you have done, I may do the like for you.

Mrs. *Curtis.* In any thing that I have done, I know not my ſelf guilty; and if I am, I beg your Lordſhip's pardon with all my Heart, my Lord, or any bodies elſe.

Mr. Juſt. *Jones.* I know you will find mercy from my Lord Chief Juſtice, and therefore go and make your Submiſſion.

Then the Jury proceeded to give their Verdict, and their Foreman ſaid, Guilty.

THE
TRYAL
OF
Sir *THO. GASCOIGNE*, Bar.

On Saturday *the* 24*th of* January, 1679. *Sir* Tho. Gaſcoigne *was brought to the Bar of the Court of* King's Bench, *to be Arraigned for High Treaſon: Which was done accordingly in this manner.*

Cl. of Cr. SIR *Thomas Gaſcoigne*, hold up thy Hand.

Sir *Tho. Gaſc.* I cannot hear.

Clerk. He ſays he cannot hear.

L. C. J. Then ſome body muſt repeat it that ſtands by him.

Sir *William Scroggs.*

Mr. *Recorder.* Do you hear what I ſay to you?

Sir *Tho. Gaſc.* No, I cannot hear, I am very deaf.

Then the Clerk of the Crown went down cloſe to the Bar, and went on thus:

Cl. of Cr. Sir *Thomas Gaſcoigne*, hold up thy hand. [*Which he did.*]

Thou ſtand'ſt Indicted by the Name of Sir *Thomas Gaſcoigne*, late of the Pariſh of *Elmett*, in the Weſt-Riding in the County of *York*, Bar. For that thou, as a falſe Traytor againſt our moſt illuſtrious and excellent Prince King *Charles* the Second, thy natural Lord, not having the fear of God in thy Heart, nor weighing the Duty of thy Allegiance, but by the inſtigation of the Devil moved and ſeduced, the cordial Love, and true, due, and natural Obedience which true and faithful Subjects of our ſaid Lord the King ſhould bear to him, and of right are bound to bear, wholly withdrawing, deviſing, and with all thy power intending to diſturb the Peace and common Tranquillity of this Realm, and to bring and put our ſaid Lord the King to death and final deſtruction; and the true Worſhip of God in this Kingdom, by Law eſtabliſhed and uſed, to alter unto the Superſtition of the Church of *Rome*, and to move and ſtir up War againſt our ſaid Lord the King in this Realm, and to ſubvert the Government of this Kingdom; the Thirtieth day of *May*, in the One and Thirtieth Year of our ſaid Lord the King's Reign, at the Pariſh of *Barwick* in *Elmett* in the ſaid County of *York*, in the Weſt-Riding of the ſame County, with divers other falſe Traytors unknown, didſt traiterouſly compaſs, imagine and intend the death and final deſtruction of our ſaid Lord the King; and to change and alter, and wholly to ſubvert the ancient Government of this Realm; and to depoſe, and wholly to deprive the King of the Crown and Government of this Kingdom, and to root out the true Proteſtant Religion. And to fulfil and accompliſh the ſame moſt wicked Treaſons and traiterous Imaginations and Purpoſes, the ſaid *Gaſcoigne*, and other falſe Traytors unknown, on the ſaid Thirtieth day of *May*, in the One and Thirtieth Year aforeſaid, with Force and Arms, *&c.* at the Pariſh of *Barwick* aforeſaid, adviſedly, deviliſhly, maliciouſly and traiterouſly did aſſemble, unite and gather together themſelves, and then and there did deviliſhly, adviſedly, maliciouſly, craftily, and traiterouſly conſult and agree to bring our ſaid Lord the King to death and final deſtruction, and to depoſe and deprive him of his Crown and Government, and to introduce and eſtabliſh the Religion of the *Roman* Church in this Realm. And the ſooner to fulfil and accompliſh the ſame moſt wicked Treaſons and traiterous Imaginations and Purpoſes, thou the ſaid *Gaſcoigne*, and other unknown Traytors, then and there adviſedly, maliciouſly and traiterouſly did further conſult and agree to contribute, pay and expend divers large ſums of money to divers of the King's Subjects and other Perſons unknown, to procure thoſe Perſons unknown, traiterouſly to kill our ſaid Lord the King, and to introduce the *Roman* Religion into this Realm. And that thou the

ſaid

ſaid *Gaſcoyne* afterwards (to wit) on the ſaid Thirtieth day of *May*, in the One and Thirtieth Year aforeſaid, at the Pariſh aforeſaid, didſt falſly, adviſedly, craftily, maliciouſly and traiterouſly ſolicit one *Robert Bolron* to kill our ſaid Lord the King; and then and there, with an intent ſooner traiterouſly to encourage the ſaid *Bolron* to undertake the killing and murthering of our ſaid Lord the King, offeredſt therefore to give and pay the ſaid *Bolron* 1000 *l.* of lawful money of *England*; againſt the Duty of thy Allegiance, againſt the Peace of our ſaid Lord the King, his Crown and Dignity, and againſt the form of the Statute in ſuch Caſe made and provided. How ſay'ſt thou, Sir *Thomas Gaſcoyne*, art thou Guilty of this High Treaſon whereof thou ſtandeſt Indicted, and haſt been now Arraigned, or Not Guilty?

Sir *Tho. Gaſc. Gloria Patri, Filio & Spiritui ſancto*, I am not guilty.

Cl. of Cr. Not Guilty, you muſt ſay.

Sir *T. Gaſc.* Not Guilty; nor any of my Family were ever guilty of any ſuch thing: I hope I ſhall be try'd fairly.

Cl. of Cr. How will you be try'd?

Sir *T. Gaſc.* By God and my Countrey.

Cl. of Cr. God ſend thee a good Deliverance.

Sir *T. Gaſc.* I deſire, that in order to my Tryal, I may have a Jury of Gentlemen, of Perſons of my own Quality, and of my own Countrey, that may be able to know ſomething how I have lived hitherto; for I am above Fourſcore and five Years old.

L. C. J. Tell him he ſhall have a good Jury of Gentlemen of his own Countrey.

Sir *T. Gaſc.* And beſides, my Lord, I deſire to know when I ſhall be try'd.

Sir *Creſwel Levins.* Mr. *At. Gen.* Some time about the latter end of the Term, as ſoon as I can get a Jury up.

Sir *T. Gaſc.* I do not know whether I can produce all my Witneſſes at that time, if there be not a longer time allow'd me; for I have a great many Witneſſes to fetch up: Theſe Witneſſes muſt be all here, or I can't make my Defence; and I know not how they ſhall be got hither in ſo little time.

L. C. J. Tell him he may have what Witneſſes he pleaſes, and the aid of this Court to fetch them.

Mr. Juſt. *Dolben.* Name them who they are.

Mrs. *Ravenſcroft.* My Lord, ſome of his Witneſſes are at *Paris*.

Mr. Juſt. *Dolben.* Why, he will not be try'd yet this Fortnight.

Mrs. *Ravenſcroft.* They will not have time to come over between this and that.

Mr. Juſt. *Dolben.* Miſtreſs, he had reaſon to believe that he ſhould be try'd ſome time this Term, for ſo the Council order'd it; and therefore he ſhould have got his Witneſſes ready.

Mrs. *Ravenſcroft.* My Lord, he did not know where they were till a Week ago.

Mr. Juſt. *Dolben.* Look you, Mr. *Attorney*, here is a Lady that is, I ſuppoſe, ſome Relation to this Gentleman.

Mrs. *Ravenſcroft.* He is my Grandfather, my Lord.

Mr. Juſt. *Dolben.* She ſays a Fortnight's time will be too little to get his Witneſſes together for his Defence, becauſe ſome of the Witneſſes are beyond Sea at *Paris*, ſhe ſays.

Mr. *At. Gen.* My Lord, I am willing he ſhould have as long time as the Term will allow of: But ſure that is long enough to get any Witneſſes from *Paris*.

L. C. J. What ſay you to Sir *Miles Stapleton*? I ſee he is joyn'd in the Indictment.

Mr. *At. Gen.* My Lord, he is not come up yet.

L. C. J. Will you try the one without the other?

Mr. *At. Gen.* Yes, my Lord, if we cannot have both: He is in the Hands of the Meſſenger at *York*; we have writ down to know the ſtate of his Health to ſome of the Juſtices of the Peace, and the Meſſenger returns word, he is ſick and can't come: I have ſent down an *Habeas Corpus* to the Meſſenger to bring him up; let him return a *Languidus* at his peril; that's all I can do.

L. C. J. Well, what Day do you appoint for Sir *Thomas*'s Tryal?

Mr. *At. Gen. Tueſday* come Fortnight I think will be a good Day.

Mr. Juſt. *Dolben.* By that time, Miſtreſs, you may get your Witneſſes; you muſt ſend a Meſſenger on purpoſe.

Mrs. *Ravenſcroft.* But if the Wind ſhould be contrary, my Lord, and they cannot be brought over?

Mr. Juſt. *Dolben.* 'Tis not an uſual thing to have the Winds long contrary between *Dover* and *Calais*.

Mrs. *Ravenſcroft.* But if it do fall out that he wants a material Witneſs at his Tryal, I hope his Life will be conſider'd.

Mr. Juſt. *Dolben.* He ſhould have had them ready, he had warning before.

Mrs. *Ravenſcroft.* We could do it no ſooner, becauſe we knew not where they were.

Mr. Juſt. *Dolben.* He ſaith he hath a great many Witneſſes; are they all at *Paris*?

Mr. *At. Gen.* There are a great many in Town we know already.

Mrs. *Ravenſcroft.* If we had known when exactly, we might have been more ready perhaps.

Mr. *At. Gen.* But we could give no notice ſooner; it is early in the Term now. But there is time enough to get any Witneſſes.

L. C. J. Ay, you may ſend to *Paris* a great many times between this and that.

Mrs. *Ravenſcroft.* What if the Letter miſcarry, my Lord?

Mr. Juſt. *Dolben.* Why, you muſt ſend a ſpecial Meſſenger.

Mr. *At. Gen.* My Lord, if you pleaſe, let it be *Wedneſday* Fortnight, the laſt Day but one of the Term; becauſe I would give him as much time to provide himſelf as I can.

Mr. Juſt. *Pemberton.* Well, Miſtreſs, you muſt ſend a ſpecial Meſſenger; we muſt not conſult your conveniency; do it as well as you can, you have time enough.

Mr. Juſt. *Dolben.* Your Grandfather is a man of an Eſtate, he may very well, in this Caſe, be at the Charge of a ſpecial Meſſenger.

Mrs. *Ravenſcroft.* But what if the Winds be contrary, muſt my Grandfather's Life be loſt?

L. C. J. We muſt give you that Favour we can by Law, and you muſt be content: Tell us at the Tryal what you have done.

Then the Lieutenant of the Tower *was order'd to take the Priſoner back, and by Rule to bring him to the Bar on* Wedneſday *the* 11*th of* February.

On which Day the Priſoner being brought up, the Tryal proceeded thus:

Mr. *At. Gen.* My Lord, here is an extraordinary matter: Sir *Thomas Gaſcoyne* had a Rule for ſome Friend to aſſiſt him, by reaſon of the Defect of his Hearing; and now there are three of them that are got among the Jury.

L. C. J. No, no, they muſt come in of the inſide of the Bar.

Mr. *At. Gen.* Pray let him tell which he will make choice of; for he is by the Rule to have but one.

Mr. Juſt. *Pemberton.* Tell him there can but one ſtay.

Counſel. He ſays one of them came out of the Countrey, and knows the Perſons that are the Witneſſes, which he does not himſelf.

L. C. J. Well, let the other come in, let him have them both.

Counſel. He ſays, the principal man he depended upon is clapt up.

L. C. J. Well, we can't help that.

Then way was made for the Jury to come up to the Stand, and Proclamation for Information was made in uſual manner.

Cl. of Court. Sir *Thomas Gaſcoyne*, hold up thy Hand.

Sir *T. Gaſc.* I cannot hear what is ſaid.

Cl. of Cr. Thoſe good men which were lately called, and have appeared, are to paſs, *&c.*

L. C. J. Tell him the effect of it. If he will make any Challenges to the Jury, he muſt ſpeak to them before they are ſworn.

Hobart. If you will challenge any of the Jury, you muſt ſpeak to them before they are ſworn.

Sir *T. Gaſc.* I cannot hear who is called.

L. C. J. Tell him who is called.

Cl. of Cr. Sir *Thomas Hodſon.*

Hobart. This is Sir *Thomas Hodſon*, Sir.

Sir *T. Gaſc.* What muſt I ſay? Ay, or No?

Hobart. Do you except againſt him?

Sir *T. Gaſc.* No. [*Who was ſworn.*

Cl. of Cr. Richard Beaumont, Eſq;

Hobart. Do you challenge him, Sir?

Sir *T. Gaſc.* No.

Mr. *At. Gen.* Pray, my Lord, here is Sir *John Cutler* in the Pannel, one that lives in Town, and is the Foreman of the Jury; I deſire the Court to take notice of his not appearing in particular.

Cl. of Cr. John Gibſon, Eſq;
The Priſoner challenged him.

Mr. Serj. *Maynard.* I perceive they skip a great many; pray call them as they are in the Pannel, and record their Non-appearance in Court.

Which was done accordingly; but their Names that did not appear, for brevity ſake, are omitted.

Cl. of Cr. Nicholas Maleverer, Eſq;

Mr. *At. Gen.* We challenge him for the King. I perceive the beſt Gentlemen ſtay at home.

Mr. Serj. *Maynard.* Yes, 'tis ſo ſmall a Buſineſs.

Cl. of Cr. Beckwith, Eſq; Challenged by the Priſoner.
Stephen Wilks, Eſq; Sworn.
Matthew Prince, Eſq; Chal. by the Priſ.
Thomas Graver, Eſq; Chal. by the Priſ.
Jervas Rockley, Eſq; Sworn.
William Walker, Eſq; Chal. by the Priſ.
John Dimmocke, Eſq; Chal. by the Priſ.
Samuel Jenkinſon, Eſq; Chal. by the Priſ.
Robert Leeke, Eſq; Sworn.
William Batt, Eſq; Sworn.
Richard Burton, Eſq; Chal. by the Priſ.
Robert Auby, Eſq; Chal. by the Priſ.
Charles Beſt, Eſq; Sworn.
Robert Long, Eſq; Chal. by the Priſ.
John Croſſe, Eſq; Sworn.
Barton Allett, Eſq; Sworn.
William Milner, Eſq; Sworn.
John Oxley, Eſq; Sworn.
Francis Oxley, Eſq; Sworn.

Cl. of Cr. Cryer, count theſe.

Sir *Thomas Hodſon*, *Richard Beaumont*, *Stephen Wilks*, *Jervas Rockley*, *Robert Leeke*, *William Batt*, *Charles Beſt*, *John Croſſe*, *Barton Allett*, *William Milner*, *John Oxley*, *Francis Oxley*. Jur'

Cryer. Twelve good Men and true, ſtand together and hear your Evidence.

Cl. of Cr. Sir *Thomas Gaſcoyne*, hold up thy hand. Gentlemen, you of the Jury that are ſworn, look upon the Priſoner and hearken to his Charge. You ſhall underſtand, That he ſtands Indicted by the Name of Sir *Thomas Gaſcoyne*, late of the Pariſh of *Elmett*, *&c. Prout in the Indictment, mutatis mutandis.* Upon this Indictment he hath been Arraigned, and thereunto pleaded Not Guilty; and for his Tryal hath put himſelf upon his Countrey, which Countrey you are, *&c.*

Then Proclamation for Evidence was made, and Dormer, *Eſq; of Counſel for the King in this Cauſe, opened the Indictment thus:*

Mr. *Dormer.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, Sir *Thomas Gaſcoyne*, Baronet, the Priſoner at the Bar, ſtands indicted for High Treaſon, in conſpiring the Murder of his Majeſty, the ſubverting of the Government, and the introducing the *Romiſh* Religion: And for the effecting theſe purpoſes, the Indictment ſets forth, That the ſaid Sir *Thomas Gaſcoyne*, Sir *Miles Stapleton*, and other falſe Traytors, on the 30*th* of *May* laſt, at the Pariſh of *Elmett*, in the Weſt Riding of the County of *York*, did aſſemble together, and there reſolved to put their Treaſons in execution. And the better to accompliſh their ſaid Treaſons and traiterous Imaginations, they did agree to contribute ſeveral large ſums of money to ſeveral of his Majeſty's Subjects unknown, to introduce Popery, to kill the King, and ſubvert the Government: And that Sir *Thomas Gaſcoyne* did ſolicit *Robert Belron* to kill the King, and for that ſervice he was to pay him 1000 *l.* To this he hath pleaded Not Guilty: If the King's Evidence prove the Charge of the Indictment, your Duty is to find him Guilty.

Mr. Serj. *Maynard.* May it pleaſe your Lordſhip, and you, Gentlemen of the Jury, you have heard the Indictment, and it hath been opened to you. There can be no greater Crime charged upon any, than that this Gentleman is accuſed of. The Deſign hath been to kill and murder

murder the King, to change the Religion and the Government; and to effect this, they make Aſſemblies, they offer Money: And this, my Lord, we ſhall prove. 'Tis no new Crime, divers have ſuffered for the like already; and we ſhall not need to make any Aggravations, for indeed it cannot be aggravated more than the plain matter it ſelf is. We ſhall call our Witneſſes, and prove it directly upon him, even by Two Witneſſes; and we ſhall prove, that he held Intelligence with one *Preſwicke* a Prieſt; Letters between him and that Perſon are found in his Cuſtody, and we ſhall produce one of them wherein it doth appear, that there was Intelligence between them, and Conſultations had about the Oath of Allegiance; and that *Praud* did write to him, that it was a damnable Oath condemned by the Sorbonniſts: And upon that Point hangs the changing of Religion; for the Oath of Allegiance is the great Touchſtone to diſcover Men's Sincerity by, and the great Bond to tie them to the Government, and to the Proteſtant Religion. And We ſhall likewiſe prove another Paſſage in a Letter indorſed with the Priſoner's own Hand, wherein there is an Expreſſion to this purpoſe: *That if* England *be converted*, (the Prieſt writes this to him) *then how a Sum of Ninety Pound was to be diſpoſed:* Which was, as you ſhall hear, and we ſhall prove, in a Nunnery. *If* England *be converted*, that clearly ſhews what was their Intention, not only to deſtroy the King, but the Religion and the Nation; and ſo they were conſpiring not only againſt his Majeſty, but againſt God. That an old Gentleman that hath lived ſo long under the Peace of this Nation, and been ſo protected by the Government, which hath been ſo indulgent to men of his Perſwaſion, ſhould be guilty of ſuch a Deſign, is a lamentable thing to think of; that he ſhould ſo offend the Law, which hath been ſo mild in its Execution againſt ſuch Men. We ſhall prove the Profer of the 1000 *l.* and ſo leave it with you.

Mr. *At. Gen.* My Lord, theſe two Papers we ſhall uſe in confirmation of that Evidence will be given by two Witneſſes, who I think will concur in the ſame thing; that is, the Conſpiracy for killing the King, and for the carrying on of the Plot. The Papers the Witneſſes will expound to you; the one is a Letter, as Mr. Serjeant hath opened it to you, to Sir *Thomas Gaſcoigne* from a Prieſt, wherein he does diſcourſe about 90 *l.* a-Year at *Maunſton*, which Sir *Thomas* had purchaſed to ſettle upon a Nunnery called *Dolebank* in *Yorkſhire*; and therein it is ſaid, *You will be well adviſed to put in a Proviſo into the former Writing* (he meant for the Settlement) *That if* England *be converted, the* 90 *l. a-Year ſhall be beſtowed at* Heworth, *or ſome other Place in* Yorkſhire. Your Lordſhip will hear by the Witneſſes, that there were ſeveral Places deſigned for theſe Nuns to inhabit, as *Dolebank* and other Places; and this Letter will concur with their Evidence, and they will prove, that this very Place that they ſpeak of, was deſign'd for this purpoſe; and ſo it appears by the Papers taken in Sir *Thomas Gaſcoigne*'s Cuſtody. My Lord, there is another Letter which was mention'd, and which I believe may have a great Influence in the Cauſe, I am ſure it may be likely to produce very bad Effects, which is that Letter from the Prieſt, wherein he decries the Oath of Allegiance as a damnable thing condemned by the Doctrines at *Sorbonne*, and other Prieſts from *Rome*. And this had its effect a little time before; for it was about the time that a matter of Thirty or Forty were convicted of a *Præmunire* in that County, for not taking the Oath of Allegiance, which they uſed to do before. And there will be ſome other concurring Evidence in this Cauſe, and is by ſome Papers taken in Sir *Thomas Gaſcoigne*'s own Hand; they are Almanacks, in which many of his own Memorials are, ſeveral Sums of Money mentioned to be paid, and returned to Prieſts at *London:* The Witneſſes will tell you it was returned for the Deſign of the Plot. There happens to be 900 *l.* return'd to Mr. *Corker*, who is now in *Newgate*; and ſome other Sums to *Harcourt*, who is executed; and ſome Money is paid to him, though I think not much, about 25 *l.* and ſeveral Sums are mention'd, and great Sums return'd to *London*, by Sir *Thomas Gaſcoigne*, in five or ſix Years time, 5 or 6000 *l.* to what purpoſe I can't tell; they will give you an Account: I think he did live always in *Yorkſhire* himſelf, never uſed to come to Town; and what Occaſion he might have of returning Money, I don't know. We will call the two Witneſſes *viva voce*, and then uſe the other Evidence as we ſhall have occaſion to confirm them. Call Mr. *Bolron* and Mr. *Mowbray*. [*Who were ſworn.*

Mr. *At. Gen.* Mr. *Bolron*, tell my Lord and the Jury what you know of Sir *Thomas Gaſcoigne.*

Mr. *Bolron.* My Lord, and you, Gentlemen of the Jury, I came to live with Sir *Thomas Gaſcoigne* in the year 1674, as Steward of his Colworks; and in the Year 1675, a little before *Eaſter*, being in the next Room to Sir *Thomas Gaſcoigne*, I did hear *Charles Ingleby* and Sir *Thomas* in Diſcourſe together, and Sir *Thomas* did ſay, he was very fearful his Eſtate would be liable to be forfeited to the King——

L. C. J. In 75 was this?

Mr. *Bolron.* Yes, my Lord.

L. C. J. What time in 75?

Mr. *Bolron.* A little before *Eaſter*.

L. C. J. Were you in the Room?

Mr. *Bolron.* I was in the next Room, and the Door was not ſhut; and Sir *Thomas* did ſay——

Mr. *At. Gen.* Tell the Diſcourſe what it was.

Mr. *Bolron.* He ſaid he was reſolved to make a colluſive Conveyance of his Eſtate, for fear it ſhould be forfeited to the King. And *Charles Ingleby* ſaid, it was beſt ſo to do: And then he told Sir *Thomas* he would have the Defeazance made ready, which he would draw with his own hands; but he bid him be ſure to bring none but Proteſtant Witneſſes along with him to teſtifie. And in the Year 1675, I did go along with Sir *Thomas Gaſcoigne* to Sir *William Inglesby*'s of *Ripley*, and there I did ſee him receive colourably 1000 *l.*

L. C. J. How do you know it was colourably?

Mr. *Bolron.* I did hear Sir *Thomas* tell *Charles Ingleby* ſo.

L. C. J. When was that?

Mr. *Bolron.* The 7*th* or 8*th* of *April*; the Deed bears the 8*th* of *April* 1675.

L. C. J. Was *Charles Ingleby* there at that time?

Mr. *Bolron.* Yes, when the Deed was ſealed; and he read it in the Preſence of the Witneſſes to be dated at that time.

Mr. Juſt. *Dolben.* What, that thouſand Pound was the Conſideration of the Deed?

Mr.

Mr. *Bolron.* Yes, it was. Sir *Thomas Gaſcoigne* did part thereby with all his Eſtate for Seven Years, he allowing him 100 *l.* a Year for his Maintenance, beſides the 1000 *l.* at firſt paid. And this was done with that Intent, for fear he ſhould be diſcovered in the Plot for killing the King——

L. C. J. How do you know that?

Mr. *Bolron.* I did hear Sir *Thomas Gaſcoigne* and Sir *Miles Stapleton* diſcourſe of it, and he ſaid it was for that End.

L. C. J. Where was that Diſcourſe?

Mr. *Bolron.* In Sir *Thomas Gaſcoigne*'s Bedchamber.

Mr. Juſt. *Jones.* When was that?

Mr. *Bolron.* It was in or about the Diſcovery of the Plot.

L. C. J. But you ſay you ſaw the Deed ſealed.

Mr. *Bolron.* Yes, I was a Witneſs to it.

L. C. J. And you ſaw the Money paid?

Mr. *Bolron.* I and one *Matthias Higgringil* did help to count it.

Mr. Juſt. *Jones.* Were you a Proteſtant at that time?

Mr. *Bolron.* Yes, my Lord, I was at the time of the ſealing the Deed; but I did hear the Diſcourſe between Sir *Miles Stapleton* and Sir *Thomas Gaſcoigne* upon the Diſcovery of the Plot, when I was a Papiſt.

L. C. J. When was the Diſcourſe you ſpeak of with Sir *Miles Stapleton*, do you ſay?

Mr. *Bolron.* It was about the Diſcovery of the Plot.

L. C. J. After the Money paid?

Mr. *Bolron.* Yes, after the Money paid: And he ſaid to Sir *Miles Stapleton*, he had done well to make over his Eſtate.

L. C. J. That is an abrupt thing for him to ſay; how did he begin the Diſcourſe?

Mr. *Bolron.* They were diſcourſing about the Diſcovery of the Plot by Dr. *Otes* and Mr. *Bedloe*; and then Sir *Thomas Gaſcoigne* ſaid to Sir *Miles Stapleton*, I have done well to make over my Eſtate to Sir *William Ingleby*, to prevent a Forfeiture.

L. C. J. What ſaid Sir *Miles Stapleton*?

Mr. *Bolron.* I do not know what he ſaid very well.

L. C. J. You ſeemed but now, as if he had ſaid he was in the Plot.

Mr. Juſt. *Jones.* Did he own he was in the Plot?

Mr. *Bolron.* Yes.

L. C. J. When?

Mr. *Bolron.* At ſeveral times.

Mr. Serj. *Maynard.* Tell the manner how he was concerned.

Mr. *Bolron.* My Lord, in the Year 1676, I did hear Sir *Thomas Gaſcoigne* ſay to one *Chriſtopher Metcalfe*, that he was reſolved to ſend 3000 *l.* to the Jeſuits in *London* for the carrying on of he Deſign.

L. C. J. What time in 76?

Mr. *Bolron.* The beginning of the Year 76.

L. C. J. To whom did he ſay ſo?

Mr. *Bolron.* To one *Chriſtopher Metcalfe.*

L. C. J. Were you a Papiſt then?

Mr. *Bolron.* Yes.

L. C. J. When came you firſt to be a Papiſt?

Mr. *Bolron.* About *Whitſontide*, 75.

Mr. Juſt. *Jones.* You are a Proteſtant now?

Mr. *Bolron.* Yes, my Lord, I am ſo.

L. C. J. When did you turn Proteſtant again?

Mr. *Bolron.* I turned Proteſtant upon the Diſcovery of this Buſineſs.

L. C. J. When?

Mr. *Bolron.* Either the beginning of *May*, or the latter end of *June.*

L. C. J. To whom did he ſpeak it?

Mr. *Bolron.* To *Chriſtopher Metcalfe*, who then lived in his Houſe.

L. C. J. What ſaid he?

Mr. *Bolron.* He ſaid, he was to ſend 3000 *l.* to the Jeſuits in *London*, for the carrying on of this Deſign.

L. C. J. Who was in the Room beſides?

Mr. *Bolron.* None but Sir *Thomas Gaſcoigne* and *Metcalfe.*

L. C. J. Where is that *Metcalfe*?

Mr. *Bolron.* He is ſince dead, I think.

L. C. J. What Diſcourſe had they about the Deſign?

Mr. *Bolron.* They were diſcourſing about it when I came in; and I remember he mentioned 300 *l.* for *Corker*, 300 *l.* for *Harcourt*, and 300 *l.* for *Cornwallis*; and the reſt by 300 *l.* a-piece to other Perſons.

Mr. *At. Gen.* What Name did *Cornwallis* go by beſides?

Mr. *Bolron. Pracid*, my Lord.

Mr. *At. Gen.* That's the Name that is to the Letter.

Mr. Juſt. *Pemberton.* Well, what do you know more?

Mr. *Bolron.* My Lord, Sir *Thomas Gaſcoigne* told this *Chriſtopher Metcalfe*, that he would return it by 300 *l.* at a time, to prevent Suſpicion, by the Hands of *Richard Phiſick*; and about the beginning of the Year 77, I did hear Sir *Thomas Gaſcoigne* ſay, that he had returned it, and that if it had been a thouſand times as much, he would be glad to ſpend it all in ſo good a Cauſe.

L. C. J. Did he ſay he had returned all the 3000 *l*?

Mr. *Bolron.* Yes.

L. C. J. Did he tell you how it was to be diſpoſed of?

Mr. *Bolron.* It was to be diſpoſed among the Jeſuits for the carrying on of the Deſign.

L. C. J. That was in the general; but this 900 *l.* you ſpeak of, was to thoſe three Prieſts?

Mr. *Bolron.* Yes.

Mr. Juſt. *Jones.* You ſay he reſolved to ſend 3000 *l.* to the Jeſuits at *London* about this Deſign; pray what was the Deſign? What did they ſay about the Plot at that time?

Mr. *Bolron.* My Lord, at other times I have heard them ſay, it was for killing the King.

L. C. J. What ſaid *Metcalfe* to all this?

Mr. *Bolron.* He did allow of it, and thought it was the beſt way ſo to do. I have ſeen him return ſeveral Sums by *Richard Phiſick.*

Mr. Juſt. *Dolben.* Was *Metcalfe* a Papiſt?

Mr. *Bolron.* Yes, and he died ſo, as I have heard.

L. C. J. Was you in the Room when they firſt began the Diſcourſe?

Mr. *Bolron.* No, my Lord, I came in when they were diſcourſing.

L. C. J. You came in when they were talking, you ſay; but they did not ſtop talking becauſe you came in?

Mr.

Mr. *Bolron.* No, my Lord, becauſe I knew of it: I was brought in by one *Ruſhton*, who was acquainted with the Plot, to know of it, and therefore they did not ſtop me when I came in.

L. C. J. You ſay he ſaid, I will return 3000 *l.* to the Jeſuits in *London*: Did he ſay in what time he would ſend that 3000 *l.*?

Mr. *Bolron.* No, but in 76 he ſaid he would do it.

L. C. J. And it ſhould be employ'd for carrying on of the Deſign?

Mr. *Bolron.* Yes, thoſe were the Words.

L. C. J. And in 77 you heard him talk with *Metcalfe* again? And then he ſaid, If it had been a thouſand times as much he would have ſent it?

Mr. *Bolron.* Yes.

L. C. J. Was no body there but he, Sir *Thomas Gaſcoigne*, and you?

Mr. *Bolron.* No body elſe.

L. C. J. Then go on with your Evidence.

Mr. *Bolron.* My Lord, in the Year 77 ſeveral Gentlemen did meet and aſſemble together at *Barnbow-hall* in the County of *York*, Sir *Thomas Gaſcoigne*'s Houſe; and their Reſolution was this, That they would build a Nunnery at *Dolebank*, in caſe that their Deſign and Plot of killing the King ſhould take effect, and the Roman Catholick Religion be eſtabliſh'd in *England*: Upon which account, the Company there preſent did reſolve they would loſe their Lives and Eſtates to further it: And Sir *Thomas Gaſcoigne* did conclude he would give 90 *l.* a Year for ever for the maintenance of this Nunnery: Upon which they all agreed, that after his Death he ſhould be canoniz'd a Saint.

L. C. J. Who were theſe Gentlemen?

Mr. *Bolron.* Sir *Miles Stapleton*, *Charles Ingleby*, Eſquire *Gaſcoigne*, my Lady *Tempeſt*, *Thomas Thwing*, Sir *Walter Vavaſor*, Sir *Francis Hungatt*, and *Robert Kilingbeck* a Jeſuit, and *William Ruſhton* a Romiſh Prieſt.

Mr. Juſt. *Pemberton.* Is he dead?

Mr. *Bolron.* No, he is fled beyond Sea.

L. C. J. Who elſe?

Mr. *Bolron.* Theſe are the Perſons I can remember at preſent.

L. C. J. There was a Woman there you ſay?

Mr. *Bolron.* My Lady *Tempeſt*, my Lord, and one *William Ruſhton*, if you had not him before.

Mr. Juſt. *Dolben.* That was your Confeſſor?

Mr. *Bolron.* Yes, and ingag'd me in the Plot.

Mr. Juſt. *Pemberton.* What was your Diſcourſe? pray tell that.

Mr. *Bolron.* The Diſcourſe was upon eſtabliſhing a Nunnery at *Dolebank*, in hopes that the Plot of killing the King would take effect: The intention was to alter the Government, and introduce the *Romiſh* Religion.

L. C. J. Who was it ſaid this?

Mr. *Bolron.* It was ſpoken by Sir *Thomas Gaſcoigne* and the reſt of the Gentlemen.

L. C. J. In their Diſcourſe?

Mr. *Bolron.* Yes.

L. C. J. Did they ſpeak of killing the King?

Mr. *Bolron.* Yes, my Lord, Sir *Francis Hungatt* ſaid it ſeveral times.

L. C. J. How? Upon what Account?

Mr. *Bolron.* They were mutually reſolv'd, and they would talk that they would venture their Lives and Eſtates in hopes the Plot would take effect; and accordingly about *Michaelmas*, 1677, or near upon, as I remember——

L. C. J. How long ſtaid they there?

Mr. *Bolron.* About ſix or ſeven Hours.

L. C. J. Were you with them in the Room ſtill?

Mr. *Bolron.* My Lord, I was ſometimes in the Room, and ſometimes out: What Diſcourſe I heard, I tell you; there was one *Barloe*——

L. C. J. What was that *Barloe*?

Mr. *Bolron.* I have had two Orders of Council for the ſeizing of him, and never could take him; he is a Prieſt.

L. C. J. Was he by?

Mr. *Bolron.* He went with them to take poſſeſſion of the Nunnery.

L. C. J. Was he not in the Houſe?

Mr. *Bolron.* No, not in the Room at that time.

L. C. J. Was there any Servant by in the Room when this Diſcourſe was?

Mr. *Bolron.* No.

L. C. J. Well, go on.

Mr. *Bolron*, Accordingly Sir *Tho. Gaſcoigne* did erect a Nunnery about the Year 77, at *Dolebank*.

L. C. J. What, built it?

Mr. *Bolron.* He eſtabliſh'd it.

L. C. J. Who were the Nuns?

Mr. *Bolron.* Mrs. *Laſhals* was Lady Abbeſs, Mrs. *Beckwith* and Mrs. *Benningfield* were her Aſſiſtants, *Ellen Thwing*, *Eliz. Butcher*, and others, were Nuns, according as I heard Sir *Tho. Gaſcoigne* ſay: And when they went by Sir *Tho. Gaſcoigne*, when one *Mary Root* was taking Horſe, Sir *Tho. Gaſcoigne* ſaid of her, There goes an old Maid and a young Nun.

L. C. J. Whither were they going then?

Mr. *Bolron.* To take poſſeſſion of the Nunnery.

L. C. J. Was it a new built Houſe?

Mr. *Bolron.* They call'd it a Nunnery in hopes their Plot would take effect.

L. C. J. Was it an old or new built Houſe?

Mr. *Bolron.* Nay, I never ſaw it.

L. C. J. Whereabouts was this Houſe?

Mr. *Bolron.* It was near *Ripley*.

L. C. J. What, was that *Ripley* his Houſe?

Mr. *Bolron.* No, his Houſe is at *Barnbow*.

L. C. J. Who did it belong to?

Mr. *Bolron.* They went thither till the Buſineſs was done, and that was only till the King was kill'd, and afterwards they reſolv'd to reſide at *Heworth*.

L. C. J. How long ſtaid they there?

Mr. *Bolron.* They liv'd in this place near a Year and half.

L. C. J. Till the Plot was diſcover'd?

Mr. *Bolron.* Yes.

Mr. Juſt. *Jones.* How do you know they liv'd there?

Mr. *Bolron.* I have ſeen ſeveral times Letters come from their Hands.

Mr. Juſt. *Jones.* How do you know they came from thence?

Mr. *Bolron.* The Letters were dated from *Dolebank*.

L. C. J. Did he let them lie open?

Mr. *Bolron.* Sometimes he did.

L. C. J. What was in them?

Mr. *Bolron.* I don't know any of the particulars, there was no great matter in them.

L. C. J. Who writ them?

Mr. *Bolron.* The Name that I ſaw was *Pracid*, or from Mrs. *Laſhals*.

Mr.

Mr. *At. Gen.* They, or ſome of them.

L. C. J. You do not know whoſe Houſe it was?

Mr. *Bolron.* No, my Lord, not I.

L. C. J. Where is *Heworth hall*?

Mr. *Bolron.* *Heworth hall* is about half a mile off of *York*.

Mr. Juſt. *Dolben.* Does not that belong to one Mr. *Dawſon*?

Mr. *Bolron.* It did, but it was bought of him.

Mr. *At. Gen.* What other place did you hear him mention?

Mr. *Bolron* *Broughton*, my Lord, but I never knew that any were there.

L. C. J. Nor at *Heworth hall*?

Mr. *Bolron.* Yes, my Lord, ſometimes one and ſometimes the other; ſome of them came to *Heworth hall*, and ſome to *Dolebank*, but *Dolebank* was the Place they did generally reſide at: And then Sir *Thomas* did eſtabliſh 90 *l.* a Year, which was purchaſed of Mr. *Tim. Maleverer*, and *Alver Aloftus* enjoys it.

L. C. J. How much was it?

Mr. *Bolron.* 90 *l.* a Year.

L. C. J. Where does it lie?

Mr. *Bolron.* It lies at a place call'd *Mawſon* near Sir *Tho Gaſcoigne*'s Houſe.

L. C. J. Did he ſay he had ſeal'd ſuch a Conveyance?

Mr. Juſt. *Dolben.* I ſuppoſe he bought it of *Dawſon*.

Mr. *Bolron.* He bought it of *Maleverer*.

L. C. J. Is *Maleverer* a Proteſtant?

Mr. *Bolron.* Yes, my Lord.

L. C. J. Where is he?

Mr. *Bolron.* I can't tell.

Mr. Juſt. *Jones.* You did not ſee the Conveyance of it your ſelf ſeal'd?

Mr. *Bolron.* No, I refer to their Words for that.

Mr. Juſt. *Jones.* To what purpoſe was it bought?

Mr. *Bolron.* To eſtabliſh a Nunnery.

Mr. Juſt. *Pemberton.* And they told him he ſhould be canoniz'd for a Saint when he dy'd?

Mr. *Bolron.* Yes, my Lord.

L. C. J. Well, go on then.

Mr *Bolron.* My Lord, about *March* laſt, to the beſt of my remembrance, Sir *Tho. Gaſcoigne* and Eſquire *Gaſcoigne* being in their Chamber together, I was reading a Book call'd, *The Lives of the Saints*, and Eſq; *Gaſcoigne* told Sir *Thomas* that he had been before the Juſtices of the Peace, and they had given to him and Mr. *Middleton* licenſe to go up to *London*, which mention'd, that in conſideration that there was a ſuit in Law between *James Nelthorp*, Eſq; and Sir *Tho. Gaſcoigne*, therefore it permitted the ſaid *Thomas Gaſcoigne*, Eſq; and his man to travel peaceably to *London*. And I did hear the other Copy read of Mr. *Middleton*'s Licenſe to travel into the South, and for his occaſion into the South parts was pretended to receive ſome Rents there. But I did hear Eſq; *Gaſcoigne* ſay to Sir *Thomas*, that he was reſolv'd as ſoon as he came to *London*, and had done with Mr. *Nelthorp*, that he would fly into *France*, and ſo would cheat the Juſtices, for he was reſolv'd not to come back to *Yorkſhire* again, but he would commit the Deſign in agitation into ſuch Hands as would do it, and would not fail, but he would not ſtay to ſee execution.

L. C. J. You heard him ſay ſo?

Mr. *Bolron.* Yes, I did.

L. C. J. What ſaid Sir *Thomas*?

Mr. *Bolron.* He commended his Son's and Mr. *Middleton*'s Reſolutions.

L. C. J. What Room was it in?

Mr. *Bolron.* It was in Sir *Thomas*'s own Chamber.

L. C. J. Were there any Rooms near it?

Mr. *Bolron.* None that they could hear in, unleſs in the Chamber within, I don't know whether any one was there or no.

L. C. J. Could they hear in no Room that was near to them?

Mr. *Bolron.* Yes, in the Chamber within.

L. C. J. Was there no Servant there?

Mr. *Bolron.* Not as I know.

L. C. J. My reaſon is, becauſe he muſt ſpeak very loud to make his Father hear him.

Mr. *Bolron.* Yes he did, for I heard him in the Chamber-Window that I ſtood in againſt them, they were a little way off me.

L. C. J. Becauſe if any of the Servants were near, methinks they muſt needs be very cautious how they ſpoke ſo loud to make Sir *Thomas Gaſcoigne* hear.

Mr. *Bolron.* My Lord, he was not ſo deaf then as they ſay he is, and he ſeems to be now. And Eſquire *Gaſcoigne* alſo becauſe he would be ſure there ſhould no damage come to him, cauſed all his Goods to be ſold off his Ground, and Mr. *Middleton* ſold his very Houſhold Goods.

L. C. J. He is a Papiſt too, is he not?

Mr. *Bolron.* Yes, he is ſo.

L. C. J. Was not he at the meeting with Sir *Miles Stapleton*?

Mr. *Bolron.* Yes, Mr. *Middleton* was one.

L. C. J. You did not name him before.

Mr. Juſt. *Pemberton.* But he ſaid a great many were there beſides thoſe he nam'd.

Mr. Juſt. *Dolben.* Yes he did ſo. Well go on, Sir.

Mr. *Bolron.* My Lord, laſt 30*th* of *May*, the Day after Holy *Thurſday*, as I remember, being in Sir *Tho. Gaſcoigne*'s own Chamber, Sir *Tho. Gaſcoigne* bid me go into the Gallery next to the Prieſt's Lodgings, and after a little time one *William Ruſhton*, my Confeſſor, came to me, and ask'd me, If I was at the laſt *Pontefret* Seſſions? I told him, yes, and that I had taken the Oath of Allegiance, as others had done: Whereupon the ſaid *Ruſhton* told me, That I and all the others were damn'd for ſo doing, if we kept the ſame; therefore he bid me be ſure to come next *Sunday* to have Abſolution from him; for it was a damnable ſin to take that Oath, and he told me, he had power from the Pope to abſolve me, and he added, that few Prieſts had that Power that he had.

L. C. J. Did he make you confeſs that as a Sin to him?

Mr. *Bolron.* No, my Lord, for I did make the Diſcovery ſoon after.

L. C. J. When was it you firſt turned Proteſtant?

Mr. *Bolron.* In *June*, my Lord, after that.

L. C. J. Then you were not a Proteſtant at that time?

Mr. *Bolron.* No, my Lord.

L. C. J. Were you a Papiſt when you took the Oath of Allegiance?

Mr. *Bolron.* Yes, my Lord, I was.

L. C. J. Why would not you then go and be abſolved according as you rPrieſtbidyou?

Mr.

Mr. *Bolron.* I thought I had done nothing that was evil, becauſe ſeveral had taken the Oath with me, as you ſhall hear afterward.

L. C. J. Well, go on.

Mr. *Bolron.* I told him that ſeveral others had done it as well as I, that were Papiſts, and they judged it lawful, whereupon he ſaid, Away, and told me I was a Fool, and knew not how to judge of an Oath.

L. C. J. So you were ſatisfied the Papiſts might take the Oath?

Mr. *Bolron.* My Lord, I told him I thought it was no ſin to take that Oath, becauſe it was an Oath only to be true to my King and to my Countrey, and I told him that Mr. *Ellis*, Prieſt to Mr. *Vavaſor*, had written Commentaries upon the Oath, and juſtified the taking of it. Said he again, Mr. *Ellis* was a fool, and his Superiors will call him to an Account, and check him for his Pains. But ſaid he, by taking the Oath you have deny'd the Power of the Pope to abſolve you from it, but I tell you he hath a Power to depoſe the King, and had done it: And ſaid he, you will merit Heaven if you will kill him.

L. C. J. Who ſpoke to you?

Mr. *Bolron.* *Ruſhton* my Lord ſaid, it was a meritorious Act to kill the King.

L. C. J. But did Sir *Thomas Gaſcoigne*, or any of the Company wiſh you to do that thing?

Mr. *Bolron.* Not at that meeting, but afterwards Sir *Thomas* did, my Lord, if you will give me leave to go on.

L. C. J. What did he ſay?

Mr. *Bolron.* He told me he would aſſiſt me in the Act.

L. C. J. Who?

Mr. *Bolron.* *Ruſhton* did. And he told me the Pope had granted him the Power, that I ſhould have the Benefit of Abſolution if I would do it. I deſired him not to perſwade me to do ſuch a thing, for I would have no Hand in it; then he quoted a certain Place of Scripture to me, which was, *Thou ſhalt bind their Kings in Fetters, and their Princes in Chains.* Whereupon he concluded, and made this Expoſition, that the Pope had depoſed the King, and abſolved all his Subjects, and it was a meritorious Act to kill the King. And that unleſs the King would turn Roman Catholick, the Pope would give away his Kingdoms to another?

L. C. J. Well, go on.

Mr. *Bolron.* Then I told him I would have no Hand in that Act and Deed, whereupon he anſwered me again, you may hang me if you pleaſe for ſpeaking theſe Words. No, Sir, ſaid I, I will do you no Injury if you do your ſelf none. So he bid me conſider what he ſaid, and come to him again, but I did not.

L. C. J. This was the 30*th* of *May*?

Mr. *Bolron.* Yes, and the ſame day as ſoon as I came down, I was told Sir *Thomas Gaſcoigne* had left Order with his Servants that I ſhould not depart the Houſe till he came in, and I ſtay'd there till about ſix of the Clock.

L. C. J. Did not you live with him then?

Mr. *Bolron.* I lived a little way off the Houſe.

L. C. J. How far?

Mr. *Bolron.* About a quarter of a mile.

L. C. J. Were you not his Servant?

Mr. *Bolron.* No, my Lord, not at that time.

Mr. Juſt. *Jones.* How long had you been gone out of his Service before?

Mr. *Bolron.* I went out of his Service about the beginning of *July* 1678.

Mr. Juſt. *Pemberton.* Did Sir *Thomas Gaſcoigne* ſend you into this Gallery?

Mr. *Bolron.* Yes, my Lord.

Mr. Juſt. *Pemberton.* And there you found *Ruſhton?*

Mr. *Bolron.* My Lord, he was not there when I came, but he came as it were from Chapel.

L. C. J. You were his Servant when all the Gentlemen met at his Houſe?

Mr. *Bolron.* Yes, my Lord, I was.

L. C. J. When did you leave his Service, ſay you?

Mr. *Bolron.* The Firſt Day of *July* 1678.

L. C. J. And this was in *May* 1678, was it not?

Mr. *Bolron.* No, in (79) my Lord, laſt *May*. My Lord, I watched and ſtayed till he came in, and took him as he came in. I went up Stairs with him, and when we came into his Chamber he calls me to him, and asked me what Diſcourſe had paſſed between me and *Ruſhton*; I told him our Diſcourſe was concerning the Oath of Allegiance, and the Lawfulneſs, or Unlawfulneſs of it. Then Sir *Thomas Gaſcoigne* took me by the Hand, and told me, Well man, if thou wilt undertake a Deſign that I and others have to kill the King, I will give thee 1000 *l.* and I will ſend thee to my Son *Thomas*, if he be in Town, but if he be not in Town, he ſaid he would give me ſuch Inſtructions that I ſhould find the reſt that were concerned in the Buſineſs——

L. C. J. The reſt, what?

Mr. *Bolron.* The reſt that were in the Plot.

L. C. J. That you ſhould know where to find them in *London*, you mean ſo?

Mr. *Bolron.* Yes, my Lord, if he were gone beyond Sea.

L. C. J. What ſaid you to him?

Mr. *Bolron.* My Lord, I told him I would have no hand in Blood, and would not do ſuch a wicked Deed, and deſired him to perſwade me no more. Then he deſired me of all Love to keep ſecret what he had ſaid. But afterwards I recollected that it was a very ill thing, and went immediately to the Juſtices of the Peace.——

L. C. J. How ſoon did you go?

Mr. *Bolron.* Soon after.

L. C. J. To whom did you go?

Mr. *Bolron.* To Mr. *Tindal* a Juſtice of Peace, and to Mr. *Normanton.*

L. C. J. Did you make an Oath there?

Mr. *Bolron.* Yes, that Sir *Thomas* promiſed me 1000 *l.*

L. C. J. And for what Purpoſe?

Mr. *Bolron.* For killing the King.

L. C. J. Did you put that in the Oath you made?

Mr. *Bolron.* Yes, my Lord.

L. C. J. What time was this after the Diſcourſe?

Mr. *Bolron.* It was about a Week or ſuch a time.

L. C. J. Was it the next day?

Mr. *Bolron.* No.

L. C. J. Was it within a Fortnight?

Mr. *Bolron.* Yes, I believe it was, my Lord.

L. C. J. Was it not a Month?

Mr. *Bolron.* No it was not above a Fortnight, for Sir *Thomas Gaſcoigne* was apprehended in *July* or there abouts, I believe my Lord.

L. C. J. But was that the firſt time that Sir *Thomas* ever ſpake to you to kill the King the 30*th* of *May*?

Mr. *Bolron.* Yes, my Lord.

Mr. Juſt. *Jones.* You ſay you left Sir *Thomas*'s Service in *July* 1678?

Mr. *Bolron.* Yes, the firſt Day of *July.*

L. C. J. How, did you leave him in good Friendſhip?

Mr. *Bolron.* Yes, my Lord, in very good Friendſhip.

Mr. Juſt. *Jones.* Were you in good Correſpondence?

Mr. *Bolron.* I always went to his Houſe to hear Maſs, and often times was there.

L. C. J. How came you to leave his Service?

Mr. *Bolron.* It was my own Fault I left it.

L. C. J. Why, it might be no Fault neither. But why did you leave it?

Mr. *Bolron.* My Lord, it was becauſe there was one *Henry Addiſon*, and *Bennet Johnſon* did ſeek to take my Work and Service out of my Hands. Sir *Thomas Gaſcoigne* did deſire me to let them come in to ſee what they could do, and that I ſhould have my Sallary, and that I ſhould gather in his Debts; I was willing to be rid of it, and told him they that looked after the Pit ſhould gather in the Debts, for I conceived elſe it would be but a double Charge to him.

Mr. Juſt. *Dolben.* This is only how he left Sir *Thomas* his Service, Sir *Thomas* thought the other men could do it better than he, and ſo ſaid he, then let them do your whole Work.

Mr. Juſt. *Jones.* But he ſays he did uſually reſort to the Houſe after he had left his Service to hear Maſs.

Mr. Juſt. *Dolben.* They will ask him ſome Queſtions, it may be.

L. C. J. Had you any Eſtate of your own when you left Sir *Thomas*'s Service?

Mr. *Bolron.* Yes, I had a Farm I rented of Sir *Thomas Gaſcoigne.*

L. C. J. What Rent?

Mr. *Bolron.* Fifteen Pound and a Mark a year, after I was married?

L. C. J. When were you married?

Mr. *Bolron.* In *July* (75.) But afterwards I was there, and did ſtill Service.

Mr. *At. Gen.* I think you have ſome Eſtate of your own beſides that?

Mr. *Bolron.* Yes, I have 7*l.* a year.

Mr. *At. Gen.* Well, will you for Sir *Thomas* ask him any Queſtions?

Mr. *Babbington.* No.

L. C. J. Mr. *Bolron*, pray what did the Juſtice ſay to you when you made this Oath?

Mr. *Bolron.* My Lord, thus, I was reſolved to come to *London*, and make my Confeſſion here, and deſired I might ſo do, whereupon one of the Juſtices were unwilling, but at laſt they ſaid I might do what I would.

L. C. J. You ſay Juſtice *Tindal* it was ſworn before, what did he ſay when you made the Oath?

Mr. *Bolron.* My Lord, as I remember, he ſaid, he muſt give the Council an Account of it, and perhaps he ſhould not have an Anſwer of it in a month after, ſo I thought it was better to come to *London*, and make a ſpeedy Diſpatch of the Buſineſs, for I did not know but the Prieſts in the mean time might eſcape.

L C. J. But did Mr. *Tindal* do nothing upon that Oath that was made?

Mr. *Bolron.* Yes, he did make out his Warrant for the apprehending of one.

L. C. J. Did he not make out a Warrant for the apprehending of Sir *Thomas Gaſcoigne*?

Mr. *Bolron.* My Lord, I think they would have done it, but I deſired I might come to the Council.

Mr. Juſt. *Pemberton.* How long after came you there?

Mr. *Bolron.* As ſoon at I could get ready.

L. C. J. What time came you thither?

Mr. *Bolron.* My Lord, I ſet out upon *Monday*, and came hither to *London* upon *Wedneſday.*

L. C. J. Do you know what month it was in?

Mr. *Bolron.* In *June* it was, I think.

L. C. J. And who did you come and apply your ſelf to in *London*, when you came there?

Mr. *Bolron.* My Lord, I had a Letter directed from Mr. Juſtice *Tindal* to his Brother *Tindal* in *London*, to carry me to the Council. I chanced to loſe this Letter at *Ware*, and loſing it there, I came to the *Green Dragon* in *Biſhopſgate-Street*, I was acquainted with the man of the Houſe, and having told him ſome of my Buſineſs, he carry'd me before Sir *Robert Clayton*, and then we went to my Lord of *Shaftsbury* Preſident of the Council, and preſently got an Order of the Council about me.

L. C. J. How long was this after Dr. *Otes*'s Diſcovery? When did *Otes* and *Bedloe* make their Diſcovery?

Mr. Juſt. *Pemberton.* This was a long time after, in *May* laſt.

Mr. Juſt. *Jones.* Did Mr. *Tindal* take your Examination in Writing?

Mr. *Bolron.* He took a ſhort thing in Writing.

Mr. Juſt. *Jones.* Did you ſet your Hand to it?

Mr. Juſt. *Pemberton.* He reſolved to go to the Council and tell them.

Mr. *Bolron.* I was not willing to tell the Juſtices all, for I had a mind to go to the Council.

Mr. Juſt. *Jones.* But you told them the great matter of all, Sir *Thomas*'s Proffer to give you 1000 *l.* to kill the King.

Mr. *Bolron.* Yes.

Mr. Juſt. *Jones.* Had you a Leaſe of your Farm under Sir *Thomas Gaſcoigne*?

Mr *Bolron.* It was but a Leaſe parol.

Mr. Juſt. *Jones.* For how long?

Mr. *Bolron.* For nine years.

Mr. *Babbington.* May I have leave to ask him any Queſtions?

Court. Yes, yes, you may.

Mr. *Babbington.* You ſay you had a Leaſe of the Farm, a Leaſe parol.

Mr. *Bolron.* Yes, I had ſo.

Mr. Serj. *Maynard.* Counſel muſt not be allowed in matter of Fact, my Lord.

L. C. J. But Brother, this man hath made a long Narrative.

Mr. Serj. *Maynard.* Ay, and a ſhrew'd one too.

L. C. J. His Evidence is very great, and Sir *Thomas Gaſcoigne* does not hear any one Word.

Mr. *Bolron.* One thing more I would ſpeak to. It was in *September* 1678, a little before the Diſcovery of the Plot, I did hear Sir *Thomas Gaſcoigne* ſay, and tell my Lady *Tempeſt*, that he would ſend 150 *l.* to *Dolebank* in hopes the Blow would be given ſhortly.

Mr.

Mr. Serj. *Maynard.* That is the ſame Word us'd by all the Witneſſes.

L. C. J. When was this?

Mr. *Bolron.* In *September* 78; the Plot was not known by us to be diſcover'd then, as I know of.

L. C. J. Who did he ſpeak it to?

Mr. *Bolron.* To his Daughter, the Lady *Tempeſt.*

L. C. J. What ſaid ſhe?

Mr. *Bolron.* She ſeem'd to like it very well, I did not hear any thing to the contrary: And I heard a Letter read afterwards from *Cornwallis*, that he had receiv'd it, but it was too little for the carrying on ſo great a Deſign.

L. C. J. Who is *Cornwallis?*

Mr. *Bolron.* And it was for the arming the poor Catholicks when the Blow ſhould be given.

L. C. J. Is his Daughter living?

Mr. *At. Gen.* Yes, ſhe is out under Bail.

Mr. *Recorder.* My Lord, I ſhall deſire to ask but one Queſtion, which concerns the Priſoner at the Bar: How long after the Diſcourſe that you had with the Prieſt in the Gallery, was it that Sir *T. Gaſcoigne* ſpoke to you of the ſame thing?

Mr. Juſt. *Pemberton.* Mr. *Recorder*, if you ask him but one Queſtion; let it not be that which he hath anſwer'd before; he ſays the ſame day.

Mr. *Hobart.* I deſire to ask him one Queſtion.

Mr. Juſt. *Pemberton.* No, tell Sir *Thomas* firſt what he hath ſaid, and ſee if he will ask any Queſtions.

Mr. *Hobart.* Sir *Thomas*, here is Mr. *Bolron* hath given Evidence againſt you, will you ask him any Queſtions?

Mr. Juſt. *Pemberton.* Read your minutes to him.

Then Mr. Hobart *repeated the firſt part, about his coming to Sir* T. Gaſcoigne's *Service, and the* Colliery *Conveyance.*

Mr. Juſt. *Jones.* Ask him if he will ask any Queſtions upon this part. [*Which he did.*

Sir T. *Gaſc.* No, 'tis no great matter at all, for it is true; when 'twas I can't tell, there was ſomething I did ſeal to Sir *William Ingleby*, and ſome money I had of him.

Then Mr. Hobart *repeated his ſaying to* Metcalfe, *he would ſend* 3000 *l. to the Prieſts in* 76.

Sir T. *Gaſc.* How comes that, I deny that utterly.

Mr. *Bolron.* 'Tis all true that I have ſaid by the Oath that I have taken.

Sir. T. *Gaſc.* There is no ſuch thing at all.

Mr. *Hobart.* He ſays it was return'd by Mr. *Phiſwick.*

Sir T. *Gaſc. Phiſwick* was a Servant to me, and return'd ſome money for me ſometimes, but it was all for my Children, my Sons, and my Daughters, and my Kinſpeople, to whom I paid Annuities, but it was a far greater ſum the whole than 3000 *l.* and for one great ſum of 1000 *l.* you know how it was diſpos'd of.

Mr. *Hobart.* He ſays, that in the beginning of 77, you ſaid you had return'd this 3000 *l.* to *London*, and if you had a thouſand times as much, you would give it for ſo good a Cauſe.

Sir T. *Gaſc.* I never ſaid any ſuch thing, never thought of any ſuch thing in my life.

L. C. J. Now tell him of the meeting at *Barmbow.*

Mr. *Hobart.* He ſays, in the year 77 there were ſeveral Gentlemen met at your Houſe at *Barmbow.*

L. C. J. Name them. [*Which he did.*

Mr. *Hobart.* Theſe were all together with you.

Sir T. *Gaſc.* No ſuch matter at all.

Mr. *Hobart.* And he ſaid all theſe Perſons did diſcourſe with you about the eſtabliſhing a Nunnery at *Dolebank*, and another at *Heworth*, and another at *Broughton.*

Sir T. *Gaſc.* Not one word of all this is true.

L. C. J. Tell him what he ſaid concerning killing the King.

Mr. *Hobart.* He ſays that the Nunnery was eſtabliſh'd at *Dolebank*, and ſuch and ſuch were Nuns.

Sir T. *Gaſc.* He may ſay what he will, but not one word of all this is true.

Mr. Juſt. *Dolben.* But you skip over the main thing, what the Gentlemen reſolv'd upon at that meeting.

Mr. *Hobart.* He ſays, theſe Gentlemen did reſolve the Buſineſs ſhould go on for the killing of the King, and that they would venture their Lives and Eſtates for it.

Sir T. *Gaſc.* I never heard of any ſuch thing as killing the King; Sir, did I ever ſay any ſuch thing?

Mr. *Bolron.* It was in your own Dining-Room, and in your own Chamber.

Mr. Juſt. *Pemberton.* He did not ſay ſo, I think, about their meeting.

L. C. J. Yes, he ſays they all met at his Houſe, and there they had diſcourſe of killing the King. In what Room was it?

Mr. *Bolron.* In the old Dining-Room.

Sir T. *Gaſc.* I deny it utterly; there was no ſuch thing: Some Perſons might be at ſeveral times at my Houſe, but no ſuch meeting, nor words at all at one time or other.

Then Mr. Hobart *told him of* Mr. Gaſcoigne's *and* Mr. Middleton's *Licenſes to go to* London, *and intention to go to* France.

Sir T. *Gaſc.* 'Tis very true, my Son did go to *London* for that end.

Mr. *Hobart.* And ſo Mr. *Middleton*, upon pretence of receiving Rent.

Sir T. *Gaſc.* I cannot tell about Mr. *Middleton.*

Mr. *Hobart.* He ſays, your Son would immediately fly into *France*, and commit the Deſign into other Hands; and you ſaid you approv'd of it: And this he heard you diſcourſe very plainly.

Sir T. *Gaſc.* but I plainly deny it all.

Mr. *Hobart.* He ſays you bid him go up (the 30*th* of *May*) to the Gallery to Mr. *Ruſhton.*

L. C. J. No, not to him, but when he was in the Gallery, *Ruſhton* came to him.

Then Mr. Hobart *repeated the Diſcourſe with* Ruſhton *about the Oath of Allegiance.*

L. C. J. You need not tell him what *Ruſhton* ſaid.

Mr. Juſt. *Dolben.* Yes, my Lord, it is convenient.

Mr. *Bolron.* For I told him our Diſcourſe about the Oath of Allegiance my ſelf.

Then Hobart *repeated Sir* Thomas's *further Discourse and Proffer to him.*

Sir *T. Gasc.* There is nothing of all this true: He might come there and talk with any body, for what I know, but I was not with him.

L. C. J. But ask him what he says to this, that he proffer'd him 1000 *l.* to kill the King?

[*Which he did.*

Sir *T. Gasc.* Where should you be paid it?

Mr. *Bolron.* I would not undertake the Design.

Sir *T. Gasc.* Did you ever know I was master of 200 *l.* together in my life?

Mr. *Bolron.* Yes.

L. C. J. Tell him, he says he would not undertake it, and therefore it was in vain to appoint where.

Sir *T. Gas.* I utterly deny it all, upon my Life, that's e'en just like the rest, I never heard it before.

L. C. J. He puts it to you, Whether ever you saw him have 200 *l.* together?

Mr. *Bolron.* I have seen 500 *l.* at a time in the House, and I have seen in *Phiswick*'s hand 700*l.*

[*Which was repeated to him.*

Sir *T. Gasc.* What *Phiswick* might have of other mens monies I do not know, he never had so much money of mine.

Mr. *Bolron.* My Lord, Sir *T. Gascoigne* I believe had at that time at least 1200 *l.* a year of his own Estate. [*Which was repeated to him.*

Sir *T. Gasc.* I wish he would make it good.

Mr. *Bolron.* My Lord, 'tis true enough, I believe he hath settled some Estate upon his Son, about 600 *l.* a year.

L. C. J. I can't tell what becomes of the Papists Estates, nor how the Priests drain them, but there are men of very great Estates among them, but they are greatly in Debt.

Mr. *Hobart.* Will you ask Mr. *Bolron* any Questions?

Mr. Just. *Jones.* You have not repeated to him one part of the Evidence; That in *September*, 78 he said to my Lady *Tempest*, he would send 150 *l.* to *Dolebank*, in hopes the Blow would be given shortly. [*Which was then repeated.*

Sir *T. Gasc.* I know no such thing at all; there is not one word of all this true.

Mr. *Hobart.* Will you ask him any Questions or no?

Sir *T. Gasc.* I know not what Questions to ask, but where the money should be paid?

L. C. J. That can be no Question, for the thing was never undertaken.

Mr. *At. Gen.* Then pray, Mr. *Mowbray*, tell your knowledge.

Mr. *Mowbray.* My Lord, and you Gentlemen of the Jury, I came to Sir *Tho. Gascoigne*'s in the beginning of the Year 1674.

L. C. J. Were you his Servant?

Mr. *Mowbray.* Yes, my Lord, but never an hired Servant.

L. C. J. In what Quality did you serve him?

Mr. *Mowbray.* In his Chamber, my Lord, and continued with Sir *Thomas* until 76, in which time I did observe Mr. *Thomas Addison*, a Priest, *Fincham*, a Priest, *Stapleton*, a Priest, *Killingbeck*, a Priest, and *Thwing* the elder and the younger, several times to visit and confer with Mr. *William Rushton*, Sir *T. Gascoigne*'s Confessor.

L. C. J. Were you a Papist then?

Mr. *Mowbray.* Yes, I was.

L. C. J. Are you one now?

Mr. *Mowbray.* No.

L. C. J. Well, go on then.

Mr. *Mowbray.* I being very diligent in attending Mr. *Rushton* at the Altar, I became in great favour with him, and was permitted to be in the Chamber when the Priests were in private with him, and I heard them often talk and discourse of a Design laid for setting the Popish Religion uppermost in *England*, and how like the same was to take effect in a short time.

L. C. J. Who did speak it?

Mr. *Mowbray.* The Priests in private with Mr. *Rushton*: I speak now, my Lord, of the Plot in general, I come to Sir *T. Gascoigne* anon.

L. C. J. When? In what Year was this Discourse?

Mr. *Mowbray.* In 1676.

L. C. J. Well, what said they?

Mr. *Mowbray.* Why they discoursed concerning the setting up the Popish Religion in *England*, and how like the same was to take effect, and succeed, in regard that most of the considerable Papists in *England* had engag'd to act for it, and if it could not be done by fair means, force must be us'd; and particularly declar'd, That *London* and *York* were to be fir'd.

L. C. J. In 76?

Mr. *Mowbray.* Yes.

L. C. J. What? Would they fire it again?

Mr. *Mowbray.* And I heard them often say, That the King in Exile had promis'd them——

L. C. J. Did they say the City was to be fir'd a second time?

Mr. *Mowbray.* Yes, to further their intention.

Mr. Serj. *Maynard.* It was effected in *Southwark.*

Mr. *Mowbray.* And they did also declare, That the King, when he was in his Exile, had promised the Jesuits beyond Sea to establish their Religion whenever he was restor'd; which they now despair'd of, and therefore he was adjudg'd an Heretick, and was to be kill'd.

L. C. J. Who did say this?

Mr. *Mowbray.* The Priests.

L. C. J. Who was the Heretick?

Mr. *Mowbray.* The King. Also I did hear Mr. *William Rushton* tell *Addison* and the rest of the Priests——

L. C. J. Do you know which of the Priests said the King was to be kill'd?

Mr. *Mowbray.* It was *Rushton*, *Rushton* and *Addison* were together, and he did declare to Mr. *Addison*, that according to Agreement, he had given the Oath of Secrecy and the Sacrament to Sir *T. Gascoigne*, Esq; *Gascoigne* his Son, my Lady *Tempest* his Daughter, Mr. *Stephen Tempest*, and had communicated the whole Design to them.

L. C. J. Were you by when he said this?

Mr. *Mowbray.* Yes, in his Chamber.

L. C. J. How long after the Discourse of the Priests was this?

Mr. *Mowbray.* My Lord, he told them he had done it according to Agreement before; and they did approve of it, and had severally engaged to be active, faithful and secret, and would do to the utmost of their powers, as far as their Estates would permit, to establish the Roman Catholick Religion in *England*: And about *Michaelmas*, 1676, there was another meeting of these Priests, and others, where they declar'd,

That

That the King was an Heretick, and that the Pope had Excommunicated him and all other Hereticks in *England*, *Scotland* and *Ireland*, and that Force was to be made uſe of.

Mr. Juſt. *Dolben.* When was that, Sir?

Mr. *Mowbray.* About *Michaelmas* 1676.

Mr. Juſt. *Jones.* You were his Servant then?

Mr. *Mowbray.* Yes, my Lord: And then did *Ruſhton* produce a Liſt of Names, of about 4 or 500, and he read them over, all of whom, he ſaid, were ingag'd in the Deſign, and he did read the Names of Sir *T. Gaſcoigne*, *T. Gaſcoigne* Eſq. my Lady *Tempeſt*, Mr. *Vavaſor*, Sir *Francis Hungatt*, Sir *J. Savile*, the two *Townley*'s, Mr. *Sherborne*, and others.

L. C. J. Did you ſee this Liſt?

Mr. *Mowbray.* I ſaw ſeveral Subſcriptions to it, and amongſt the reſt I ſaw Sir *T. Gaſcoigne*'s own Hand.

L. C. J. Do you know it?

Mr. *Mowbray.* Yes, very well.

L. C. J. And upon the Oath you have taken, do you believe that was his Hand to the Liſt?

Mr. *Mowbray.* Yes, my Lord, I do believe it was his Hand.

L. C. J. Did you know any other Hands? Do not you know his Son's Hand?

Mr. *Mowbray.* No, nor any but Sir *T. Gaſcoigne*'s.

L. C. J. It was in ſeveral Hands, was it not?

Mr. *Mowbray.* Yes, it ſeem'd to me to be ſo.

L. C. J. What did they ſubſcribe to do?

Mr. Juſt. *Pemberton.* This was in 77?

Mr. *Mowbray.* No, it was about *Michaelmas*, 1676.

L. C. J. What was it for?

Mr. *Mowbray.* The Title of it was, as I remember, *A Liſt of them that are ingag'd in the Deſign of killing the King, and promoting the* Catholick Religion.

L. C. J. Was that writ on the top?

Mr. Juſt. *Pemberton.* They were Words, I ſuppoſe, to that effect.

Mr. *Mowbray.* Yes, it was to that effect, my Lord.

L. C. J. Was it mention'd in the Liſt, for *killing the King?*

Mr. *Mowbray.* Yes: And then they declar'd alſo, That the Pope had given Commiſſion to put on the Deſign, and proſecute it as quick as they could; and that he had given a plenary Indulgence of 10000 years for all thoſe that ſhould act, either in Perſon or Eſtate, for killing the King and ſetting up the Romiſh Religion in *England*, beſides a Pardon and other Gratifications: And ſo much as to the Plot in general. Now, my Lord, I come to the Particulars, as to the Priſoner at the Bar, Sir *T. Gaſcoigne*. About *Michaelmas*, 1676, much about that time, there was Sir *T. Gaſcoigne* and his Son, my Lady *Tempeſt*, and *Ruſhton* the Prieſt together; where I heard them hold ſeveral Diſcourſes of this Deſign about killing the King, and firing the Cities of *London* and *York*; and Sir *T. Gaſcoigne* did declare and aſſure Mr. *Ruſhton*, that he would not ſwerve from what he had ſaid, but would keep to the Oath of Secrecy he had given him, and that he would do to the uttermoſt of his power for the killing the King, and the Eſtabliſhment of Popery.

L. C. J. Were you in the Room?

Mr. *Mowbray.* I ſtood cloſe at the Door, where I heard very well, the Door was not quite ſhut.

L. C. J. They did not know you were there?

Mr. *Mowbray.* No.

L. C. J. They would not truſt you with it then?

Mr. *Mowbray.* They did not know I was there. And they did unanimouſly conclude, That it was a meritorious Undertaking, and for the good of the Church, and they would all venture their Lives and Eſtates in it.

L. C. J. Ruſhton was there, was he not?

Mr. *Mowbray.* Yes, *Ruſhton* was there; and Dr. *Stapleton*, a Prieſt, coming from another Door, and finding me at the Door, went in and deſired them to ſpeak lower, for there was one at the Door: Whereupon my Lady *Tempeſt* call'd me in, and order'd me to go below and entertain ſome Strangers: So much for the Particulars concerning Sir *T. Gaſcoigne*.

Mr. Juſt. *Pemberton.* Was Sir *Miles Stapleton* there at that time?

Mr. *Mowbray.* Yes, he was there.

L. C. J. Where?

Mr. *Mowbray.* In an upper Room.

L. C. J. Who were by?

Mr. *Mowbray.* Mr. *Gaſcoigne*, and the Prieſt, and my Lady *Tempeſt*.

L. C. J. This is all you ſay?

Mr. *Mowbray.* Yes, ſo far as to the particulars of this matter.

Mr. Serj. *Maynard.* Have you any more to ſay?

Mr. *Mowbray.* No, no more but theſe particulars, unleſs ſome Queſtions be ask'd.

Then Hobart *began to repeat this Evidence to Sir* T. Gaſcoigne, *how he came to be his Servant.*

Sir *T. Gaſc.* He came as a Boy to me, without hiring.

Then Mr. Hobart *repeated the Prieſt's Diſcourſe at* Ruſhton's.

Sir *T. Gaſc.* I deny it all.

L. C. J. He was not preſent, this was a Diſcourſe among themſelves.

Then Hobart *told him about the Oath of Secrecy, and the Sacrament.*

Sir *T. Gaſc.* No, there is no ſuch thing, there is not a word of it true.

L. C. J. Then tell him of the Liſt.

[*Which was done.*

Sir *T. Gaſc.* 'Tis a moſt impudent Lie.

Mr. *Hobart.* What ſay you to your Hand being to that Liſt?

Sir *T. Gaſc.* Not one word of it.

Mr. *Hobart.* But he ſays 'twas your Name to it.

Sir *T. Gaſc.* He had a pair of Spectacles on ſure that could ſee any thing: Was it a printed Liſt, or a written one?

Mr. *Mowbray.* It was written, your Name was put to it, with your own Hand-writing.

[*Which was told him.*

Sir *T. Gaſc.* He makes what he will.

Then Mr. Hobart *repeated* Ruſhton's *declaring that he had given him the Sacrament of Secrecy.*

Sir *T. Gaſc.* I'll warrant you he hath gotten this Oath of Secrecy out of the News-Books; for

for I never heard of it before: Let me ask thee: Didſt thou ever hear it before you came to *London*?

Mr. *Mowbray*. Yes, Sir *Thomas*, I did.

Mr. *Hobart*. But will you ask him any Queſtion?

Sir *T. Gaſc.* No; it is all falſe he ſpeaks, not a word of Truth comes out of his mouth.

Mr. Serj. *Maynard*. My Lord, We will now go on to another piece of our Evidence.

Sir *T. Gaſc.* I muſt leave it to the Jury to take notice of their Converſations and mine.

Mr. Serj. *Maynard*. Whereas he ſays he was never Owner of 200 *l.* together, we will produce his own Almanack under his own Hand.

L. C. J. Do it, and we will ſhew it him, and ſee what he ſays to it.

Sir *T. Gaſc.* Why did not he diſcover it before?

Mr. *Hobart*. If your Lordſhip pleaſe, Sir *Thomas* deſires he may be ask'd, Why he did not diſcover it before?

Mr. *Mowbray*. Becauſe the Papiſts did threaten me at ſuch a rate, and I being a ſingle Perſon againſt them, durſt not.

L. C. J. When did you firſt diſcover it?

Mr. *Mowbray*. It was about *Michaelmas* laſt: The Papiſts did threaten me, that if I did diſcover it they would take my Life away.

L. C. J. When did you turn Proteſtant?

Mr. *Mowbray*. When the Plot broke out, then I took the Oaths of Allegiance and Supremacy.

L. C. J. Why did you not diſcover it as ſoon as you turn'd Proteſtant?

Mr. *Mowbray*. My Lord, I was not in a condition to make any Friends, or come up to *London* upon ſuch an Account: Beſides, my Lord, they did threaten me, and particularly after the Plot was come out, *Addiſon* did threaten me.

L. C. J. But this was a great while before the Plot broke out.

Mr. Juſt. *Dolben*. So long he continued a Papiſt, and then he would not diſcover.

Mr. *Mowbray*. This *Addiſon* was often with me, and he flatter'd me, and made me continue a Papiſt, leſt I ſhould diſcover it.

L. C. J. Where is he now?

Mr. *Mowbray*. He is fled.

L. C. J. What ſaid *Addiſon* when you did turn Proteſtant?

Mr. *Mowbray*. He ſaid if I did diſcover, he would take away my Life.

L. C. J. I wonder they did not give you the Oath of Secrecy.

Mr. *Mowbray*. Yes, my Lord, I did receive it from *Ruſhton*'s own Hand.

L. C. J. When?

Mr. *Mowbray*. In 76.

L. C. J. Who receiv'd it with you?

Mr. *Mowbray*. It was given to me after the Communicants were gone from the Chapel.

L. C. J. What was the Oath?

Mr. *Mowbray*. He reſerved the Sacrament for me, and ſwore me by it, that I ſhould be faithful and ſecret, and ſhould not reveal any Diſcourſe I was privy to.

L. C. J. Reveal no Diſcourſe; what Diſcourſe did they mean?

Mr. *Mowbray*. Thoſe Diſcourſes when the Prieſts were in private with him.

Then Sir T. Gaſcoigne's *Almanack was produc'd.*

Mr. *At. Gen.* Who proves Sir *Thomas*'s Hand? Is this Sir *T. Gaſcoigne*'s Hand?

Bolron and *Mowbray*. Yes, it is his Hand.

L. C. J. Shew it him himſelf. [*Which was done.*

Mr. *Hobart*. Is that your Hand?

Sir *T. Gaſc.* Yes, I think I ſaw it at the Council-Table; this is my Writing, and I will juſtifie every word that is written there.

Mr. *At. Gen.* Read that one place.

Clerk. The 15*th* to *Peter* for 100 *l.* to *Corker*.

Mr. *At. Gen.* If your Lordſhip pleaſe, I deſire he may be ask'd what that 100 *l.* was for.

Mr. *Hobart*. Look you here, Sir, did you order 100 *l.* to be paid to *Corker*?

Sir *T. Gaſc.* It may be I did.

Mr. *Hobart*. What was it for?

Sir *T. Gaſc.* For the Portion of a Child I had.

Mr. *Hobart*. What Child was that?

Sir *T. Gaſc.* I know not who it was, *Mary Appleby*, I think.

Mr. *At. Gen.* Pray ask him how it came to *Corker*'s hands? Why it was return'd to *Corker*?

Sir *T. Gaſc.* I know not that, becauſe we did not know where ſhe lived, ſhe was beyond Sea.

Mr. *Hobart*. Where is ſhe?

Sir *T. Gaſc.* She is at *Paris*.

Mr. *At. Gen.* Here is another Book of his that does make mention of 900 *l.* to Mr. *Corker*, upon Agreement between them.

L. C. J. Ask him how much money he might return to *Corker* from time to time.

[*Which was done.*

Sir *T. Gaſc.* My Lord, I don't know, we have been ſeveral Years returning of money.

L. C. J. Math he returned 8 or 900 *l.* in all?

Sir *T. Gaſc.* No, I don't think ſo much.

Mr. *At. Gen.* Pray ask him how much was Mrs. *Appleby*'s Portion?

Sir *T. Gaſc.* Indeed I can't certainly ſay; but as the Rents came in I was to pay ſeveral Sums to ſeveral Perſons, it was 100 *l.* a year to that *Mary Appleby*, it may be 2000 *l.* in all from firſt to laſt, but I ſhall ſatisfie you about that.

Mr. *At. Gen.* Will you ſatisfie us anon why 900 *l.* was paid in one year?

Then the Book was ſhewn to Sir Thomas, *who own'd it to be his Hand.*

L. C. J. Read it.

Clerk. Q. *Of Mr.* Corker *what Bills, for how much, and to whom directed, he hath received of me ſince the* 21ſt *of* July, 1677. *to* June, 1678. *vid. the Book, p.* 45. *and the great Book, fol.* 54. *where you may find* P. *for* 900 l. *and agree in this Accompt,* Corker, *the* 7th *of* Auguſt, 1678.

Mr. *At. Gen.* Firſt he makes a *Quere*, how much he returned, and then ſays he, the 7*th* of *Auguſt* I and *Corker* agreed.

L. C. J. Let him read it himſelf. [*Which he did.*

Mr. *Hobart*. What ſay you to that, that you ſent ſo much money to *Corker*?

Mr. Juſt. *Pemberton*. You muſt underſtand he is one of the Prieſts, and *Bolron* ſwears, that he intended to ſend 2000 *l.* and by 300 *l.* apiece, he reckons up 900 *l.*

Sir *T. Gaſc.* It was a great many years, and ſeveral times.

L. C. J. Tell him it was between *July* 77, and *June* 78.

Sir *T. Gaſc.* That does not appear.

Mr. *At. Gen.* Yes, it does, by the Book.

Mr.

Mr. Juſt. *Dolben.* Then how came you to return 900*l.* in one Year to *Corker?*

Mr. Serj. *Maynard.* And never had 200*l.* he ſays together.

Mr. *At. Gen.* Then here is another Paſſage in this Book, if it pleaſe your Lordſhip to have it read.

Clerk. Take Heworth *at an eaſie Rent of the Widow—and purchaſe the Reverſion of* Craddock—*and in the Interim* Dawſon.

Mr. Juſt. *Dolben.* Ask him what he did mean by taking of *Heworth?*

Sir *Tho. Gaſcoigne.* I took no Houſe there.

Mr. Juſt. *Dolben.* But did he agree to buy the Reverſion of it.

Sir *Tho. Gaſcoigne.* It was for my Neece *Thwing.* She was born in the Houſe, and was very deſirous to be in the Houſe.

Mr. Juſt. *Dolben.* Ay: But why did he take the Leaſe of the Widow, during her Jointure, and why buy the Reverſion?

Sir *Tho. Gaſcoigne.* I know no Reaſon but my Affection to her.

Mr. *At. Gen.* Ask him who he did intend ſhould live in the Houſe?

Sir *Tho. Gaſcoigne.* Nay, I don't know what they intended my Neece *Thwing.*

Mr. Juſt. *Dolben.* Did you intend to buy it for your ſelf?

Sir *Tho. Gaſcoigne.* No, I lent her the Money.

Mr. Juſt. *Dolben.* Did you intend it for her?

Sir *Tho. Gaſcoigne.* I might do with it what I would.

Mr. *At. Gen.* Ask him if his Neece *Thwing* was a ſingle Woman, and was to have the whole Houſe to her ſelf?

Sir *Tho. Gaſcoigne.* She had her Brother with her.

Mr. *Hobart.* He ſays Mrs. *Ellen Thwing* was a Nun, Mrs. *Laſſels* was to be Lady Abbeſs, Mrs. *Beekwith* was her Aſſiſtant, and Mrs. *Cornwallis* and others were Nuns.

L. C. J. Ask him if Mrs. *Laſſels* was not to be Lady Abbeſs and live there?

Sir *Tho. Gaſcoigne.* I know nothing of it.

Mr. *At. Gen.* Ask him if there was not one Mrs. *Benningfield* to be there?

Sir *Tho. Gaſcoigne.* No.

Mr. *Bolron.* Yes, ſhe was to be there.

Mr. Juſt. *Jones.* Why, do you know any thing of her?

Mr. *At. Gen.* She is in *York* Gaol.

Mr. *Bolron.* No, ſhe is gone from thence. My Lord, *Ellen Thwing* was a Nun, and was ſent for from beyond Sea to inſtruct all them that ſhould be made Nuns, and this Father *Cornwallis* was Father Confeſſor to the Nuns. He is now in *York* Gaol, taken with two Women.

Mr. Juſt. *Jones.* Ask him what he meant by that writing in the Almanack?

Sir *Tho. Gaſcoigne.* I did write things here for a Memorandum to help and aſſiſt my Neece, and the poor Children of my Brother; and ſo the Widow that was Sir *Walter Vavaſor*'s Siſter, was to ſell the Houſe, and one *Craddock* meant to ſell all the Lordſhip, and the Children were deſirous to keep the Houſe, and ſo they bought the Houſe and one Cloſe, and all the reſt was ſold; ſo I writ it only that they ſhould have the Aſſiſtance of Sir *Walter Vavaſor* to have the Houſe.

Mr. Juſt. *Dolben.* Pray ask him what he means by the words, *in the interim Dawſon.*

Sir *Tho. Gaſcoigne.* Nay, what do I know.

L. C. J. Ask if Mrs. *Thwing* were not a Nun?

Sir *Tho. Gaſcoigne.* They did deſire if they could not get that Houſe, that they might have another Houſe.

Mr. Juſt. *Dolben.* And all this for Mrs. *Thwing.* Ask him if ſhe was not beyond Sea, and kept in a Nunnery?

Sir *Tho. Gaſcoigne.* Nay, I can't tell what ſhe was.

Mr. *At. Gen.* Here is another Note in this Almanack, pray read it. It was firſt ſhewed to Sir *Tho. Gaſcoigne,* who owned it to be his Hand.

Clerk. Mr. Harcourt, *next Houſe to the Arch within* Lincolns Inn-Fields, *Mr.* Parr's.

L. C. J. No queſtion but he was acquainted with all the Prieſts about the Town, and had Directions to write to them.

Mr. Juſt. *Pemberton.* He hath been Prieſt-ridden by them, that is plain.

Mr. *Recorder.* Ask him what he means by the laſt Mark there ſet under *London?*

Sir. *Tho. Gaſcoigne.* I can't tell what it is, 'tis a Query.

Mr. *At. Gen.* In the Almanack there is a Memorandum to acquaint Mr *Thwing* with the whole Deſign, what it was I can't tell.

L. C. J. Ay, pray let's ſee that.

Mr. *At. Gen.* This *Thwing* is a Prieſt, in *Newgate* at this time.

Clerk. The 15th of April 1676. *Memorand. Acquaint Mr.* Thomas Thwing *with the whole Deſign.*

L. C. J. Now ſhew him that.

Sir *Tho. Gaſcoigne.* Look you, what is it you would have?

Mr. *Hobart.* What Deſign was that?

Sir *Tho. Gaſcoigne.* It was my providing Monies for him and his Siſter, that they ſhould tell how to purchaſe the Houſe.

Mr. *At. Gen.* What, a Prieſt and a Nun?

Mr. Juſt. *Dolben.* They had vow'd contrary to that.

Mr. Juſt. *Pemberton.* Ask him whether *Thwing* be not a Prieſt?

Mr. *Hobart.* Is this *Thwing* not a Prieſt? *Thomas Thwing?*

Sir *Tho. Gaſcoigne.* No, it was *Ferdinando Thwing,* that is now dead.

Mr. *At. Gen.* No, but this is *Thomas Thwing:* Is he a Prieſt?

Sir *Tho. Gaſcoigne.* I do not know, what have I to do.

L. C. J. Then conſider how likely it was, he was to purchaſe an Houſe for a Prieſt and a Nun, for ſome ſuch Buſineſs as is ſworn.

Mr. *Hobart.* He ſays no, my Lord.

L. C. J. What is the meaning of it then, that he ſhould name the whole Deſign?

Mr. *Hobart.* He ſays it was the Brothers and Siſters that lived next door to him.

L. C. J. Ay, but 'tis ſaid, Acquaint *Thomas Thwing* with the whole Deſign.

Mr. *Hobart.* He might acquaint *Thomas Thwing* with ſuch his Intention.

Mr. *At. Gen.* We will now ſhew your Lordſhip a Letter, taken among the Papers of Sir *Thomas Gaſcoigne,* wherein is this Proviſo, talking of the Settlement, *In the formal Settlement, let this Proviſo be added, If* England *were converted, then to be diſpoſed ſo and ſo.*

L. C. J.

L. C. J. Mr. *Bolron*, how came you by that Paper?

Mr. *Bolron.* I took this Paper in Sir *Thomas Gaſcoigne*'s Chamber, with ſeveral others, I remember ſome had his Hand to them, others had not, and ſome were ſigned *Pracid*, and ſome *Cornwallis*.

L. C J. Is there any Mark of his Hand to that Paper?

Mr. *At. Gen.* Yes, there is a Mark in this, of Sir *Thomas*'s own Hand, the word (*Yes*) in the Margent.

Clerk. *Dolebank, June* the 9th, 78.

Moſt Honoured Sir,

AFter moſt grateful Acknowledgements of all your charitable Favours, as to my own particular; I am alſo herewith to preſent moſt humble and heartieſt Thanks on behalf of your Neece, and Mrs. Haſtings *here, who both would eſteem it a great Happineſs to ſee you, here, as alſo my Lady, your honoured Daughter, to whom we beſeech our humble Reſpects may be preſented. I have ſent the Paper ſafely to good Mrs.* Beddingfield, *from whom ſhortly you will have Religious Acknowledgments. I told her, that I ſuppos'd you would judge fitting to inſert into the formal Writing the Proviſo,* viz. That if *England* be converted, then the whole 90 *l. per Annum* is to be apply'd here in *Yorkſhire*, about, or at *Hewarth, &c.* The which, doubtleſs, will be as acceptable unto her, and as much to God's Glory as poſſibly can be imagined. *Now, deareſt Sir, let me not be too much troubleſome, ſave only to wiſh you from his Divine Majeſty, for whoſe everlaſting Glories greater Praiſe and Honour you do this moſt pious Action, the happy Enjoyment of that Glory everlaſting. I would laſtly adviſe you in God's holy Name, to compleat the Buſineſs by drawing the formal Writing as ſoon as poſſible*; and with-

YES. out making any material Alteration from what you have already ſigned, ſave only the Proviſo above written. *I ſhould be glad to know concerning the Receipt hereof; and when Sir* Miles *and your Son are likely to attend you to finiſh the Buſineſs: As alſo when Mr.* Pierpoint *ſhall be arrived. Theſe good Religious are very deſirous with your Approbation (and Mrs.* Bed. *at my coming from her wiſhed the ſame) to try for a Removal to Mr.* Dawſon's; *the Impediments here being eſſential, as the Houſe incapable to receive more Scholars, with many other Inconveniencies alſo. Time permits no more, only we again expreſs our earneſt Deſires to ſee your* Honour *here with my Lady, as the greateſt Satisfaction we can deſire: I remember you hinted to Mrs.* Bedding. *not long ſince, that perhaps you might ſee her at* Hammerſmith, *and how much eaſier you may come hither, we earneſtly beſeech you to take into conſideration to the Purpoſe.*

Moſt Honoured Sir,

Your Honour's moſt obliged

faithful Servant,

JO. PRACID.

L. C. J. I think 'tis pretty plain, there was a Deſign of erecting a Nunnery.

Mr. Serj. *Maynard.* If *England* is converted then the whole 90 *l.* a Year to be employed in *Yorkſhire* about a rotten Houſe, which would be much for God's Glory.

L. C. J. What other Evidence have you?

Mr. *Recorder.* If your Lordſhip pleaſe, we have another Letter Dated from *York* Caſtle, and the backſide of the Letter is indorſed by Sir *Tho. Gaſcoigne*'s own Hand, the time when he receiv'd it.

L. C. J. When was it?

Mr. *Recorder.* The laſt *May*, he dates it from *York* Caſtle, where he was in Priſon, and therein gives Sir *Thomas* an Account of the Opinion of the Doctors of *Sorbonne* about the taking the Oath of Allegiance.

L. C. J. No Doubt all of them do not approve of it.

Mr. Juſt. *Dolben.* As I believe this ſame *Pracid* was the Occaſion of ſo many Gentlemen refuſing the Oath of *Allegiance*, I convicted above 40 of them in that Country for not taking of it.

Mr. Serj. *Maynard. Noſcitur ex comite.* You ſee if this be the effect of it, what Reaſon we have to rid our ſelves of theſe Prieſts. One that dares write ſuch a Letter, and 'tis found in Sir *Thomas*'s Study.

Mr. Juſt. *Pemberton.* And Sir *Thomas*'s own Hand on the back of it.

Mr. Serj. *Maynard.* My Lord, under Favour, I do take it, that the debauching of Men in point of Conſcience, that they may not take the Oath of Allegiance, is to ſet them looſe from the Government, and looſe from the King, and make them ready to arm when they have Opportunity.

Mr. Juſt. *Pemberton.* No doubt of it, Brother.

L. C. J. All the Jeſuits ſay they may not take it, but ſome of the Sorbonniſts ſay they may.

Mr. Juſt. *Pemberton.* But now you ſee they are againſt it.

L. C. J. Some will, and ſome will not allow it.

Mr. Juſt. *Jones.* They take or leave Oaths as it is convenient for them.

Then the Letter being ſhewn to Mr. Mowbray, *and the Indorſement acknowledged to be Sir* Thomas's *Hand, was read.*

Clerk. *York* Caſtle, *May* the 24th.

Honoured and ever deareſt Sir,

LOnger time having paſs'd ſince your laſt writing, it is fit to inform you how God's holy Providence diſpoſes concerning us. All the Out-priſoners being call'd into the Caſtle, (as you may have heard) Mrs. Haſtings's *Room was needed, and ſo ſhe went into* Caſtlegate *to reſide at the former Lodging of one Mrs.* Wait, *(who is now in the Jayl) where ſhe remains with Mrs.* Waits's *two Children and their Maid-ſervant, teaching the Children, as formerly; alſo the* Moor's *Neece goes daily thither; and Mrs.* Haſtings *lives without Charge as to Diet and Lodging, as I formerly told you; ſhe ſpends all her time well, God be praiſed, and comes every morning about Seven a Clock to ſerve God at the Caſtle: But I and two others are much abridg'd of that Happineſs by her Room being left by her here. My Liberty of going abroad is reſtrain'd with the reſt, none being as yet permitted the leaſt, ſince theſe laſt were forced to come in. Madam was here the other day, and ſeem'd ſomewhat timorous about Mrs.* Haſtings's *teaching: But moſt in the Caſtle perſwaded her, that it was moſt commendable and moſt ſecure, and ſo ſhe reſts ſatisfied: Mrs.* Cornwallis *is recovered of her Ague, God be bleſs'd: She deſires her dutiful Reſpects may be always preſented unto you, and intends her ſelf to write to you. Mrs.* Wood *and her Companion are well, but dare not as yet walk in their*

own

own Garden. All our now Priſoners are chearful, and each of us comforted, in hopes that God will make all Catholicks of one Mind: For I have a Letter from our * Spr. *at* London (*who was the ſame day taken and carried to Priſon*) *wherein he declares, alledging Authority*, That the pretended Oath of Allegiance cannot be taken, as it is worded, adding, that three Briefs have formerly been ſent from the Pope, expreſly prohibiting it; and in the third, it is declared damnable to take it. *And yeſterday* we had a Letter communicated amongſt us, ſent by Mr. *Middleton* (now at *Paris*) to his Friends here, containing the Atteſtation of all the *Sorbon* Doctors againſt it; adding, that whoſoever here in *England* give leave, they deceive People, and are contrary to the whole Catholick Church. There was alſo a Meeting ſome Years ago, of all the Superiors both Secular and Regular, wherein it was unanimouſly declared, that it could not be taken. Mr. Hutchiſon (*alias* Berry) *who has lately printed a Pamphlet in defence of the Oaths, has the other day declared himſelf* Proteſtant *at St.* Margaret's Weſtminſter. *And ſo I reſt,*

Honoured Sir,

Your ever obliged

J. P.

* *Mr. Record.* That is Superior.

Mr. *Recorder.* That is all, the other is private.

Mr. *At. Gen.* If your Lordſhip pleaſe, we ſhall now prove by ſome Witneſſes, that he hath returned great Sums of Money, becauſe he ſaid, he never had 200 *l.* together; and for this we call Mr. *Phiſwick*; (*Who was ſworn.*) Come Sir, were you a Servant to Sir *Tho. Gaſcoigne?*

Mr. *Phiſwick.* Yes.

Mr. *At. Gen.* For how long time?

Mr. *Phiſwick.* For ſix years and upwards.

Mr. *At. Gen.* In that ſix years time what Sums of Money did you return to *London?*

Mr. *Phiſwick.* 'Tis abſtracted in a Note.

Mr. *At. Gen.* Did you return all the Sums in that Note?

Mr. *Phiſwick.* I refer my ſelf to my Almanack.

Mr. *At. Gen.* Did you ſet down this Account?

Mr. *Phiſwick.* Yes, Sir?

Mr *At. Gen.* Then thus, Sir, pray what comes it to?

Mr. *Phiſwick.* Thoſe Sums do come to 6128 *l.*

L. C. J. Whoſe Money was that?

Mr. *Phiſwick.* Part of it was Sir *Thomas*'s, part his Son's, and part my Lady *Tempeſt*'s.

L. C. J. Can you tell how much in any one year you return'd upon the Account of Sir *Thomas*?

Mr. *Phiſwick.* Not unleſs I had my Almanack.

L. C. J. It will be endleſs to look over the Particulars.

Mr. Juſt. *Pemberton.* Can you make any Eſtimate in ſix years how much you return'd for Sir *Thomas* himſelf?

Mr. *Phiſwick.* No, not without my Almanack, becauſe I return'd Money for them all.

Mr. *At. Gen.* My Lady *Tempeſt* and Mr. *Gaſcoigne*, it hath been proved, were in all the Diſcourſes.

L. C. J. But that hath not any Influence upon Sir *Thomas*.

Mr. *Phiſwick.* The Eſquire liv'd much in *London.*

Mr. Juſt. *Dolben.* What Eſtate had he to live upon?

Mr. *Phiſwick.* Betwixt 4 and 500 *l.* a year.

Mr. Juſt. *Pemberton.* What Eſtate had Sir *Thomas* beſides?

Mr. *Mowbray.* My Lord, I believe it was 1600 *l.* a-year, beſides what Mr. *Gaſcoigne* had.

Mr. Juſt. *Dolben.* And what had my Lady *Tempeſt?*

Mr. *Phiſwick.* Three hundred Pound a-year.

Mr. Juſt. *Dolben.* But ſhe liv'd in *York ſhire?*

Mr. *Phiſwick.* Yes.

Mr. Juſt. *Dolben.* So ſhe needed little Returns to *London?*

Mr. Juſt. *Pemberton.* But admit they had return'd all, yet there was 300 *l.* a-year to be return'd for Sir *Thomas.*

Mr. *At. Gen.* My Lord, here is Mr. *Mawſon*, I think 2500 *l.* was received by him.

Mr. *Phiſwick.* I paid in the Countrey, at *Leeds*, Money, that he paid here in Town.

Mr. *At. Gen.* Here is the 25 *l.* paid to *Harcourt*, I would ask him whether it were the ſame *Harcourt* that was executed?

Mr. Juſt. *Pemberton.* I think that not material.

Mr. *At. Gen.* My Lord, if you pleaſe we will ſhew you the Examination taken before the Council, that Sir *Thomas* did own this *Bolron* had been his Servant, and never unfaithful, but always took him to be, as he now found him, a Fool.

Mr. Juſt. *Dolben.* If he object any thing, it will come in properly by way of Reply.

Mr. *At. Gen.* Then now we have done till we hear what the Priſoner ſays to it.

L. C. J. Tell him they have done with their Evidence againſt him, if he will have any Witneſſes examined, he muſt call them.

Mr. *Hobart.* The King's Evidence have been all heard, and ſaid as much as they can, the Court asks you if you would call any Witneſſes, or ſay any thing for your ſelf? Have you any Witneſſes here?

Sir *Thomas Gaſc.* Yes.

Mr. *Hobart.* Name them, Sir.

Mr. Juſt. *Dolben.* Ask what he will have done with them?

Mr. Juſt. *Jones.* Let him tell us to what purpoſe he will call them.

Sir *Thomas Gaſc.* To examine them to the Credit, and Demeanour of theſe men, and that there is no Probability in their Suggeſtions.

Mr. *Hobart.* Name them, Sir.

Sir *Thomas Gaſc.* They are all in that Note.

Mr. Babbington *was firſt Examined.*

Mr. Juſt. *Pemberton.* Ask Sir *Thomas* what he would have him asked.

Sir *Tho. Gaſcoigne.* Look you, Sir, what do you know concerning the difference between Mr. *Bolron* and I?

L. C. J. Well, what ſay you to that Queſtion?

Mr. *Babbington.* My Lord, I have not been imploy'd in Sir *Thomas Gaſcoigne*'s Buſineſs before the laſt Winter.

Mr. Juſt. *Dolben.* What do you know then?

Mr. *Babbington.* About Spring laſt Sir *Thomas Gaſcoigne* was conſulting with me about Money *Bolron* owed him upon two Bonds, and gave me Directions to ſue them. And likewiſe he was giving me Directions to deliver Declara-

rations in Ejectment for gaining the Possession of his Farm, because he did not pay his Rent.—

L. C. J. How much were the Bonds for?

Mr. *Babbington.* I have them here I think.

L. C. J. You need not look for them, you may tell us the Sums.

Mr. *Babbington.* The one is for Twenty eight Pounds, the other Twenty, to the best of my Remembrance. Mr. *Bolron* having Notice of this, did desire he would accept of a Conveyance of an House he had at *Newcastle* for Satisfaction of his Debt. Sir *Thomas* was unwilling to accept of it, but I did prevail with him to accept it, not in Satisfaction, but as an additional Security; and the Deeds I have here that I drew for that End.

Mr. Just. *Pemberton.* What time was this?

Mr. *Babbington.* This was a little before last *Trinity-Term* begun. I have taken a Memorandum within a day or two, if your Lordship will give me leave to look upon it.

Mr. Just. *Dolben.* Have you not had all this time to get your Papers ready?

Mr. *Babbington.* My Memory is very short indeed. But now I see about the third or fourth of *June* Sir *Thomas* gave me Orders to deliver Declarations in Ejectment.

Mr. Just. *Dolben.* When did he first bid you question him for Monies upon the Bonds?

Mr. *Babbington.* It was some time in *May.*

L. C. J. Did he tell you, you must sue him?

Mr. *Babbington.* Yes.

L. C. J. What then did *Bolron* say?

Mr. *Babbington. Bolron* did then desire that Sir *Thomas* would accept of Security out of his House at *Newcastle.* Sir *Thomas* was very hard to be perswaded, but at length I did prevail with him, and I used this Argument, That it was not to lend so much Money upon that Security, but his Money was already out of his Hands, and else desperate, and this was a further Security, and that it would not lessen his other Security, and upon these Perswasions he did let me draw a Deed to that purpose.

L. C. J. Was this some time in *May?*

Mr. *Babbington.* This Discourse was in *May.*

L. C. J. Are you sure of it?

Mr. *Babbington.* The Directions that I had for drawing the Deed was in *June,* but the Discourse with Sir *Thomas* was in *May,* and I do perfectly remember it by a Circumstance which I shall tell your Lordship. After the Deeds were drawn, (for drawing of which I had a Letter under *Bolron*'s own Hand, and if occasion be, I have the Letter here to produce) I came from *York,* having been there, and appointed a Day for the Sealing of them. I came to the House where *Bolron* liv'd, and Sir *Thomas* met me, and there I produced the Deeds, and he of himself was very ready and willing to the sealing of them, but his Wife, who was joyned in the Deeds with him, would not by any means seal, unless Sir *Thomas* would deliver up the Bonds he had taken for the Money, but Sir *Thomas* did utterly refuse to deliver up the Bonds.

L. C. J. What time in *June* was this?

Mr. *Babbington.* A little before *Whitsontide.*

L. C. J. What time was that?

Mr. *Babbington.* That was the 14*th* of *June,* as I remember, that I delivered the Declaration; and that day before, which was the 13*th,* to the best of my Remembrance, I had this Communication and Discourse about sealing the Writings, which the Wife refused to joyn in; but Sir *Thomas* would only take it as an additional Security, refusing to deliver up the Bonds, but he would suspend further Prosecution, and *Bolron* did then desire no longer time than a month for Payment of the Money. But his Wife, though she were urged to seal the Writings, would not be perswaded, but utterly deny'd it. After we had spent a great deal of time there, *Bolron* comes to me and desires me to come another time, and he would perswade his Wife to seal the Deed; nay, said I, 'tis not fit for me to come up and down unless it be to some purpose, and your Wife will Seal; Will! nay, says he, I will force her to it. My Answer was this, if you take these Courses, Mr. *Bolron,* I must by no means be concerned in the matter; for your Wife must pass a Fine, and we must examine her secretly, and if she tells me she does it by your Force, I will not pass it if you would give me a 1000 *l.* After this about a Fortnight he sent for me to come and his Wife would Seal.

L. C. J. By the way, are you a Protestant?

Mr. *Babbington.* Yes, I am, Sir.

L. C. J. And always was?

Mr. *Babbington.* Yes.

Mr. *At. Gen.* Yes, he is an Attorney at large, I know him very well.

Mr. *Babbington.* This was a Fortnight or three Weeks after that, the latter End of *June,* he sent for me to his House, and that his Wife would be contented to Seal. And this he desired might be done on the *Tuesday,* which was *Leeds* Market-day, and I could not go. The next day I call'd upon him at *Shippon-Hall*; he was then within, and desir'd me to go up to *Barmbow* to Sir *Thomas Gascoigne*'s with him: He said he should go within two or three days to *Newcastle,* for he had a Chapman that would lay down the Money, and take the Security of the House, and he desired he might have the liberty to go thither to treat about it. I told him I did believe it would be no hard matter to perswade Sir *Thomas* to that, for he would be very glad of it. I went up with him to *Barmbow,* and as we went along, he asked me if Sir *Thomas* did intend to sue him upon his Bond? I told him I had Directions so to do. He asked me likewise if he would turn him out of his Farm? I told him, Yes, if he would not pay his Rent; and the truth of it is, he did then deny he had received the Declaration in Ejectment: But my Man afterwards made his Affidavit of Delivery, and had Judgment upon it. Afterwards I went up to Sir *Thomas,* and told him what *Bolron* desired, and he consented to it as readily as it could be asked; and in coming away he told *Bolron,* that in the management of his Coal-pits he did neglect very much, and did go abroad, staying away two or three Days together. To this *Bolron* made some Excuse, and said it was for Collecting his Debts. Said Sir *Thomas,* I know not what you are about, but if you do well for your self, I am satisfied.

L. C. J. How long had he been from him, and left his Service then?

Mr. *Babbington.* I know not when he went, but this was in *June* last. After this we went back again, and in coming back he was very inquisitive to the same purpose; he was asking me ——

L. C. J. You say he chid him, and told him he was not a good Husband in his Colliery.

Mr.

Mr. *Babbington*. Yes; and as we came back he was inquiſitive whether Sir *Tho. Gaſcoigne* would ſue him, and turn him out of his Farm. I did then enter into the ſame Expreſſions, and told him, if he did not pay, he muſt be ſued.

L. C. J. You told me, Sir *Thomas* had agreed to ſtay ſo long, when was this?

Mr. *Babbington*. My Lord, this was after we had parted with Sir *Thomas*.

L. C. J. After Sir *Thomas* had promiſed him to ſtay ſo long time, then ſaid he, as you were coming home, Do you think he will ſue me, and turn me out of my Farm?

Mr. *Babbing*. Yes ſaid I: *Well*, ſaid he, *then by God I will do that which I did not intend to do.* What he meant by it I cannot tell, but this was a little before he came to *London*, which I judge to be the latter End of *June*; and this is all I have to ſay.

Then Obadiah Moor *was called.*

Mr. Juſt. *Jones*. Did you tell Sir *Tho. Gaſcoigne* what he ſaid, then I will do what I never did intend to do?

Mr. *Babbing*. I did never tell him, my Lord, for I look'd upon it as an idle Expreſſion. And I will tell your Lordſhip why; becauſe this man that is now to be examined did tell me how that he was bound for him, and that *Bolron* to incourage him to be bound, ſaid, You need not fear, for if Sir *Thomas* ſues me, I will inform againſt him for keeping Prieſts in his Houſe; and I did look upon it as an idle Expreſſion.

Mr. *Moor*. My Lord, in *September* laſt was Twelve-month, Mr. *Bolron* did deſire me to be bound with him to Sir *Tho. Gaſcoigne*. Said I, I told him, Mr. *Bolron*, I have ſome ſmall Acquaintance with you, but I have no reaſon to be bound with you. Said he, Do not fear; there is my Brother *Baker*, and *Stephen Thompſon* are to be bound as well as you. Said he, I will give you my Counter Security. That ſignifies nothing, ſaid I. You need not fear any Suits, ſaid he; for if Sir *Thomas* ſues me, I will inform againſt him for keeping Prieſts. Said I, When muſt this Money be paid? Said he, at *Candlemas* next. So we went and were bound; the one Bond was to be paid at *Candlemas* laſt, and the other in *Auguſt*. And after *Candlemas* he did not pay the Money, and ſaid I, Mr. *Bolron*, I don't like theſe Bonds, you muſt make new Bonds for my Security. I was afraid of being ſued, and I deſired Mr. *Babbington* to bring a Writ againſt him, which he did; and upon *Holy Thurſday* I had two Bailiffs ready to arreſt him, but he could not be found; and I had two likewiſe the *Saturday* before at his Pits. Preſently after he came up to *London*, and made an Information, and on the 8*th* of *Auguſt* laſt I met him in *Ferry-Bridge*, and he came along with me; ſaid he, Mr. *Moor*, you and I have often diſcourſed of Sir *Tho. Gaſcoigne*, you may do me good, if you do not, pray do me no harm. You have been often at his Houſe. With that, I asked him if he was concern'd in the Plot? For, ſaid I, you have been often telling me, and ſworn it, and deny'd it utterly, that he was no more concerned than any body elſe: But I did but equivocate then, for I was a Papiſt, and if I had told a 1000 Lies, or killed 20 Proteſtants, our Prieſt would have forgiven me for it. And ſo coming to *Farnborn*, two Miles from *Ferry-Bridge*, he pluck'd out 10*s.* and ſaid, I have no more Money in my Pocket but this, but pray be kind, and do me no Harm, for you know I have deny'd it all along.

Mr. Juſt. *Jones*. Hath he done ſo?

Mr. *Moor*. Yes, ſeveral times.

L. C. J. How came you to diſcourſe with him, and queſtion him about it?

Mr. *Moor*. Becauſe there was a general Diſcourſe in the Countrey, that there were few Papiſts but what were concern'd, and guilty of the Plot.

L. C. J. When was that Diſcourſe?

Mr. *Moor*. The latter end of *September* was Twelve-month, when the Plot was firſt diſcover'd. And he ſaid, Sir *Thomas* was no more concerned than the Child that was to be born.

L. C. J. Had you any Diſcourſe with him about *May* laſt?

Mr. *Moor*. No, my Lord, in *Auguſt*, as I told you, I had.

L. C. J. When was the laſt time that he told you, Sir *Thomas* had not an hand in the Plot?

Mr. *Moor*. I can't certainly remember, but I think it was in *February*, when I told him I would ſue the Bond, or have better Security. It was a ſmall time after *Candlemas*.

Mr. Juſt. *Jones*. What are you, a Proteſtant or a Papiſt?

Mr. *Moor*. A Proteſtant, bred and born ſo.

Mr. Juſt. *Pemberton*. He would have ſworn it no doubt at that time, for he was under an Oath of Secrecy.

L. C. J. But you ſay *Auguſt* was the firſt time that he diſcourſed to you that Sir *Thomas* was in the Plot?

Mr. *Moor*. Yes.

Then Stephen Thompſon *was call'd.*

Mr. Juſt. *Dolben*. Well, what do you know of this Buſineſs?

Mr. *Thompſon*. My Lord, if you will give me leave to ſpeak, I know a great deal of the Unkindneſs betwixt Sir *Thomas* and Mr *Bolron*. He came down to me, he was Sir *Tho. Gaſcoigne*'s Steward of his Colliery, and Sir *Thomas* liked not of his Accounts, and turned him forth. There was a great deal of money owing to Sir *Thomas*, and he came to Sir *Thomas* to agree about it, and he deſired me to be bound with him to Sir *Thomas*: Said I, Mr. *Bolron*, how ſhall I be ſecured? Said he, there is a great deal of Money of which I never gave Sir *Thomas* any Account, I will gather it in and ſecure all, and ſo Sir *Tho. Gaſcoigne* knew nothing of it. So *Bonds* for 60*l.* were entred into to pay 28*l.* at *Candlemas*. So Sir, when *Candlemas* came, and he did not pay the money, I went up to him, and asked him what he would do about this money, what Courſe he would take to ſatisfie? Oh! never fear, ſaid he; why ſaid I, hath he any Hand in the Plot? If he hath, let us know it; for he had made a great deal of his Goods away, and then I thought I ſhould not be ſecured, Oh ſaid he, he is a ſin leſs of it.

L. C. J. Who did make away his Goods?

Mr. *Thompſon*. *Bolron* did.

L. C. J. When was this?

Mr. *Thompſon*. *Candlemas* laſt. For then I thought Sir *Thomas* might ſue me for the money, and I would fain have known if Sir *Thomas* had any hand in the Plot, and I preſſed him much to

tell me. Then it paſs'd on, and having a Writ out againſt me, I durſt not ſtir out my ſelf, but I did ſend my Man to him to know what he did intend to do about it: He told my Man, Brother, tell thy Maſter he need not to fear at all; Why, ſaid my Man, do you know he hath any hand in the Plot?———

Mr. Juſt. *Dolben.* That is but what your Man ſaid.

Mr. Juſt. *Pemberton.* Is your Man here?

Mr. *Thompſon.* No.

Mr. Juſt. *Dolben.* Therefore you muſt not urge that he ſaid to you, 'tis no Evidence.

Mr. *Thompſon.* On *Thurſday* after I went up to him my ſelf, and got him to go up to Sir *Thomas*, and ſo when he came to Sir *Tohmas*, he would give him no time but a Fortnight to pay the money; *Bolron* deſired but three Weeks time and he would procure him his money; ſo away we came down. Said I, What do you intend to do in this Caſe? Said he, *If he do ſue me, I will do him an ill turn*; and ſoon after he went to *London*, and ſaid, he would go to ſell his Land at *Newcaſtle*: And a while after I went out to ſee if he were come again; and meeting him, it was when he was going to *London* again to carry on his Deſign: Said I, *Robert Bolron*, what do you ſay in this caſe? You are going now to leave the Countrey, and how ſhall I be ſecur'd againſt Sir *Thomas*? Do not queſtion it, ſaid he, for I am to receive on the King's Account 30 *l.*

L. C. J. Upon whoſe Account?

Mr. *Thompſon.* Upon the King's, concerning the taking Sir *T. Gaſcoigne.*

Mr. *Bolron.* But I never had a Farthing of it.

Mr. *Thompſon.* But ſaid he, I will not take it, for another bids me 60 *l.* and I know what *Otes* and *Bedloe* had, and I won't abate a Farthing of that.

L. C. J. When was this?

Mr. *Thompſon.* It was after he had taken him; and on *Holy Thurſday* he did ſay, *If he did ſue him, he would do him an ill turn.*

Then the Lord Chief Juſtice *being to ſit at* Niſi prius *at* Guildhall, *went off.*

William Backhouſe was next call'd.

Mr Juſt. *Jones.* Let him ask *Backhouſe* what he will.

Sir *T. Gaſc.* I would ask him what Threats he gave to his Wife to ſwear againſt her Conſcience, and promiſe of 500 *l.* he ſhould gain by it.

Backhouſe. I ſerved the Warrant to carry the Witneſſes before Eſq; *Lowther* and Eſq; *Tindall*: I was charg'd the 7*th* of *July* laſt to help fetch the Witneſſes before the Juſtices, and to take Sir *T. Gaſcoigne*, I and two of my Sons, and he open'd the Door his own ſelf. When we had taken him, Eſq; *Lowther* directed us to bring the Witneſſes before him, and we did ſo. When we came to *Bolron*'s Houſe, his Wife was ſick on Bed, and I ſaid that ſhe muſt go before the Juſtice of Peace to ſwear againſt Sir *T. Gaſcoigne* for High Treaſon: She ſaid ſhe knew nothing againſt Sir *Thomas*; but *Bolron* ſaid ſhe muſt go, or he would have her drawn at the Cart's Arſe.

Then Hamſworth *was call'd.*

Mr. Juſt. *Jones.* What will he ask him?

Sir *T. Gaſc.* I ask him about the threatning of his Wife.

Hamſworth. May it pleaſe you, my Lord; the ſame day that Sir *T. Gaſcoigne* was taken, *Robert Bolron* came to his Wife and told her, ſhe muſt go to Eſq; *Lowther* to ſwear againſt Sir *T. Gaſcoigne*: She fell a weeping, and would not go by no means; he threatned if ſhe would not go, he would tie her to the Horſe's Tail.

Mr. Juſt. *Dolben.* Did he tell her what ſhe ſhould ſwear?

Hamſworth. I did not hear him, only to ſwear againſt Sir *Thomas*.

Mr. Juſt. *Dolben.* What ſhe knew, was it?

Hamſworth. Yes; and ſhe ſaid, ſhe did not know any thing of miſdemeanour of Sir *Thomas Gaſcoigne* touching his ſacred Majeſty, or the Church Government.

Mr. Juſt. *Jones.* Art thou ſure ſhe ſaid thoſe Words?

Mr. *Mowbray.* My Lord, he is a Papiſt.

Hamſworth. I am a Proteſtant.

Mr. Juſt. *Pemberton.* How long have you been a Proteſtant?

Hamſworth. I was born ſo.

Mr. Juſt. *Jones.* Well, thou haſt added a few fine Words that I dare ſay ſhe never ſaid.

Mr. Juſt. *Pemberton.* Were you never a Papiſt?

Hamſworth. Yes, I was.

Nicholas Shippon was call'd.

Mr. *Mowbray.* This man is a Papiſt too.

Mr. Juſt. *Dolben.* Do you think he is not a Witneſs for all that?

Sir *T. Gaſc.* What Diſcourſe he had *May* 30, the Day after the Race.

Mr. Juſt. *Pemberton.* Well, ask him what you will: What do you ſay?

Shippon. Mr. *Bolron* was with me the 30*th* day of *May*.

Mr. Juſt. *Dolben.* What, *May* laſt?

Shippon. Yes, the Day after *Aſcenſion-day*: He came to my Houſe about Two a Clock in the Afternoon, and ſtaid at my Houſe all that Afternoon while an hour after Sun-ſet before he went away; he came and brought a Letter with him to carry to *Newcaſtle*, and it was ſent away thither.

Mr. Juſt. *Dolben.* Are you ſure it was the Day after *Aſcenſion-day*? How if it ſhould fall out to be another Day?

Shippon. Yes, *Aſcenſion-day* was the 29*th* of *May*; He came to me about Two a Clock.

Mr. Serj. *Maynard.* Pray what reaſon had you to take notice of this?

Shippon. He came and brought a Letter to me that was to go to *Newcaſtle*, and deſired me, that my little Boy might carry it to a Kinſman's Houſe of mine; for he ſaid, he was afraid of the Bailiff, and did not care for ſtirring out; my Wife brought him ſome meat and drink, and he ſaid it was better than he had at home; and ſhe ſaid ſhe was the more ſorry things were no better with him.

Mr. Juſt. *Dolben.* But how came you to take notice that this fell out the 30*th* of *May*?

Shippon. The Night before I met him coming from the Race, which was the 29*th* of *May*, and he asked me if I ſaw any Bailiffs waiting for him? and I ſaid, yes; and he ſaid, it was well if he miſs'd 'em; and he ask'd me if I ſaw *Bennet Johnſon.*

Mr.

Mr. Juſt. *Jones.* How long was it you ſay he ſtaid?

Shippon. He came about Two a Clock, and ſtaid till an hour and half after Sun-ſet.

Mr. Serj. *Maynard.* What Religion are you of, Friend, let us know?

Mr. Juſt. *Dolben.* What ſay you to the truth of this, *Bolron*?

Mr. *Bolron.* My Lord, there is not a word of it true; for I was about Two a Clock at Sir *T. Gaſcoigne*'s; they were marking ſome Sheep, and I was there moſt of the Afternoon.

Mr. Juſt. *Jones.* Were you ever at his Houſe at any other time to ſend any ſuch Letter?

Mr. *Bolron.* I never ſent any ſuch Letter: Indeed that Day I was a little of the Afternoon at his Houſe, but I ſtaid there but half an hour; but I was moſt part of the Afternoon at Sir *T. Gaſcoigne*'s ſeeing them mark Sheep.

Then Roger Gregſon *was call'd:*

Mr. Juſt. *Jones.* What do you ſay to him?

Sir *T. Gaſc.* Let him ſpeak his knowledge.

Mr. Serj. *Maynard.* I deſire he may ask the Queſtion, for he only generally refers to them what they know.

Sir *T. Gaſc.* What did he ſay to you about *Auguſt* laſt?

Gregſon. My Lord, I will tell you: We met about *Auguſt* laſt, *Robert Bolron* and I, about a Week before *Bartholomew* Day: We had ſome Diſcourſe; he came from *London* a little before that, and I ask'd him how Sir. *T. Gaſcoigne* did.

Mr. Juſt. *Dolben.* Was he apprehended in *Auguſt* laſt?

Gregſon. Yes, he was in the *Tower.* He ſaid, Well. I ask'd him how he would come off about the Plot (as they call it)? Said he, he may come off well enough, but it will coſt him a great deal of money. I then did ask, how they came to fall out? And he ſaid it was long of that Rogue *Addiſon*, Brother to the Prieſt, who had call'd him to account, or elſe he had never done Sir *Thomas* that injury; and I ſuppoſe that was the cauſe of it. And then we had ſome more Diſcourſe, and that Diſcourſe was this: He rides a little from me (he was on Horſeback) and came back again; ſaid he, I can tell you, the King was at *Windſor*, and one of the Privy-Council made an attempt to ſtab the King, and the King made his eſcape, and now they will believe my Informations the better.

Mr. Juſt. *Pemberton.* Go on.

Gregſon. That is all I have to ſay.

Mr. Juſt. *Jones.* What are you, a Papiſt?

Gregſon. No, I am no Papiſt, I deny it.

Mr. Serj. *Maynard.* Nor never was?

Gregſon. Nor never was.

Then James Barlowe *was call'd.*

Mr. Serj. *Maynard.* My Lord, I conceive this man ought not to be heard, for he is under an Accuſation of the ſame Crime; and we have had two Orders of Council to apprehend him.

Mr. *At. Gen.* There was an Order of Council within this Fortnight to ſend for him up in Cuſtody.

Mr. Juſt. *Dolben.* There is nothing upon Record againſt him, and you may diſcredit his Teſtimony, but you cannot refuſe him; he is not to come upon his Oath.

Mr. *Sol. Gen. Bolron* ſwears too that he was at the Conſultation. Sir *Francis Winnington.*

Mr. Juſt. *Dolben.* Let us hear him what he ſays; we muſt leave it to the Jury what to believe.

Mr. Serj. *Maynard.* They would queſtion him about Mr. *Bolron*'s cozening, which ought not to be.

Mr. *Sol. Gen.* This man hath ſworn it againſt him.

Mr. *Hobart.* Why did you not indict him, Sir?

Mr. Serj. *Maynard.* Sir, you ought not to prate here.

Mr. Juſt. *Dolben.* Come, I doubt you are a little too pragmatical.

Mr. Juſt. *Jones.* If you had any Record of the Indictment to ſhew againſt him, we would not examine him.

Mr. *Hobart.* Will you ask him any Queſtions, Sir?

Sir *T. Gaſc.* You know, Sir——

Mr. Serj. *Maynard.* That is not proper, he tells him what he knows.

Mr. Juſt. *Pemberton.* Look you, Sir, we did not intend that you ſhould come here to manage all as a Counſel; it was ſaid, he could not hear well, and ſo you were only to tell him what was ſaid.

Sir *T. Gaſc.* I would ask him what he does know concerning taking of money, and ſtealing from me?

Mr. Juſt. *Dolben.* But that muſt not be asked. [*Which* Hobart *told him.*

Sir *Tho. Gaſc.* Then you muſt tell me what I muſt ask.

Mr. Juſt. *Pemberton.* Come, you have been pragmatical, Sir, and made him a Brief, and he cannot manage it without you.

Mr. Serj. *Maynard.* Did you write this Brief? [*Meaning a Brief in Sir* Tho. Gaſcoigne's *Hand.*

Mr. *Hobart.* No, an't pleaſe you, Sir.

Then Mr. Ravenſcroft *offered to ſpeak what this Witneſs had told him.*

Mr. Juſt. *Dolben.* Look you, Mr. *Ravenſcroft*, if what he ſays tend any thing to this Buſineſs, that Sir *Tho. Gaſcoigne* comes to know of his ſtealing, and then turn'd him out of his Service, it is material; but if you come to tell a Story here of another man's Knowledge, we can't ſpend our time ſo.

Mr. *Ravenſcroft.* It was not known but laſt Night to me; and if you will not let me tell you what it is, how ſhould you know it?

Mrs. *Ravenſcroft.* He is a chief Witneſs for my Grandfather, and I deſire he may be heard, for he diſcover'd it but laſt Night to my Husband.

Mr. Juſt. *Dolben.* If it tend any thing to this Buſineſs, that Sir *Thomas* turn'd him out of Doors, and therefore this Man bears him an ill Will.

Mr. Juſt. *Pemberton.* We had as good hear Mr. *Ravenſcroft* however; but pray Sir, make your Story ſhort.

Mr. *Ravenſcroft.* He came to me and ſaid theſe Words, *I have kept a Secret a long while, in which I have done very ill*——

Mr. Juſt. *Pemberton.* Then it does not tend at all to this Affair; for you muſt not come to tell a ſtory out of another man's mouth.

Mr. Juſt. *Dolben.* Pray ſit ſtill, Sir, and be quiet.

Mr. Juſt. *Jones.* Indeed you muſt be ſatisfy'd.

Mr.

Mr. Juſt. *Pemberton.* If you have any other Witneſſes, call them, and do not ſpend our time.

Mr. Juſt. *Jones.* For the Jury muſt be told, that 'tis no Evidence coming out of another man's mouth.

Mr. Juſt. *Dolben.* 'Tis as if a man ſhould come and ſay, I can ſay ſomething for Sir *T. Gaſcoigne*, when I know nothing but what another man told me.

Mr. Juſt. *Jones.* Ask Sir *Thomas* if he would have this *Barlowe* examined?

Sir *T. Gaſc.* Yes.

Mr. Juſt. *Pemberton.* Then what Queſtions will you ask him?

Sir *T. Gaſc.* What Conſpiracy was had to take away a great deal of money from me; and how he concealed it becauſe he would not do him a miſchief?

Mr. Juſt. *Dolben.* What is that to Sir *Thomas*'s Life?

Mr. *Ravenſcroft.* I cannot tell you by bare Aſſertion, but if you will hear what I have to ſay, do. Laſt night, late at night, about nine a Clock, *Barlowe* came to me, ſays he, Mr. *Ravenſcroft*——

Mr. Juſt. *Dolben.* Come, don't tell us the Preamble, but the Story.

Mr. *Ravenſcroft.* Said he, I have a thing that ſticks upon my Thoughts, which I doubt may endanger Sir *Thomas*'s Life.

Mr. Juſt. *Dolben.* Well, was it about taking Money?

Mr. *Ravenſcroft.* Said he, If I am ſilent I doubt it will coſt Sir *Thomas* his Life. Then I asked him what it was? Says he, Mr. *Mowbray*, who is a Witneſs in this Court, and I, did juſt a little before his going away, combine, or rather he did ſeduce me——

Mr. Juſt. *Pemberton.* Was it about Money?

Mr. *Ravenſcroft.* Money is in the Caſe.

Mr. Juſt. *Dolben.* He did conſpire what to do?

Mr. *Ravenſcroft.* If you will hear me, I will tell you.

Mr. Juſt. *Jrnes.* Pray do it quickly then.

Mr. *Ravenſcroft.* Did combine to rob Sir *Thomas* of a great Sum of Money; and whereas I held my Tongue, thinking not to ſpill his Blood, I ſee now if I do not tell the truth, I ſhall make good his Credit, and ſo endanger Sir *Thomas*'s Life.

Mr. Juſt. *Dolben.* Well, I'll ask you, or any man alive now; Two men combine to rob Sir *Thomas*, whether one man be a competent Witneſs againſt the Credit of the other Witneſs? He makes himſelf a Rogue by combining, and you have made him a Knave by his own Confeſſion.

Mr. *Ravenſcroft.* I may perhaps err in that word; he did not ſay, combine, but the other ſeduced him.

Mr. Juſt. *Dolben.* You have told a Story to no purpoſe.

Mr. Juſt. *Pemberton.* You think it a fine thing to be a Catholick, and to appear brisk for them.

Mr. *Ravenſcroft.* Who ſays I am a Catholick?

Then George Dixon *appear'd.*

Sir *Tho. Gaſc.* What do you know of any Conſpiracy of theſe People againſt me?

Dixon. My Lord, I was at *William Batley*'s in *Auguſt* laſt in the Morning at ten a-Clock, and Mr. *Bolron* and Mr. *Mowbray* came in, and called for a Flaggon of Drink, and when it was brought, they fell into a Diſcourſe together concerning Sir *Thomas Gaſcoigne* and my Lady *Tempeſt*. Says Mr. *Mowbray*, I know nothing of Sir *Thomas* but that he is a very honeſt Man.

Mr. Serj. *Maynard.* He was not bound to tell you what he knew.

Mr. Juſt. *Jones.* When was this, in *Auguſt* laſt?

Dixon. Yes; but, ſaid he, if I knew any thing againſt my Lady *Tempeſt*, I would diſcover it, for I would hang her if I could. And they ſate down at Mr. *Batley*'s Houſe to conſult what they ſhould do.

Mr. Juſt. *Pemberton.* Before you?

Dixon. Yes. I heard every word.

Mr Juſt. *Jones.* And what did they ſay?

Dixon. They ſaid they would meet at Mr. *Bolron*'s Houſe, and if they would compleat their Buſineſs they ſhould be very well gratified.

Mr. Juſt. *Dolben.* Againſt whom?

Dixon. Againſt my Lady, and Sir *Thomas.*

Mr. Juſt. *Dolben.* But you ſay, *Mowbray* ſaid he knew nothing againſt Sir *Thomas Gaſcoigne*?

Dixon. No; he ſaid he knew no Hurt by them.

Mr. Juſt. *Dolben.* How come they to ſay they would contrive their Buſineſs?

Mr. *Mowbray.* What man is that, Mr. *Bolron*?

Mr. *Bolron.* I know him not, nor ever held any ſuch Diſcourſe.

Mr. *Mowbray.* Nor I.

Mr. Juſt. *Jones.* How far do you live off one from another?

Dixon. I live at *Leeds*, Mr. *Mowbray* knows me.

Mr. *Mowbray.* I don't know that ever I ſaw you.

Dixon. He hath drunk with me.

Mr. *Mowbray.* I know him not, nor where he dwells.

Mr. Juſt. *Dolben.* What Trade are you of?

Dixon. A Cloth-dreſſer by Trade, but I keep a Publick-Houſe.

Mr. Juſt. *Dolben.* This Diſcourſe was at *Leeds*, was it not?

Dixon. Yes.

Mr. Juſt. *Dolben.* They ſay both, they do not know you, nay they ſwear it. And 'tis very like you were but very little acquainted, would they let you hear them talk thus?

Dixon. We were as well acquainted as can be, but that he will deny it.

Mr. *At. Gen.* Pray what Religion are you of?

Dixon. A Proteſtant.

Mr. *At. Gen.* How long have you been ſo?

Dixon. All the Days of my Life.

Mr. *At. Gen.* I can't but wonder at the Strangeneſs of your Acquaintance.

Mr. *Mowbray.* My Lord, I have not drunk at that place which is near the old Church at *Leeds*, not this two Years.

Then William Batley *was called.*

Batley. And if it like your Honour, theſe two Gentlemen Mr. *Bolron* and Mr. *Mowbray*, came to my Houſe, and called for a Pot of Drink.

Mr. *At. Gen.* Do you not know this man neither?

Mr. *Mowbray.* Yes, I do, but I was never three times in his Company in my Life.

Batley.

Batley. I filled them a Flaggon of Ale, and when I had done I left them. They began to diſcourſe of the Plot, and Sir *Tho. Gaſcoigne*; and Mr. *Bolron.*——

Mr. Juſt. *Dolben.* At your Houſe, where is your Houſe?

Batley. My Houſe is near the old Church at *Leeds.*

Mr. Juſt. *Dolben.* Is that the ſame place the other Man ſpeaks of?

Batley. Yes. Says Mr. *Bolron* to him, Thou knoweſt that Sir *Tho. Gaſcoigne* hath been very ſevere againſt thee and me, and now here is an Opportunity offered us to take a Revenge upon Sir *Tho. Gaſcoigne*: *Mowbray* replyed again, As for Sir *Thomas*, he is a very honeſt man, and I know no hurt by him; but as to my Lady *Tempeſt*, if I knew any thing againſt her I would hang her, for I would diſcover it. But thou knoweſt, ſays *Bolron*, that Sir *Thomas* ſues and troubles me, and if I do not make ſomewhat out againſt him, he will ruine me, and it muſt be done by two Witneſſes. To which Mr. *Mowbray* anſwered again, How ſhall we bring this Buſineſs about? If thou wilt but come to my Houſe, ſaid he, I will put thee in a way to contrive it, and we ſhall have a conſiderable Reward. And *Mowbray* told him he would come to him ſuch a Day.

Mr. Juſt. *Dolben.* Was that Man that went out laſt, with you all the time they ſpake?

Dixon. Yes.

Mr. Juſt. *Dolben.* He does not ſay half ſo much as you do.

Mr. Juſt. *Pemberton.* Were you in the Room?

Batley. No, I was at the Stairs Head.

Mr. Juſt. *Pemberton.* What did you ſtand there for?

Batley. I hearing them diſcourſing of Sir *Tho. Gaſcoigne*, hearked what they did ſay.

Mr. Juſt. *Dolben.* The other man ſaid he was in the Room with them; Were you in the Room?

Batley. I ſtood upon the Stairs.

Mr. Juſt. *Jones.* Were you in their Company at all that Day?

Batley. Yes, my Lord, I carry'd up a Flaggon of Ale.

Mr. Juſt. *Jones.* Was the Door left open.

Batley. Yes.

Mr. Juſt. *Dolben.* Would any men talk in ſuch a Place as this, that all the World may hear them, when they are contriving to take away a man's Life?

Mr. Juſt. *Pemberton.* You were in the ſame Room, *Dixon*, were you not?

Dixon. They were at the *Grice* Head, and we at the Foot.

Mr. Juſt. *Jones.* But the other ſays, he was at the top of the Stairs, the head of the Stairs.

Dixon. We were at the Stairs Foot, and they were in the Room.

Batley. The Table they ſate at, joined juſt upon the Head of the Stairs.

Mr. Juſt. *Jones.* Did you hear them down to the Stairs foot?

Dixon. We did ſtand there to hear them diſcourſe.

Mr. Juſt. *Dolben.* Could you ſee them where you were?

Dixon. Yes, as fair as I ſee you.

Mr. Juſt. *Dolben.* Could they ſee you?

Batley. No, they could not.

Dixon. Yes, if they had looked down.

Mr. Juſt. *Dolben.* Why then I ask you, Do you think, if you ſtood in ſo open a Place to be ſeen, and they had ſeen you, can you imagine that they would talk ſo about taking away Sir *Tho. Gaſcoigne's* Life?

Batley. I do imagine they did not know I was there, nor believe any one heard or ſaw.

Mr. Juſt. *Pemberton.* Do you know how they came there?

Batley. They ſaid they came out of *Leeds*, and ſaid, one Mr. *Legat* was to come that way, who they were to ſpeak with.

Mr. Juſt. *Jones.* I ask you, if you were in the Room under them?

Batley. And if it like your Lordſhip, I ſtood at the Stair's-foot.

Mr. Juſt. *Jones.* Juſt now you ſaid it was at the Stair's head.

Mr. Juſt. *Pemberton.* Did you ſay any thing to them about this?

Batley. No, I did not open my Lips to them about it, but I told it to a Friend about three or four Weeks after.

Mr. Juſt. *Jones.* To whom?

Batley. To a Neighbour of mine: I ſuppoſe it was told Mr. *Babbington.*

Mr. Juſt. *Dolben.* What ſay you, Mr. *Babbington?* How came you to know of this?

Mr. *Babbington.* When the Commiſſioners of *Oyer* and *Terminer* were ſitting at *Leeds*, there was one came and told me, *George Dixon* could afford me ſomething that would be very advantageous for the Benefit of Sir *Tho. Gaſcoigne.*

Mr. Juſt. *Dolben.* Who was that man?

Mr. *Babbington. Bennet Johnſon*, or *Francis Johnſon.*

Mr. Juſt. *Dolben.* Was that the man you ſpoke to?

Batley. No, I ſpoke it to a Smith, one *Richard Loftus.*

Mr. *Babbington.* I'll tell you another Perſon I heard it from, that was Mr. *Bailiff* of *Leeds.*

Mr. Juſt. *Pemberton.* Well, was this the common Diſcourſe of *Leeds?*

Mr. Juſt. *Dolben.* He ſays ſo. Was it then preſently?

Mr. *Babbington.* The Bailiff did not tell me ſo ſuddenly.

Mr. Juſt. *Dolben.* Would it not have been to your purpoſe to have brought the Bailiff here?

Mr. *Babbington.* It was after the Commiſſion of *Oyer* and *Terminer* that I had it from him, which was in *October.*

Mr. *Bolron.* In the time of *Auguſt* I was not at *Leeds*, I was in *Northumberland* ſearching for Prieſts, and in the Biſhoprick of *Durham*, all but a little of the firſt of it.

Then Mrs. Jefferſon *was called.*

Mr. Juſt. *Pemberton.* What do you ask her?

Sir *Tho. Gaſcoigne.* Pray be pleaſed to ſpeak to the Conſpiracy and Combination againſt me.

Mr. Juſt. *Jones.* Whoſe Combination? Come, Miſtreſs, what do you know?

Jefferſon. I asked Mr. *Mowbray* one time, what he knew concerning Sir *Tho. Gaſcoigne?* And he ſaid, he knew nothing, but Sir *Thomas* was a very honeſt Gentleman for what he knew, and the beſt Friend he had.

Mr. Juſt. *Jones.* Is that all you know?

Jefferſon. He thought he was wrongfully accuſed.

Mr.

Mr. Juſt. *Pemberton.* When was this? Was this after the time he was accuſed by *Bolron*?

Jefferſon. It may be it might be, I think it was in *Auguſt.*

Mr. Juſt. *Jones.* In *Auguſt* laſt?

Jefferſon. Yes.

Mr. Juſt. *Dolben.* But you muſt needs know (it was the talk of the Countrey) when Sir *Thomas Gaſcoigne* was ſent for up to Town; was it after that time?

Jefferſon. Yes, I think it was.

Mr. Juſt. *Jones.* Then you ſay, you heard *Mowbray* ſay that Sir *Tho. Gaſcoigne* was an honeſt Gentleman, and he could ſay nothing againſt him?

Jefferſon. Yes, ask him elſe.

Then Matthias Higgringil *was called.*

Mr. Juſt. *Dolben.* Was he one at the meeting?

Mr. *Bolron.* He was at the ſealing the colluſive Conveyance.

Mr. Juſt. *Jones.* This *Higgringil* is a Proteſtant, is he not?

Mr. *Bolron.* I know not, I think ſo.

Mr. Juſt. *Dolben.* Come Sir, what ſay you in this matter?

Higgringil. To whom?

Mr. Juſt. *Dolben.* What can you ſay to the Buſineſs about Sir *Th. Gaſcoigne*?

Sir *T. Gaſc.* Speak to the Threatnings to take away my Life.

Higgringil. I have nothing to ſay to *Bolron*; but *Mowbray* on the 25*th* of *September* laſt, being at an Alehouſe, Mr. *Legat* and he were together, conſulting how to diſgrace Sir *Thomas*, and take away his Life; and he calls me out to ſpeak with me: Now, ſaid he, I ſhall match them, for they have done what they could to diſgrace me.

Mr. Juſt. *Jones.* How did he mean that?

Higgringil. I ſuppoſe he had taken away ſome money and gold, and they ſpoke of it, and that was to diſgrace him.

Mr. Juſt. *Dolben.* Was it charged upon him?

Higgringil. It was ſuſpected always he had taken it away.

Mr. Juſt. *Dolben.* But was there any ſuch thing talked of in the Countrey?

Mr. Juſt. *Jones.* What did he ſay to you?

Higgringil. He ſaid, they did what they could to diſgrace him, and take away his Life, and he would requite them.

Mr. Juſt. *Pemberton.* Who they?

Higgringil. Sir *Thomas Gaſcoigne* and my Lady *Tempeſt.*

Mr. Juſt. *Pemberton.* Why? Did Sir *Thomas* indict him?

Higgringil. No; but the noiſe was about the Countrey.

Mr. Juſt. *Dolben.* When was this? In *September* laſt?

Higgringil. Yes.

Mr. Juſt. *Dolben.* What Profeſſion are you of, *Higgringil*?

Higgringil. An Husbandman: I graze, and I farm a Farm.

Mr. Juſt. *Dolben.* You know this man, do you not, Mr. *Mowbray*?

Mr. *Mowbray.* Yes, Sir *Thomas* employs him, he is a kind of Collector to him.

Mr. *Ravenſcroft.* He is no Papiſt.

Then Francis Johnſon *appeared.*

Mr. Juſt. *Dolben.* Well, come, what do you know?

Johnſon. He hath ſuſtained great Loſſes by him.

Mr. Juſt. *Dolben.* He! Who?

Johnſon. Sir *Thomas Gaſcoigne.*

Mr. Juſt. *Dolben.* By whom?

Johnſon. By Mr. *Bolron.*

Mr. Juſt. *Dolben.* What Loſs hath he received?

Johnſon. The very firſt month he entred, he wronged him of 3 *l.*

Mr. Juſt. *Jones.* How do you know that?

Johnſon. I caſt up the Accompt my ſelf.

Mr. Juſt. *Jones.* But he kept him 2 years after that?

Johnſon. Yes, he did.

Mr. *Bolron.* My Lord, I loſt 3 *l.* the firſt three Weeks, and Sir *Thomas* forgave me it, I don't deny it.

Mr. Juſt. *Dolben.* Do you know of any malice between them, and that he ſaid he would do him any miſchief?

Johnſon. No.

Then Mr. Pebles, *Clerk of the Peace in the County of* York, *was called.*

Sir *T. Gaſc.* I would deſire you to ſpeak of the Carriage of Mr. *Bolron* to you, Sir, what you know.

Mr. *Pebles.* My Lord, I was in *York* laſt Aſſizes, and Mr. *Bolron* came to me into a Room, where I was with ſome Gentlemen, and asked me how I did? And asked me if I did not know him? I told him I did not remember him; ſaid he, I am the Proſecutor againſt Sir *Th. Gaſcoigne.* So when he was ſat down, after a little while, he deſired to diſcourſe with me; and asked me, If a man was indicted as a Traytor, whether it were fit to pay him money? I owe, ſaid he, Sir *Th. Gaſcoigne* money, and I would know whether it be fit to pay it to him? Said *I*, I think you may ſafely pay him his money before he be convicted, but then 'tis the King's, in my Opinion. Nay, ſaid *Bolron*, he is ſure to be convicted: Then ſaid I, I think it not ſafe to pay it, therefore I leave that to your own Diſcretion, whether you will or no. A little after he deſired to have my Opinion concerning the two Judges that came our Circuit, for I am mightily abuſed by them, ſaid he, they will not at all give me Audience; I came from the King and Council, and they ſlight me, and will not hear me ſpeak: Said I, I believe if you will go to them, they will hear you. I went to ſpeak with them, and they ſent ſome of their Servants out to know what I would ſay to them; but I have writ a Letter to them to tell them my mind; but ſaid I, I can't believe that any one will preſume to carry ſuch a Letter; but for that I will leave it to you. So I came away from him; and after he follows me out, and deſires to ſpeak with me again: Said he, I have ſomething againſt you concerning this Buſineſs in hand, I can do you a prejudice if I will: Said I, God bleſs me, I know nothing of it, I do not at all intend to court your favour, I have no mind at all to that: Said he, I will not do it; and he ſpoke as if he had no deſire to do it; I would not court him,

but

but came away and left him: He followed me to the Street again, and ſaid, will you help to apprehend a Traytor? Who is it, ſaid I? It is a Gentlewoman, ſaid he; a Woman greatly concerned in the Plot; you may apprehend her in the Street, and 'tis the beſt time. Now the Street was full, and I thought it a little unſeaſonable; ſo he looked after me, but I never offered to go from him: But, ſaid I, was ſhe in the Plot? Yes, ſaid he, ſhe was to be the firſt Lady Mayoreſs of *York* after the Plot took effect, and the King was killed; but he did not lay hold upon her; ſo I parted with her; then, ſaid he, I can have no reſpect; ſaid I, I have nothing to do with you; I am Clerk of the Peace of the *Weſt Riding* in this County, and am always ready to do my Duty there; ſo away I went and left him. The next News I heard was, he had procured a Warrant of the Council againſt me; and he brings the Warrant to a Juſtice of Peace, and that Juſtice of Peace told him, there would be ſeveral Juſtices of Peace at *Leeds* within two or three days after, and then they would examine the Buſineſs. I chanced to be in a Room with ſome Gentlemen, not knowing of the Warrant that was out againſt me, and this Gentleman that was the Juſtice of Peace called me into another Room, and told me of this Buſineſs: I admired at it, and told him I did know nothing of it, nor that I had diſobliged him, unleſs it was becauſe I did not give him the Complement and Ceremony of my Hat, nor give him mony, neither did I know what Information he had procured that Warrant upon. He told me Mr. *Mowbray* and Mr. *Bolron* were in Town: So I deſired him to ſend for the other Juſtices into the Room, where he acquainted them with the matter, and ſaid he, if you will, we will examine it to night; ſo they ſent notice to Mr. *Mowbray* and Mr. *Bolron*, that they would examine the Buſineſs that night at 6 a Clock; and they came; and he was asked what he had to ſay againſt me? He ſaid I had taken money for keeping a man from taking the Oath of Allegiance, and they had Witneſſes to prove it——

Mr. Serj. *Maynard*. Muſt he be here admitted to make his own Defence?

Mr. Juſt. *Dolben*. Brother, let him go on.

Mr. *Pebles*. The Witneſs was called upon, and they asked him to that point, and he denied abſolutely upon his Oath that he gave me any money, and alſo ſwore, he had taken the Oath when it was tendred to him. Then, my Lord, there was one Mr. *Dunford* an Attorney was ſpoken of, as if he could prove ſomething, but he was 14 miles off, and they could not ſend for him, and ſo I begg'd they would appoint another time for hearing when he could be there; they appointed *Monday* following, and ordered me to attend, and one of the Juſtices of the Peace undertook to give *Dunford* notice. Accordingly I came there, but there was no Mr. *Bolron* nor Mr. *Mowbray*; but I deſired that Mr. *Dunford* might be examined upon his Oath, and they did take his information in writing, and he ſwore he knew nothing of it, neither did he ever give me money upon any ſuch account.

Mr. Juſt. *Dolben*. You were not by when it was ſworn?

Mr. *Pebles*. I ſaw the Examination taken in writing.

Mr. Juſt. *Pemberton*. And you were diſcharged?

Mr. *Pebles*. Yes, for he could not make out any thing at all.

Mr. Juſt. *Pemberton*. It was well for you he could not make it out.

Mr. *Pebles*. They ſaid they could prove it, and vouched theſe two Perſons, but both denied it upon their Oaths.

Mr. Juſt. *Dolben*. Is that all you know?

Mr. *Pebles*. That is all I can ſay in particular; I have not a mind to ſpeak againſt him in general, becauſe he is the King's Evidence.

Mr. Juſt. *Dolben*. You can ſay nothing of his Repute?

Mr. Juſt. *Pemberton*. You were a Stranger to him, you did not know him.

Sir *T. Gaſc*. I deſire he may ſpeak what Reputation he hath among the Juſtices.

Mr. *Pebles*. I have no mind to reflect on the King's Evidence, and if I did, it would ſeem as if I ſhould ſpeak in malice; he hath done me wrong, but I never did him any.

Mr. Juſt. *Jones*. But what is his Reputation generally?

Mr. *Pebles*. Truly, 'tis not very good in the Countrey.

Mr. Juſt. *Jones*. Among whom?

Mr. *Pebles*. The Grand Jury and the Gentlemen of the Countrey?

Mr. Juſt. *Jones*. Is it a Common Fame in the Countrey.

Mr. *Pebles*. Moſt People diſcourſe ill of him.

Mr. Juſt. *Dolben*. Did he ſay he did not ſpeak with the Judges?

Mr. *Bolron*. No, my Lord, I did not.

Mr. Juſt. *Dolben*. You did ſpeak with us; indeed you would have had us allowed you a Guard for your ſafety, which we could not do.

Mr. *Bolron*. Whereas he ſays I gave in a wrong information; this ſame *Hunt* when he came before them confeſſed he gave him 40 *s*. but he would not ſwear for what it was.

Mr. Serj. *Maynard*. 'Tis nothing to the purpoſe one thing or other that he hath ſaid.

Mr. Juſt. *Dolben*. 'Tis altogether uncertain; no body knows what to make of it.

Then Hardwicke *was called.*

Sir *T. Gaſc*. Do you ſpeak what Threats *Bolron* hath uſed to his Wife to ſwear againſt me.

Hardwicke. When the Purſuivants came up to *Barmbow*, the chief Conſtable ordered me to aſſiſt Mr. *Bolron* in Execution of the Warrant, and to carry the Witneſſes before a Juſtice. We went to *Robert Bolron*'s Houſe to take the Witneſſes, and there was his Wife, his Brother, and his Siſter: We were to carry them before a Juſtice, and they refuſed to go; his Wife pretended to be ſick and could not go, and they begg'd of us to excuſe them.

Mr. Juſt. *Dolben*. Who do you call they?

Hardwicke. His Wife, his Brother and his Siſter: *Bolron* told them they muſt go, and *William Backhouſe* and I ordered them by all means to go along with us, I ſuppoſe it was to teſtifie what he had ſworn.

Mr. Juſt. *Jones*. What were they to do, did he tell them?

Hardwicke. They were to go to tell what his

Teſtimony was above, as well as I underſtood the Diſcourſe.

Mr. Juſt. *Dolben.* We have had 2 Perſons to this purpoſe before. They ſay he would have his Wife go, and ſhe refuſed to go, and cried; but they do neither of them ſay he preſſed her to ſpeak any thing more than ſhe knew, or againſt her knowledge.

Mr. Juſt. *Pemberton.* No, one of the Witneſſes ſaid, he told her it was to ſpeak her knowledge.

Then William Clow *was examined.*

Mr. Juſt. *Dolben.* Come, what ſay you?

Clow. The 21*d* of *May* laſt I had a Writ againſt *Bolron*, and my man arreſted him and brought him to my Houſe.

Mr. Juſt. *Dolben.* At whoſe Suit?

Clow. At the Suit of one *Higgringil* that was Servant to Sir *Thomas*, and there I had him 2 Days and would not carry him to the Gaol, for he begg'd of me I would not; but then I told him I would keep him no longer there, for he had no money for Lodging and Diet; but he begg'd ſo hard of me that I would but tarry till *Higgringil* came, and then he did not care what they did with him; for he would make Sir *Thomas* pay *Higgringil* his Debt that he owed him, or he would play him ſuch a Trick as he little dreamt of.

Mr. Juſt. *Dolben.* When was this?

Clow. The 21*ſt* or 22*d* of *May* laſt, or thereabouts.

Mr. Juſt. *Dolben. May* laſt?

Clow. Yes. And ſo *Higgringil* came over, and they did agree, and he gave him a Leaſe of an Houſe he lived in, and *Higgringil* took the charge of both the Debts upon him.

Then Hobart *ſtood up:*

Sir T. *Gaſc.* Speak whether he pretended he writ a Letter to the Duke of *Monmouth* from *Leeds.*

Mr. *Hobart.* My Lord, I have nothing to ſay to that.

Mr. Juſt. *Jones.* What can you ſay then?

Mr. *Hobart.* All I can ſay is to the ſums of money returned to Town.

Mr. Juſt. *Dolben.* He did not mention that.

Mr. *Hobart.* If you pleaſe to let me declare what I know about the returning of the money.

Mr. Juſt. *Pemberton.* Pray ſpeak what you know of your own Knowledge.

Mr. *Hobart.* For moſt part of it I know of the payment of it, and to whom; 1800 *l.* there was paid to Mr. *Trumbal* about the purchaſe, it was paid at Mr. *Mawſon*'s, I was a Witneſs to the Deed, and to the Receipt.

Mr. *At. Gen.* That is ſome, but what to the reſt?

Mr. *Hobart.* 200 *l.* was paid to a Client of mine, 80 *l.* was paid to one Widow *Cawſon* that was upon Bond.

Mr. Juſt. *Dolben.* How much was paid to Mr. *Corker?*

Mr. *Hobart.* Several ſums, above 300 *l.* paid to *Corker* in 6 years time.

Mr. Juſt. *Pemberton.* Nay in 4 years time.

Mr. *Hobart.* This 300 *l.* and 300 *l.* before I drew the Receipt for, and commonly he ordered me when Mr. *Corker* came for it, that I ſhould have a Receipt from Mrs. *Mary Appleby*, and it came back ſigned by her, to whom Sir *Thomas* was Guardian.

Mr. Juſt. *Dolben.* And was all this money paid to *Corker* upon the account of this *Appleby*?

Mr. *Hobart.* It was mentioned in the Receipt.

Mr. Juſt. *Dolben.* How much was ſhe to have by the year?

Mr. *Hobart.* 100*l.* by the year, or 2 ſometimes.

Mr. Juſt. *Dolben.* How came ſhe to have 900 *l.* in 4 years?

Mr. *Hobart.* My Lord, I will tell you; for that there was a great Arrear upon a ſuit between Sir *Thomas* and Mr. *Appleby*, this Mrs. *Appleby*'s Father; and upon the hearing of the Cauſe, my Lord Keeper *Bridgman* was pleaſed to order, that this money ſhould be paid to Sir *Thomas* for the uſe of the Daughters; 200 *l.* a year, that is 100 *l.* a piece; and there was an Arrear for 3 or 4 years during the ſuit, about 2 or 300 *l.* it was; I drew a Receipt for it, and Sir *Thomas* being preſſed for the money by Mrs. *Appleby*, who went beyond ſea, he ſent to *Corker* to get the money returned to her.

Mr. Juſt. *Dolben.* Ay, but you dance about the Buſh; was there an Arrear of 500 *l?*

Mr. *Hobart.* For 3 or 4 years, and Mrs. *Ravenſcroft* was one of the Siſters, her part was paid when ſhe was married, but this Gentlewoman's was paid beyond ſea.

Mr. Juſt. *Dolben.* Were the Arrears from Sir *Thomas* to the Gentlewoman beyond ſea?

Mr. *Hobart.* Yes.

Mr. Juſt. *Dolben.* Are you ſure there was?

Mr. *Hobart.* Yes, Sir *Thomas* told me ſo.

Mr. Juſt. *Pemberton.* Who was to pay this money?

Mr. *Hobart.* Mr. *Appleby*, by Order of my Lord Keeper.

Mr. Juſt. *Jones.* Sir *Thomas* was Guardian, was the Eſtate in *Yorkſhire?*

Mr. *Hobart.* It did ariſe out of Rents there.

Then one Culliford *was called.*

Mr. Juſt. *Dolben.* What ſay you? What do you know of this matter?

Culliford. This Gentleman lodged at ſuch a time at my Houſe, the 4*th* of *June*, 1677. he was at my Houſe 7 Weeks, and he was gone 3 Weeks, and returned again; he was 3 Weeks away.

Mr. Juſt. *Jones.* What Gentleman was this?

Culliford. Mr. *Mowbray.*

Mr. Juſt. *Dolben.* What is that to the purpoſe?

Mr. Juſt. *Jones.* How do you apply that?

Mr. *Hobart.* Mr. *Mowbray* hath ſaid he ſent a Letter to the Duke of *Monmouth.*

Mr. Juſt. *Dolben.* There hath been no mention made of any ſuch thing: Have you any more Witneſſes?

Mr. *Hobart.* No.

Mr. Juſt. *Dolben.* Then ask Sir *Thomas* what he hath to ſay for himſelf.

Mr. *Hobart.* Have you any thing to ſay to the Court for your ſelf?

Sir T. *Gaſc.* No, I refer my ſelf to the Judgment of the Court.

Then a Woman Witneſs appeared.

Sir T. *Gaſc.* What do you know concerning *Mowbray*, whether he was ſuſpected of ſtealing when he was at my Houſe?

Witneſs. Yes, he was, my Lord; he would have given me 5 *l.* to have gone away, and he did

did intend to have clapped me in Priſon, and laid it all upon me.

Mr. Juſt. *Dolben.* How do you know that ?

Witneſs. He told me ſo.

Mr. *Mowbray.* This is a Common Woman and not to be believed.

Mr. Serj. *Maynard.* My Lord, we will reply but one ſhort thing in matter of Evidence. Much of this that hath been given by the Defendant hath been to take off the Credit of the Witneſſes, and for *Bolron* they would ſuggeſt that he hath been diſhoneſt to Sir *Thomas*, but when Sir *Thomas* himſelf was examined to that Point before the Council, he ſaid he found him honeſt, but only accounted him a Fool.

Mr. Juſt. *Dolben.* That is proper for you to do now Brother.

Mr. Serj. *Maynard.* And Sir *Thomas* being examined about *Ruſhton*, he ſaid he did not know ſuch an one, and then afterwards he did ſay he knew one of that name. Here is Sir *John Nicholas* the Clerk of the Council. [*Who was ſworn.*

Mr. *At. Gen.* Pray Sir, do you know what Sir *Thomas Gaſcoigne* ſaid at the Council-Table?

Sir *John Nicholas.* He was aked whether he knew *Bolron*, he ſaid he knew him very well, he had been his Servant till within this Twelvemonth or ſomething more, but for his Honeſty he had nothing to ſay to it, till of late that he had not behaved himſelf ſo well in giving Informations againſt him. But he did find him now what he did always take him to be, a Fool.

Mr. Juſt. *Dolben.* What did he ſay about *Ruſhton*?

Sir *John Nicholas.* At firſt he did ſay, he did ont know *Ruſhton* the Prieſt, but after it was brought to his memory, he ſaid he knew one of that Name.

Mr. *At. Gen.* 'Tis taken down in the Minutes, Sir *John* look upon them.

Sir *John Nicholas.* He denied at firſt that he knew *Ruſhton* the Prieſt, and afterwards the next time he came to the Council, he ſaid he did deny it, becauſe he was afraid of an old Law againſt Harbouring of Prieſts.

Mr. *At. Gen.* If your Lordſhip pleaſe we will now trouble you with a Witneſs or two in anſwer to what *Backhouſe* and *Hardwick* have ſaid as to *Bolron*'s threatning of his Wife. We will call the Wife to give you an Account of that.

Mr. Juſt. *Dolben.* They did not charge him that they preſſed her to ſwear falſely.

Mr. Juſt. *Pemberton.* That does not at all touch upon the Witneſs.

Mr. *At. Gen.* If the Court be ſatisfied we will trouble you with that no further.

Mr. Juſt. *Jones.* I believe *Backhouſe* did ſay, That this *Bolron* would have his Wife go before the Juſtice of Peace, ſhe ſaid ſhe knew nothing at all, yet he would have her go and teſtifie her Knowledge, and if ſhe would not, he would have her dragged at the Horſe's Tail.

Mr. *At. Cen.* I think 'tis neceſſary to call a Witneſs or two to that. Firſt to call her her ſelf. [*Then Mrs.* Bolron *was ſworn.*

Mr. *At. Gen.* What did your Husband threaten you to make you ſwear againſt Sir *Tho. Gaſcoigne*?

Mr. Juſt. *Dolben.* Now you are upon your Oath ſpeak the truth.

Mrs. *Bolron.* No, never in his Life did he threaten me upon any ſuch Account.

Mr. Juſt. *Dolben.* Do you remember when the Conſtable came down to have you go before Eſq; *Lowther* ?

Mrs. *Bolron.* Yes, my Lord.

Mr. Juſt. *Dolben.* How chance you did not go with him ?

Mrs. *Bolron.* I was unwilling to go then, becauſe I could ſay little to the purpoſe.

Mr. Juſt. *Dolben.* Did he uſe any Threats to you to make you ſwear againſt Sir *Thomas* ?

Mrs. *Bolron.* No, my Lord, but he would have me go, whether I ſaid any thing or no.

Mr. Juſt. *Dolben.* Did he ever deſire you to ſpeak any thing you did not know ?

Mrs. *Bolron.* No, my Lord, never in his life.

Mr. *At. Gen.* My Lord, Mr. *Bolron* deſires to have this Woman his Grand-mother be asked whether he threatned his Wife ? [*And ſhe was ſworn.*

Mr. *Sol. Gen.* She was by at that time.

Mr. Juſt. *Dolben.* Were you by at that time when the Conſtable came to carry the Witneſſes before Mr. *Lowther* ?

Mrs. *Bolron Senior.* Yes.

Mr. Juſt. *Dolben.* Heark you, did not you ſee the Woman that went over there cry, and ſay ſhe was unwilling to go ?

Mrs. *Bolron Sen.* Her Husband ſaid ſhe ſhould go, tho' ſhe ſaid nothing.

Mr. Juſt. *Dolben.* But her Husband did not preſs her to ſay any thing but what was truth ?

Mrs. *Bolron Sen.* No indeed did he not.

Mr. Juſt. *Pemberton.* And did not ſeem to ſtick before.

Mr. *At. Gen.* What can you ſay to this honeſt man here your Son ?

Mr. Juſt. *Dolben.* I'll warrant ſhe will ſay he is honeſt ſtill.

Mr. *At. Gen.* But here are a Company of People would make him a diſhoneſt man.

Mrs. *Bolron Sen.* Sir *Tho. Gaſcoigne* ſaid he was as truthful a Servant as ever he had in his Life.

Mr. Juſt. *Dolben.* Did you hear him ſay ſo ?

Mrs. *Bolron Sen.* I heard him ſay ſo in his own Chamber.

Mr. Juſt. *Dolben.* When ?

Mrs. *Bolron Sen.* After he was married: And beſides Sir *Thomas* did ſay he would do any thing he could for him, in relation he had been a true Servant to him.

Mr. Juſt. *Dolben.* Call Mr. *Phiſwick* again. (*Who appeared.*) Look ye, Sir, you are a man that I ſee have been truſted by all the Family of the *Gaſcoignes*, and you know in what Reputation he was.

Mr. *Phiſwick.* Sir, while I was his Fellow-ſervant I knew no Ill by him.

Mr. Juſt. *Dolben.* Was he accounted an honeſt man?

Mr. *Phiſwick.* I can ſay nothing to the contrary.

Mr. Serj. *Maynard.* Then my Lord to conclude, I deſire to ſpeak a word. On the one ſide here is an ancient Gentleman's Life in queſtion, and that or his Death are to be the Iſſue of this Cauſe ; on the other ſide here is the Diſcovery of a Plot upon which all our Lives, our Religion, and the Life of our King depend. It did require your Patience, and you have yielded it. Where lies the Queſtion ? If theſe Witneſſes that have been examined be believed, there is no Queſtion but he is highly guilty of the Plot : The W tneſs

tells you, When there was no talk of the Plot, there was a Preparation of a falſe and fraudulent Conveyance to be drawn by Advice of Counſel, and why was this made? Leſt he ſhould forfeit his Eſtate. This is proved in the beginning. You find next a meering of the Prieſts, and there what they did, does not concern this Gentleman at the Bar till he took notice of it, and then joined in it, and approved of it, and did declare it was a worthy Plot, a meritorious Plot for the good of the Church, and at laſt particularly he would give 1000*l.* to *Bolron* to deſtroy the King and murder him. The other Witneſs agrees with him, and what is ſaid againſt all this? They have call'd and examined I think nineteen or twenty Witneſſes, three touching the Threatning of his Wife, but that falls out to be nothing; two Ale-houſe-keepers that ſtood at the bottom of the Stairs and overheard their Diſcourſe; but you have all heard how they have contradicted one another, they had not agreed well enough together on their Story. All that the reſt do is meant thus, and ſo far they make ſomething of it, that there ſhould be a Debt due from this *Bolron* to this Gentleman, and ſo it were ſome Contrivance as if he would do it by way of Revenge; it does fall out many times that men do quarrel, but this is a Buſineſs of another Nature. They ſay that he ſhould threaten he would ſerve him a Trick, or there were ſome ſuch words; but under favour, the Queſtion is of the Truth of his Teſtimony; now it is not likely, that they knew what his Teſtimony would be, and there is nothing againſt the other Witneſs that concurs with him, but the Fellows that were upon the Stairs, that talk one of one part of the Stairs and the other of the other. The Matter is clearly whether the Witneſſes be to be believ'd, or whether there be any thing ſufficient offered to take off their Teſtimony. You will be pleaſed to obſerve as to what was ſpoken about the money and the Nunnery, we brought you a Letter from the Prieſt who was mention'd to be one of them at the meeting, *Pracid*, that writes and dates his Letter from the Place the Witneſs ſpeaks of, and there you will obſerve that in one of the Letters 'tis expreſs'd *If* England *be converted*, (there is the main of the Plot) for all I ſuppoſe goes to that purpoſe, pray who thought of *England*'s Converſion at that time? What led them into that but a Conſciouſneſs of a Deſign to convert *England*? My Lord, another piece of a Letter there is concerning the Oath of Allegiance, you have heard it read, and every body knows what the meaning of it is, it is the Engine of the Jeſuites that if they can but draw men off from their Fidelity to the King, whereof there is no Teſtimony ſo great as the Oath of Allegiance, they need not uſe ſo much of Equivocation; but that is an abominable thing, and not to be endured to go take off the Strength of that Oath that hath been taken by men more honeſt than the reſt, and not ſuffering the reſt to take it at all: And it is a damnable thing that they ſhould aſſert the King is an Heretick, and the Pope has depoſed him, therefore it is meritorious to kill him: But you have heard the Evidence fully, and it needs no Aggravation.

Mr. *Sol. Gen.* My Lord, I think the Evidence hath been already repeated by Mr. Serj. *Maynard*, and my Lord, I think there is nothing in this Caſe, but only the Credit of the Witneſſes, for if they be to be believed, there is an Evidence as full as can be. I know your Lordſhip obſerves how it is introduced, how they are fortified in ſome Circumſtances, which Sir *Thomas* did at firſt deny. They tell you that he had a pious Intent to found a Nunnery, and did proceed ſo far as to make a Settlement, this was deny'd by Sir *Tho. Gaſcoigne*, but hath been verified, and made out by his own Books and Letters writ to him, which were found in his own Cuſtody. This did Sir *Tho. Gaſcoigne* do with an Expectation of a ſudden Change, for the Letters do declare, that *England* was to be converted as they called it, and therefore they had ſettled their Matters in order, and they thought fit to inſert that Proviſo in the Settlement, That if *England* ſhould be converted, then the Money was to be diſpoſed ſo and ſo. But your Lordſhip likewiſe obſerves, and you, Gentlemen of the Jury, what other Correſpondence Sir *Tho. Gaſcoigne* had with one *Cornwallis* or *Pracid* a Prieſt. He receives a Letter which ſhews you what the Principles of all the Catholicks are, how far they have proceeded to take away even the Oath of Allegiance, and the Conſequence of that how far it will go, when they think themſelves obliged in Conſcience to caſt off Fidelity to their Prince, and what Miſchiefs may enſue no man knows, but we may in part imagine. You have already had ſufficient Diſcovery to make out the Uſe of this inſtilled Principle, and that is the Deſign to kill the King, for this you hear what the Evidence ſay. Mr. *Bolron* one of them is ſent to the Prieſt to be inſtructed by him; and by him was chid for offering to go againſt their Principles to take the Oath, and told him he was damned for ſo doing. And preſently after he was examined by Sir *Tho. Gaſcoigne* upon ſome Diſcourſe with him what *Ruſhton* had ſaid, who had moved him likewiſe to kill the King as he ſays. Sir *Tho. Gaſcoigne* knew to what purpoſe he ſent him thither, not only to renounce the Oath of Allegiance, but to carry on the Deſign which he had in hand, and did introduce by laying aſide the Oath, and tells him he muſt engage in the Deſign to kill the King. He examines him what the other had ſpoke to him of, and he ſaid he knew it was more than bare chiding of him for taking the Oath of Allegiance, and he told him for his better Encouragement to go on, that if he would undertake, he ſhould have 1000*l.* And this is the Sum of *Bolron*'s Evidence as to Sir *Tho. Gaſcoigne*. What then ſays *Mowbray* the ſecond Witneſs, he was ſo faithful a Servant and ſo diligent, that he was imploy'd by *Ruſhton* the Confeſſor to attend him at the Altar, and being in ſervice immediate about him, and he being by that means ſo dear to him waited upon him in his Chamber, and was privy to all the Conſultations held there. And he gives you an Account how long this Plot hath been in agitation, for they had been diſcourſing a good while of it; and reſolved it ſhould be done if not by fair Means, by foul, and tells you plainly by killing the King. And that he heard Sir *Tho. Gaſcoigne* himſelf declare that it was a meritorious Act to kill the King, and that as before he had the Oath of Secrecy given him by *Ruſhton*, ſo he did declare (which *Mowbray* ſtanding at the Door heard) that he would never ſwerve

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from the Oath, but he would aſſiſt to the utmoſt of his power, and they that were with him ſaid, They would ſtand by it with their Lives and Fortunes; and when my Lady *Tempeſt* underſtood he was there, and was jealous of him, ſhe bid him go down, and entertain the Gueſts below ſtairs. So here is an Evidence from two Witneſſes as full as can be in any Caſe, that Sir *Th. Gaſcoigne* was privy to the Conſpiracy, and himſelf partaker of it, to kill the King. All that hath been ſaid againſt 'em, is to vilifie their Reputation. As to *Mowbray* I hear but little, only there are two Witneſſes that touch him; and indeed if theſe Witneſſes were to be believed, they ſay a great deal; that is, They were in an Alehouſe together, and heard them conſpire to take away the Life of Sir *Th. Gaſcoigne*. Indeed *Mowbray* ſaid, for Sir *Th. Gaſcoigne* I know nothing but that he is a very honeſt Gentleman, but for my Lady *Tempeſt*, if I could hang her I would. That they ſhould hear them contrive this together, and conſpire how they ſhould take away the Lives of this Gentleman and the others: Indeed, if theſe men ſay true, 'tis a great matter to take off the Credit of their Teſtimony, but you heard Gentlemen how they did vary; for the one ſaid, as I apprehended, at firſt he was in the Room, afterwards he was below ſtairs. Ask the one, Could you hear them? Yes. Could you ſee them? No; ſaid the other Yes. So that they were not well provided, as to that matter, nor had they conſulted that point well, where they ſhould agree to ſtand to overhear the matter. Now if that be likely, they ſhould in the preſence of two Perſons whom they did not know, and one of them they never ſaw, but in the Court, declare and diſcourſe of ſuch a matter as this for the taking away the life of Sir *Tho. Gaſcoigne*, then we have nothing to ſay to them, we muſt leave the Credit of that to you, you will obſerve their variety in the ſtory, and the improbability of the thing. But then for Mr. *Bolron*, the Evidence againſt him is, that he is a very diſhoneſt man, and that this is all out of malice to Sir *Tho. Gaſcoigne*, becauſe he would ſue him upon his Bonds. You obſerve how he does behave himſelf under that proſecution; all that he hath he is willing to part with for payment of his Debt, he makes over his Eſtate for ſatisfaction and ſecurity, and does as much as an honeſt man can do, all he hath ſhall lie at ſtake: And as for Sir *Tho. Gaſcoigne* himſelf, he had no ſuch Opinion of him in point of Diſhoneſty, for he declared he lived in his ſervice without exception, and ſaid before the Council, he knew nothing of Diſhoneſty by him but only this Information, and now he found him to be (what he always thought) a great Fool. Now whether he thought him a Fool for telling this ſtory, or what elſe, you may explain the meaning of his Expreſſion; but as for any thing of Diſhoneſty, there is nothing againſt Mr. *Bolron*. He was in Debt 'tis true, but what he had lay at ſtake for the payment of it, and as far as it would go Sir *Thomas* might take it, but that for malice he ſhould come to ſwear againſt him, there is nothing clearly made out. One Witneſs ſays indeed, that he ſhould ſay, Does Sir *Thomas Gaſcoigne* intend to ſue me, then I will do what I did not intend to do; whether that be a ſpeech of malice or no, or rather does confirm the Truth of his Evidence, is left to your conſideration: It ſhews rather, there was ſomething that he had in his power to do before any proſecution from Sir *Th. Gaſcoigne*, or any occaſion of his malice againſt him; it hath not the neceſſary import of a malicious Speech, that he did intend not to do ſuch a thing, and becauſe he was ſued did do it; that therefore is only Truth and no Malice. For the other matter that is ſaid againſt him, That he ſhould endeavour to ſuborn his Wife to ſwear falſly, that was by no means fully proved, but rather that matter hath been ſufficiently clear'd, That tho' ſhe ſaid ſhe knew nothing, yet he would have her go tho' ſhe ſaid nothing; and you hear what the Evidence hath been for Mr. *Bolron*, that he never did preſs her to ſwear falſly, nor threaten her if ſhe would not, but only deſired her to declare her knowledge if ſhe knew any thing, the Truth and nothing but the Truth. Theſe are all the Objections made againſt the Credit of the Witneſſes; and I think if their Credit do ſtand, you cannot have a clearer Evidence to Convict any one than hath been given you to Day; but that we leave to you, and ſubmit theſe Objections, whether they have any weight in them, and whether they have not been fully anſwered.

Mr. Serj. *Maynard*. And our Evidence is given in all upon Oath, and their's is not.

Mr. Juſt. *Jones*. Gentlemen, you of the Jury: The Priſoner at the Bar ſtands indicted for High Treaſon, and for High Treaſon of the higheſt Nature, for conſpiring to take away the Life of the King, and for endeavouring to change the Religion, the Proteſtant Religion into Popery; that is, contriving to extirpate the Religion of Proteſtantiſm here, and introduce Popery inſtead of it; and certainly greater Crimes than theſe no man can be accuſed of. There have been produced, on the behalf of the King, two Witneſſes, Mr. *Bolron* and Mr. *Mowbray*, both of them Servants to Sir *Thomas Gaſcoigne* the Priſoner, and therefore might very poſſibly and probably enough be privy to all they have ſaid and teſtified in this Caſe. It does appear by them both, that Sir *Tho. Gaſcoigne* was a very early man in the Plot (if they ſay true) We heard nothing of it till the long Vacation (78) but it ſeems Sir *Tho. Gaſcoigne* was a Plotter and Conſpirator in the year 75, or 76. And that he might be able to do this ſomewhat more ſafely, he contrives how he might convey away his Eſtate to prevent the forfeiture; and he makes an Aſſurance of it to Sir *William Ingleby*, colourably, as the Witneſſes ſwear, for 1000 *l.* And it does appear likewiſe, as to the introduction of the Popiſh Religion here, they began to ſettle a Nunnery, and it was fit to do ſo againſt *England* ſhould be converted; firſt, in ſuch a place; but if it happened *England* were converted, then to be removed to another place. There was at this Nunnery appointed an Abbeſs, an Aſſiſtant and ſeveral Nuns; and Sir. *Tho. Gaſcoigne* ſo well knew of this, that one of them that was appointed to be a Nun, at the time of her taking Horſe, he ſaid to her, *There goes an old Maid and a young Nun*. And there are Letters come from that very Nunnery, and from the Prieſt that was appointed to attend them as Confeſſor, which have been read to you. And there is another Preparation thought neceſſary to introduce this Plot, and that is, That all Papiſts might be ſeduced into an Opinion, that it was a Dangerous thing to take the Oath of Allegiance, and

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that it was a Damnable Sin: For this purpoſe Letters came from the Doctors at *Sorbonne*, and they determine it to be ſo, leſt any man of that Religion ſhould be ſo good a Subject as to profeſs Obedience to the King in Temporals. Then the Plot goes on between Sir *Miles Stapleton*, Sir *Francis Hungatt*, Sir *Charles Vavaſor*, Sir *Tho. Gaſcoigne*, Mr. *Gaſcoigne*, *Middleton*, *Ruſhton*, my Lady *Tempeſt*, and a great Company more; all met together and conſulting in Sir *Tho. Gaſcoigne*'s Houſe, in his great Room, his old Dining-Room to this purpoſe, not only to bring in their Religion, but kill the King expreſly (ſo ſays the Witneſs) I think they had often talked of it before the Witneſs in the Prieſt's Chamber; for he being then a Papiſt was privy to his Maſter's Deſign, and the reſt of the Confederates, for killing the King, which was the only thing they deſired to effect, as the beſt way to bring in their Religion; and there was great reaſon to do it they ſaid too, for the King had not kept his Word with them when he was in his Exile, for they ſaid, he had promiſed, if he was reſtored to his Kingdoms he would reſtore the Popiſh Religion, but now he was returned and had broke his Promiſe, and nothing more was to be done, the Pope having declar'd him an Heretick, but to deſtroy him; and this was that which was agreed among them: The 30*th* of *May* laſt, after divers other Conſults had about it, the Prieſt *Ruſhton* being at Sir *Tho. Gaſcoigne*'s Houſe, *Bolron* is deſired to go into the Gallery, and there preſently comes in *Ruſhton*, Sir *Thomas*'s Prieſt; *Bolron* acquaints him that he had been at the Seſſions and taken the Oath of Allegiance: As ſoon as ever he heard it, he cries out, He had committed a damnable Sin, he muſt of neceſſity renounce it, and repent of it, and he could give him a Pardon, for he had an extraordinary Power, more Authority than others, he could give him Abſolution if he did repent of it, and that no Catholick muſt by any means take the Oath. A while after they had a Diſcourſe concerning killing the King; and the Witneſs ſays indeed he was not actually in the Room, for he ſays he ſtood at the Door, and heard all the Diſcourſe, till at laſt the Lady *Tempeſt*, one of the Conſpirators, taking notice of his being there, ſent him down ſtairs.

Mr. Juſt. *Pemberton*. That is *Mowbray*.

Mr. *Mowbray*. I was called into the Room and then ſent down.

Mr. Juſt. *Jones*. 'Tis true, Brother, that was *Mowbray*: But as to *Bolron*'s Diſcourſe with *Ruſhton*; when Sir *Tho. Gaſcoigne*, who was not in the Houſe at the time *Bolron* was with *Ruſhton*, but had given a Charge he ſhould not go before he ſpoke with him: When he did come home and ſpoke with him, he takes upon him to go on with the Diſcourſe concerning the Plot, and he ſwears poſitively that he offered he would give him 1000 *l.* and this he ſwears he ſhould have paid him in *London*: This is expreſly the Teſtimony of *Bolron*. Now what ſays *Mowbray*? He tells you (tho' that is but introduction to make his Evidence more probable) That there was great reſort of Prieſts to the Priſoner's Houſe. He tells you of the Diſcourſe and Conſultation the Prieſts had in the Houſe, and that it was expreſly and preciſely for killing the King. He tells you, that he did ſtand at the Door and heard it, as I obſerved before; and he tells you too, which hath not been obſerved, that at that time there was produced a Liſt of 4 or 500 Perſons that had ingaged in the deſign of killing the King; he did ſee the Liſt, he did ſee Sir *Tho. Gaſcoigne*'s Hand, which he very well knew and was acquainted with, and which might very well be, being his Servant. So that here is not only a Diſcourſe and Agreement by parol, that he ſhould be in the Conſpiracy, but if you believe him, he ſays, that here is actually the Hand of Sir *Thomas* to the Engagement to do the Villany; and truly they that were of that Perſuaſion at that time might eaſily be induced to it. For it was agreed amongſt them, that they ſhould have a plenary Indulgence of 10000 years, and it was a meritorious Act; and tho' Sir *Thomas* perhaps was not ſo ready to contribute in all things, yet hearing of the meritoriouſneſs of the Act, and withal that he ſhould be canonized for a Saint for this piece of Piety, he certainly might readily conſent to it. Mr. *Mowbray* indeed was asked, Why he did not diſcover it ſooner? He tells you why, He was in fear of the Papiſts; he was threatned; and very like he might be poſſeſſed with fear, and ſo might a man of greater conſtancy till the Buſineſs was diſcovered; and therefore he did not talk of it in the Countrey, but came up here, where it was more ſafe to diſcover it, and hath been here ever ſince. Beſides this Teſtimony of theſe Witneſſes, Gentlemen, there are ſome Papers produced; ſome that mention money that hath been convey'd by Sir *Thomas Gaſcoigne*, in confirmation of the Teſtimony of *Bolron* the firſt Witneſs, who does ſwear, that he heard Sir *Thomas* ſay, he would ſend 3000*l.* to the Jeſuits to go on and proſecute this Plot; and afterwards he did hear him ſay, he had ſent the 3000*l.* that he had promiſed. Now it does appear by Sir *Thomas*'s Almanack that he had ſent ſeveral Sums; his Receiver *Phiſwick* did ſpeak of 6000 *l.* and he himſelf did give a touch towards it. Indeed *Phiſwick* was a Receiver for Sir *Thomas*, and likewiſe for his Son, and for the Lady *Tempeſt*; but it is impoſſible, if they had ſent all the money that ever they had, and conſidering too, that the Lady *Tempeſt*, as appears by the Witneſſes, lived in the Countrey, that it could have amounted to near that ſum of money; for ſhe had but 300 *l.* a year, and the eldeſt Son had but 400 *l.* a year, how then could 6000 *l.* be returned for them in 4 years time? 'Tis true, there is ſome Anſwer given as to that 900 *l.* by that Witneſs *Hobart*, who ſays there was a Suit, and 100 *l.* a year decreed to be paid to Mrs. *Appleby*, Sir *Thomas*'s Niece, for ſo many years, and he to take care of ſending that to her; and tho' that was but 100 *l.* a year, yet there was a Decree, or ſome Order, to pay the Arrears with the other money, which made it up 900 *l.*

The Evidence for the King againſt the Priſoner is but two Witneſſes, but they as poſitive and expreſs as poſſibly can be. What then is ſaid by the Priſoner, or the Witneſſes, in his Defence? There is one, that is *Shippon*, that gives ſome Teſtimony againſt the very Evidence, and the poſſibility of it to be true in one part of it: For *Bolron* he tells you, that the 30*th* of *May* was the time when there was that Conſult held at Sir *Tho. Gaſcoigne*'s in the Gallery with the Prieſt, that he ſtaid there till night, and that then Sir *Thomas* talked with him and made this proffer to him for the Murther and Deſtruction of the King. Here comes a Witneſs, *Shippon*, and tells you, that that very 30*th* of *May*, *Bolron* was at his

his Houſe at 2 a Clock, and ſtaid an Hour or 2 after Sun-ſet: If that were true, that he were there all that time, it is not then true that he ſpeaks of about Sir *Thomas Gaſcoigne*; and it was impoſſible that he ſhould be at the Conſult at that time when he ſays he was there, and afterwards ſpoke to Sir *Thomas Gaſcoigne*. Now, Gentlemen, you have the King's Witneſs upon his Oath; he that Teſtifies againſt him is barely upon his Word, and he is a Papiſt too, for that he was asked, and he did confeſs himſelf ſo. I do not ſay that a Papiſt is no Witneſs, a Papiſt is a Witneſs, and he is a Witneſs in a Papiſt Cauſe, and for a Papiſt; but I muſt tell you, there is leſs Credit to be given to a Papiſt in a Cauſe of this Nature, who can eaſily believe they may have Indulgences and Pardons enough for ſaving one from the Gallows who is to be Canonized for a Saint if the Plot take effect. He hath only affirmed it who is a Papiſt, the other who is a Proteſtant ſwears what his Evidence is.

Mr. *Babbington* who was the firſt Witneſs examined for the Priſoner, he tells you there had been ſome Debates and Differences about Rent and Money that was owing by *Bolron* to the Priſoner. He laboured and interceded often on his Behalf, but at length not being able to prevail that he ſhould not be ſued; the Witneſs ſwears, I will then do that which I did not intend to do. What he meant by it is doubtful, and it is an ambiguous Speech, but to interpret it that he would ſwear falſly to take away a Man's Life, and ſo commit both Murder and Perjury, is hard to infer and conclude from ſuch doubtful Words. There are ſome Witneſſes that tell you, that is, *Moor*, and others, that *Bolron* did ſay and ſwear that Sir *Tho. Gaſcoigne* was never concerned in the Plot: That might very well be, eſpecially if you take the time when he did ſay this, he was a Papiſt a great while after Sir *Thomas* had ingaged himſelf in the Plot, and while he was ſo, it is not unlike he would venture an Oath to ſave any of the ſame Perſwaſion and Religion he himſelf was of. But whatſoever he ſaid it was not Judicially, he was not bound to diſcover to him he ſpoke to, he is now upon his Oath, and you have heard what an expreſs Teſtimony he gives. As to what is ſaid concerning his Wife, that he ſhould endeavour to perſwade her contrary to her Knowledge to give Teſtimony againſt Sir *Tho. Gaſcoigne*, and therefore he is not to be believed here upon his own Oath, who would have his Wife forſwear herſelf to fortifie him: There is no ſuch thing, and it does appear by the Evidence of thoſe that are ſworn, that he was earneſt, and would have his Wife go and teſtifie her Knowledge; but did not infuſe or intimate any thing to her ſhe ſhould ſay, whether ſhe did know it or no: And to aſſure you that, you have the Oath of the Woman herſelf, who hath been preſent here, and tells you the ſame thing. *Dixon* he comes and ſays, in *Auguſt* laſt, *Mowbray* ſaid he knew nothing of the Priſoner, which may be anſwered by his Fear; but concerning the two Witneſſes that Mr. *Sollicitor* did take notice of, he did tell you, and 'tis plain, how very improbable it was two Perſons ſhould ſpeak in the Preſence of Strangers, and tell them they were about to take away the Life of another Perſon, the one of the Lady *Tempeſt* who had done him a Diſpleaſure, the other of Sir *Tho. Gaſcoigne*, but *Mowbray* at that time ſaid he knew nothing of Sir *Tho. Gaſcoigne*; but Gentlemen, beſides what was ſaid before, this is improbable any ſuch thing ſhould be, and you hear the Witneſſes, at leaſt one of them, that he never knew one of the two.

Mr. *Bolron*. I knew neither of them.

Mr. Juſt. *Jones*. I ſhould be very loth to omit any thing on the Witneſſes ſide, or that hath been materially teſtified againſt them on the Priſoner's. I did not conceive the Evidence given by Mr. *Pebles* to come to any thing at all. There was a Diſcourſe between *Bolron* and him at laſt Aſſizes, after ſome Talk *Bolron* tells him he had ſomething to ſay to him, and what was it? *Bolron* was told that he had charged ſome Perſons that he ought not to do, (excuſed them for Money that did not take the Oath of Allegiance as they ought to have done) and it ſeems he did it here, and ſo far he went as to bring Witneſſes before the Juſtices of Peace to prove it. And although they did not give Evidence againſt Mr. *Pebles* in that very Particular, yet certainly he thought they would have ſaid ſomething, but that does not argue at all, that becauſe he did accuſe Mr. *Pebles* (as he thought juſtly in that particular) therefore that now he ſhould falſly accuſe Sir *Thomas* in a Matter that concerns his Life ſo highly. There are ſome other things that were ſaid by the Witneſſes that would tend towards the proving of ſome Malice in the Witneſſes towards Sir *Tho. Gaſcoigne*, and therefore they give in this Evidence: One thing indeed was ſpoken by *Higgringil*, that is, it was generally reported in the Country that *Mowbray* had taken away Money from Sir *Tho. Gaſcoigne*, and that *Mowbray* himſelf ſaid, that as they had endeavoured to take away his Fame and Life, now he had found an Opportunity to requite them. So ſaith the Witneſs, but 'tis not very probable. I leave it with you upon the Credit of the Witneſſes for the King, who have ſworn it upon their Oaths, and the others that go upon their Words, and not their Oaths, whether they have taken away the Force and Strength of the King's Evidence which is as full, expreſs and poſitive as can be by two Witneſſes.

Gentlemen, here is on the one ſide the Life of an ancient Gentleman before you, on the other ſide there is a Conſpiracy againſt the Life of the King, who is the Breath of our Noſtrils, and whom God long preſerve. I know you being upon your Oaths will take into your Conſiderations both, and give a Verdict according to the Evidence you have heard.

Mr. Juſt. *Dolben*. I will tell you Gentlemen, I cannot forbear ſaying one thing to you. There is ſome Evidence that makes it a very improbable thing to be true what Mr. *Bolron* hath ſaid, and yet Mr. *Bolron* having ſaid it ſo poſitively, and *Mowbray* agreeing with it, Probabilities muſt give way to poſitive Proofs. I ſaw you did obſerve it when it was mentioned, and 'tis true, to me it ſeems improbable that at the very ſame time that Sir *Tho. Gaſcoigne* ſhould ſue him upon his Bond, and take a Courſe to turn him out of his Houſe, that he ſhould then be privy to ſuch a Conſpiracy; 'tis improbable either that Sir *Thomas* ſhould offer him ſuch a Sum of Money to kill the King, or if he had, that he ſhould afterwards take that Courſe at Law againſt him. Now for that I ſay this to you, you are to give a Verdict according to

your

your Evidence. They have ſuch ſecret Contrivances amongſt themſelves (and he was a Papiſt at that time) that where there are two Men that poſitively tell you a thing that lies within their own Knowledge, and ſwear it is true, it is ſcarce any Improbability that ſhould weigh againſt ſuch an Evidence.

Mr. Juſt. *Pemberton.* And Gentlemen conſider withal as to that, for truly my Brother *Dolben* hath rightly minded you of that Improbability, for it was no more: But then you muſt conſider all the Circumſtances. 'Tis indeed at the firſt bluſh improbable that a Man would communicate ſo great a Secret to another, if he did intend to ſue him for Money he owed him, but then 'tis likewiſe as improbable that he would provoke him by a Suit if his Life were in his Hand; but conſider the delivering of the Leaſe of Ejectment, and thoſe things were the 13*th* of *June*.

Mr. *Babbington.* But I had ſued him before, my Lord.

Mr. Juſt. *Dolben.* The 2*d* of *June* he ſays.

Mr. *Babbington.* I had direction long before I did it.

Mr. Juſt. *Pemberton.* They threatned him the ſecond, but they did not do it. But look you Gentlemen conſider this; I do not doubt but Sir *Thomas Gaſcoigne* was ſure that this Man durſt not diſcover any thing of this, for they had given him the Sacrament and an Oath of Secrecy, which they look upon as a Tie among themſelves, as long as they continue in that Religion, not upon any Account whatſoever to be undone, and they have ſuch Confidence in it that they will truſt their Lives and every thing in a man's Hand when they have given him that Oath. Alas how could theſe People have the Confidence to plot one with another as they do, when they know their Lives are in the Hands of any one of all the reſt, but upon this Account? Do but ſwear them unto Secrecy and give them the Sacrament of the Maſs upon it, and then they think ſuch a one is proof enough againſt any thing in the World, for that is Damnation if they break it, as their Prieſts tell them, but I doubt not but Sir *Thomas* thought he had them as faſt as can be upon that Lock. But as to Sir *Thomas*'s Evidence of thoſe two Men at *Leeds*, this is after the Accuſation of Sir *Thomas* that they ſpake of, and can any man alive believe that they would go and plot to contrive the Death of theſe two Perſons in the Face of two Strangers, after he was accuſed? 'Tis ſo ſtrange an Evidence that no man alive can believe it to be Truth. Look you Gentlemen, Perſons that go to contrive ſuch things as theſe are, go in ſecret, and hope they ſhould never be diſcover'd, but by one of themſelves. Who would contrive when two be by, and if they ſay true might ſee them as well as hear them, though they did contradict one another in their Evidence, the one ſaid he was above, the other ſaid he was below, the one ſaid he might ſee them, the other not. Look you Gentlemen, I do ſee that they do lay ſome Streſs upon this, that he was his Debtor, for that they ſeem to prove by their Witneſſes, but you muſt lay no great Streſs upon that at all, for the Money were not quit if Sir *Thomas* were found guilty, the Money is due to the King then, he ſaves nothing by it, his Money muſt be paid let the Priſoner be found Guilty, or not Guilty, 'tis all one to him. You muſt conſider this Caſe, Gentlemen, If you believe theſe men are perjured men, and have gone and contriv'd a malicious Deſign againſt a man's Life; then God forbid they ſhould be believed any way, but it is a poſitive Evidence, and 'tis not an Evidence barely of it ſelf, but introduced by a great many Circumſtances that went before, they tell you the whole Affair, that it does ſeem they have been privy to the Affairs of theſe Jeſuites all along, and Sir *Tho. Gaſcoigne*'s Houſe hath it ſeems abounded with them, he hath been very beneficial to that ſort of People, mighty charitable as they call it in Superſtition, and you muſt conſider that nothing can ſeem ſtrange to them that will be ridden by Prieſts, they put them upon all the Immoralities and Villanies that can be found out for the Cauſe of Religion as they call it; nothing can ſeem ſtrange that is teſtified againſt them. Therefore I muſt leave it to you upon what you have heard, and upon their Credit whether you believe the Witneſs or not.

Mr. Juſt. *Jones.* Ay, 'tis left upon their Credit that are your own Countrey-men, better known to you than us.

Mr. Juſt. *Dolben.* Look you Sir *Thomas Hodgſon*, and the Gentlemen of the Jury, if you will come in again in any time, we will ſtay in Court, otherwiſe you muſt lie by it all Night, for we can take no privy Verdict in this Caſe.

Mr. Juſt. *Pemberton.* Ay, we will ſtay, and hear Motions a little while.

Then the Jury withdrew from the Bar, and after half an Hour returned again, and being call'd over gave their Verdict thus.

Cl. of *Cr.* Sir *Thomas Gaſcoigne* hold up thy Hand. Look upon the Priſoner: How ſay you, is he Guilty of the High-Treaſon whereof he ſtands indicted, or not Guilty?

Foreman. Not Guilty.

Cl. of *Cr.* Did he fly for it?

Foreman. Not that we know of.

Then the Verdict was recorded and the Court roſe.

THE

THE TRYAL OF *ROGER* Earl of *CASTLEMAINE.*

Roger Palmer, Eſq; Earl of *Caſtlemaine* in the Kingdom of *Ireland*, having been Arraigned at the *Kings-Bench* Bar, the 16*th* of *June*, 1680. for High Treaſon: To which he Pleaded, *Not Guilty*, *&c.*

On *Wedneſday* the 23*d* of *June*, 1680, being appointed for his Tryal: The Court being ſate, and the uſual Formalities performed; the Lieutenant of the *Tower* delivered him into Court: And then the ſaid Court proceeded as followeth:

Cl. of Cr. CRYER, Make Proclamation.

Proclamation for Silence.

Cryer. O yes! Our Sovereign Lord the King doth ſtrictly charge and command all manner of Perſons to keep ſilence upon pain of Impriſonment.

O yes! If any one can inform our Sovereign Lord the King, the King's *Serjeant at Law*, the King's *Attorney-General*, or this *Inqueſt* now to be taken, of the High Treaſon, whereof *Roger Palmer*, Eſq; Earl of *Caſtlemaine* in the Kingdom of *Ireland*, ſtands indicted, let them come forth and they ſhall be heard; for the Priſoner ſtands at the Bar upon his Deliverance.

Cl. of Cr. Cryer, Make an O yes.

Cryer. O yes! You good Men that are empanneled to enquire, between our Sovereign Lord the King and *Roger Palmer*, Eſq; Earl of *Caſtlemaine* within the Kingdom of *Ireland*, anſwer to your Names.

Cl. of Cr. Roger Palmer, Eſq; Earl of *Caſtlemaine* in the Kingdom of *Ireland*, Hold up thy Hand: Theſe good Men that were lately called and now here appear, are to paſs between our Sovereign Lord the King and you upon your Life or Death; if you Challenge any of them, you are to ſpeak as they come to the Book to be Sworn, and before they are Sworn.

Sir *John Cutler*, Kt. Bar.	Jur'	*Fr. Dorrington*, Eſq;
Sir *Reginald Foſter*, Bar.		*Hugh Squire*, Eſq;
Henry Herriott, Eſq;		*Charles Good*, Eſq;
Richard Cheney, Eſq;		*John Pulford*, Eſq;
Thomas Johnſon, Eſq;		*Edw. Claxton*, Eſq;
John Roberts, Eſq;		*Fr. Mayhew*, Gent.

Cryer. O yes! Our Sovereign Lord the King doth ſtrictly charge and command all manner of Perſons to keep ſilence upon pain of Impriſonment.

Cl. of Cr. Roger Palmer, Eſq; Earl of *Caſtlemaine* in the Kingdom of *Ireland*, hold up your Hand.

You Gentlemen of the Jury that are now Sworn, Look upon the Priſoner and hearken to his Charge.

You ſhall underſtand that he ſtands Indicted by the Name of *Roger Palmer*, Eſq; Earl of *Caſtlemaine* in the Kingdom of *Ireland*; For that he as a falſe Traytor againſt our moſt illuſtrious and excellent Prince and Lord, *Charles* the Second, by the Grace of God of *England*, *Scotland*, *France* and *Ireland*, King, Defender of the Faith, *&c.* and his Natural Lord; not having the Fear of God before his Eyes, nor weighing the Duty of his Allegiance, but being moved and ſeduced by the inſtigation of the Devil, his cordial Love,

true, due and Natural Obedience which True and Faithful Subjects of our ſaid Sovereign Lord the King ought to bear towards him, altogether withdrawing and contriving, and with all his might intending to diſturb the Peace and common Tranquility of this Kingdom, and to bring and put our Sovereign Lord the King to Death and final Deſtruction, and alter the true Worſhip of God within this Kingdom eſtabliſhed, to the Superſtition of the Romiſh Church, and to ſtir up and move War againſt our ſaid Sovereign Lord the King within this Realm of *England*, and to ſubvert the Government thereof, the *Twentieth* Day of *June*, in the *Thirtieth* Year of the Reign of our ſaid Sovereign Lord, *Charles* the Second, of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c.* at the Pariſh of St. *Giles in the Fields* in the County of *Middleſex*, with divers other falſe Traytors, to the Jurors unknown, did Traiterouſly imagine and intend the killing, Death and final Deſtruction of our ſaid Lord the King, and to change and alter and utterly ſubvert the ancient Government of this Kingdom, and to depoſe and wholly to deprive our ſaid Lord the King of his Crown and Government of this Realm of *England*, and to extirpate the true Proteſtant Religion: And to accompliſh and fulfil the ſame moſt wicked Treaſons and Traiterous Imaginations and Purpoſes aforeſaid, the ſaid *Roger Palmer*, Eſq; Earl of *Caſtlemaine* in the Kingdom of *Ireland*, and other falſe Traytors to the Jurors unknown, the ſame *Twentieth* Day of *June*, in the *Thirtieth* Year aforeſaid, with Force and Arms, in the Pariſh of St. *Giles in the Fields* aforeſaid, in the County aforeſaid, adviſedly, deviliſhly, maliciouſly and traiterouſly did aſſemble, unite, and gather themſelves together, and then and there adviſedly, deviliſhly, maliciouſly, ſubtilly and traiterouſly did conſult and agree to bring our ſaid Sovereign Lord the King to Death and final Deſtruction, and to deprive him of his Crown and Government of *England*, and to introduce and eſtabliſh the Religion of the Church of *Rome* in this Kingdom; and the ſooner to fulfil and accompliſh the ſame moſt wicked Treaſons and Traiterous Imaginations and Purpoſes aforeſaid, he then and there did falſly, maliciouſly and traiterouſly promiſe divers great Rewards, and did pay divers ſums of money to ſeveral Perſons unknown; and then and there falſly and traiterouſly did write divers Notes, to incite ſeveral other Perſons to accompliſh the Treaſons aforeſaid, againſt the Life of our Sovereign Lord the King, his Crown and Dignity, and contrary to the Form of the Statute in ſuch Caſe made and provided.

Cl. of Cr. Upon this Indictment he hath been Arraigned, and hath pleaded thereunto, *Not Guilty*, and for his Tryal he puts himſelf upon God and his Countrey, which Countrey you are.

Your Charge is to inquire, Whether he be *Guilty* of the High Treaſon whereof he ſtands indicted, or *Not Guilty*? If you find him Guilty, you are to inquire what Goods and Chattels, Lands and Tenements he had at the time when the High Treaſon was committed, or at any time ſince? If you find him Not Guilty, you are to ſay ſo and no more; and hear your Evidence.

Cryer. O yes! If any one will give Evidence on the behalf of our Sovereign Lord the King, againſt *Roger Palmer*, Eſq; Earl of *Caſtlemaine* in the Kingdom of *Ireland*, let him come forth and he ſhall be heard; for the Priſoner now ſtands at the Bar upon his Deliverance.

Mr. *Bonithon.* May it pleaſe you my Lord, and you Gentlemen of the Jury, the Priſoner at the Bar ſtands indicted for High Treaſon; for that he intended to diſturb the Peace within this Kingdom eſtabliſhed, and to deſtroy and alter the Government, and to bring the King to Death and final Deſtruction, and to alter our Religion to the Superſtition of the Church of *Rome*, did on the 20*th* Day of *June*, in the 30*th* Year of the Reign of our Sovereign Lord the King, conſult and treat with ſeveral other Perſons, and that he with theſe Perſons did agree to deſtroy the King and alter the Religion, and cauſe Rebellion; and further to accompliſh theſe Treaſons, he did promiſe and agree to pay ſeveral Accompts and depoſit ſeveral ſums of money, and did likewiſe write and publiſh ſeveral Books.

To this he hath pleaded *Not Guilty*; if we prove theſe things, you are to find him *Guilty*.

Mr. *At. Gen.* May it pleaſe your Lordſhip, my Lord *Caſtlemaine* here ſtands *Indicted for High Treaſon*; that is, *For deſigning to murther the King, and alter the Government and Law*: And this is but a Parcel of the Plot, which hath been carrying on a great while, and many Perſons Tried for it, and ſome have ſuffered and been executed for it: And, my Lord, we will give your Lordſhip Evidence, *That my Lord* Caſtlemaine *hath at ſeveral times conſpired the Death of the King, and he hath reproved Perſons for not doing it.* And, my Lord, he hath been in Conſults among *Jeſuits*, where theſe matters have been carried on, and this whole Deſign hath been Negociated: And my Lord *Caſtlemaine* hath been conſenting and agreeing to all theſe matters. And, my Lord, when the Tryals were in hand, it did appear upon thoſe Tryals there were many Perſons brought from *St. Omers* to be Witneſſes againſt Dr. *Otes*, to prove he was not in *England* at that time when he ſaid in his Depoſitions that he did conſult with the *Jeſuits*; and theſe Perſons my Lord *Caſtlemaine* had the management and inſtruction of at that time: And all along at the *Old Bailey* my Lord *Caſtlemain* was preſent there, and did countenance theſe Perſons, and was an Interceſſor for them. Theſe are but Branches and Circumſtances; what is material we will prove by Witneſſes. Sir *Creſwel Levins.*

Mr. *At. Gen.* Come Dr. *Otes*, pray tell what you know.

Priſoner. My Lord, I have a long time wiſh'd for this Day; and your Lordſhip may very well remember it. The Reaſon why I have ſo much deſired a Tryal is, becauſe I thought it a means, and the beſt means, and the only means to ſhew to the World my Innocency, and alſo to ſhew to the World how much I have been calumniated by this Charge.

L. C. J. What have you to ſay? Have you any thing to ſay againſt Dr. *Otes*? Sir *William Scroggs.*

Priſoner. No, my Lord: I only ſay this, here I am a Priſoner at the Bar, and I have pleaded Not Guilty, and throw my ſelf upon this Court; and therefore I am very willing to hear what this man will ſay.

Dr. *Otes.*

Dr. *Otes.* My Lord, I humbly move the Court, Whether or no I may uſe my own method?

L. C. J. Give your Charge, we direct nothing.

Dr. *Otes.* My Lord, in the Year 1677, I was ſent over into *Spain* by the *Jeſuits* that were here in *England*; where I remained for ſeveral months, and tranſacted Buſineſs for them; and, my Lord, I returned from *Spain* in *November*, and brought ſeveral Letters from ſome *Engliſh* Fathers there; among which there was one directed for my Lord *Caſtlemaine*. My Lord, I did not deliver the Letter to him, but, my Lord, the Contents of the Letter were to this Effect——

L. C. J. How came you to ſee the Contents?

Dr. *Otes.* My Lord, I was at the writing of the Letter, and ſo I did ſee the Contents of it.

L. C. J. Did the Prieſts ſhew it you? Or did you only ſee it your ſelf?

Dr. *Otes.* No, my Lord; it was ſhewn me by them: And the Contents of this Letter were; *That the Fathers in* Spain *were very zealous to concur with the Fathers here in* England *in the Deſign*; *which was the Subverſion of the Government, altering the Religion, and the Deſtruction of the King.*

L. C. J. Was that in the Letter?

Dr. *Otes.* No, my Lord, not in Words at length.

L. C. J. What was, as far as you know, the very Expreſſion of the Letter?

Dr. *Otes.* The word *Deſign*, my Lord.

L. C. J. Only that, to promote the Deſign?

Dr. *Otes.* Yes, my Lord; and under that word we did comprehend all thoſe things; that is, as we uſually took it among one another.

L. C. J. Did you deliver this Letter to my Lord *Caſtlemaine*?

Dr. *Otes.* No, my Lord, I did not deliver this Letter; but when I went to *St. Omers* we received an account from my L. *Caſtlemaine* of his receipt of this Letter.

L. C. J. What did you do with it?

Dr. *Otes.* I left it with the Provincial, my Lord, who was then Mr. *Strange*.

L. C. J. Was it not given to you to give it to him?

Dr. *Otes.* It was given me to give the L. *Caſtlemaine*; but being then a ſtranger to him, I was willing to ſend one of his own Meſſengers with it.

L. C. J. Where was my Lord?

Dr. *Otes*, I can't tell, my Lord, I did not ſee him then; I went over to *St. Omers* in *December*, 77, or the latter end of *November*.

L. C. J. Where were you when you gave this Letter to the Provincial?

Dr. *Otes.* I was in *London*, my Lord.

L. C. J. Where did you receive this Letter?

Dr. *Otes.* In *Spain*, my Lord, at *Valladolid*, of one *Armſtrong*.

L. C. J. Who was it directed to?

Dr. *Otes.* To my L. *Caſtlemaine*; but I did not then know him, and ſo I gave it the Provincial, my Lord; I went over to *St. Omers* in the latter end of *November* or the beginning of *December* 77, and after I had been there ſome few days, there did arrive a Pacquet from *London* to *St. Omers*, in which there was a Letter from my L. *Caſtlemaine*.

L. C. J. To whom?

Dr. *Otes.* To the Fathers of the Society of *St. Omers*; in which my L. *Caſtlemaine* gave them an account of a Letter that he had lately received from *Spain*.

L. C. J. How did you know the Contents of this Letter?

Dr. *Otes.* My Lord, I was privy to their Letters.

L. C. J. Was you acquainted with my L. *Caſtlemaine*'s Hand?

Dr. *Otes.* My Lord, I will give you an account of that; I did not know it then, but only as it was generally ſaid amongſt us.

L. C. J. How was it ſubſcribed?

Dr. *Otes. Caſtlemaine*, my Lord; and ſometimes my Lord, he ſubſcribed himſelf *Palmer*.

L. C. J. How many Letters have you ſeen?

Dr. *Otes.* Several Letters.

L. C. J. Was this the firſt?

Dr. *Otes.* This was the firſt, as near as I can remember. And, my Lord, he gave an account in that Letter, that he had received a Letter from *Spain*, and was glad the Fathers in *Spain* had ſo good an Opinion of his integrity in the Cauſe.

L. C. J. Did he ſay from whom he had received it?

Dr. *Otes.* My Lord, I can't remember that; that he had received a Letter I am certain.

L. C. J. Do you know what the purport of the Letter was?

Dr. *Otes.* Yes, my Lord, I will give you a plain Account. My Lord, he wrote he had received a Letter from *Spain*, and that he was glad the Fathers in *Spain* had ſo great confidence in his integrity. And, my Lord, in *March* there came another Letter from my L. *Caſtlemaine*; for my L. *Caſtlemaine* had left ſome things at *Liege*, wherein he did complain of the Fathers, that they made no more haſte for to ſend his things to him; ſome odd things he had left there, and, my Lord, he gave an Account of a certain Letter he received from the Rector of *Liege*, whoſe Advice he did not like; for the Rector of *Liege* and the Rector of *Gant* were mighty zealous that the ſecular Clergy ſhould be perſonally preſent in this Affair.

L. C. J. Did he write ſo? I would have you ſay what he writ.

Dr. *Otes.* My Lord, I have told you, he gave an Account, that he was unwilling to have the ſecular Clergy engaged, becauſe they were a looſe ſort of men, and of no Principles, and therefore he thought them not fit to be truſted. My Lord, in *April* there was a Conſult; I came over from *St. Omers* in *April*, ſome 3, or 4, or 5 Days before the Conſult, I am not able to gueſs at the particular time, but it was near upon the Conſult. My Lord, this Conſult was divided into ſeveral Companies, after they had met at the *White Horſe* Tavern, wherein they did ſome things that did relate to the Order, as to ſend Father *Cary* to *Rome*. After that they had divided themſelves into ſeveral Companies, wherein they did agree in ordering the Death of the King.

L. C. J. You were by?

Dr. *Otes.* My Lord, I was employ'd by them to give an account of the Senſe of one Company to another.

L. C. J. Were you by when they concluded the Death of the King?

Dr. *Otes.* Yes, my Lord, I was then preſent,

L. C. J. Did you ſign among the reſt?

Dr. *Otes.* My Lord, I don't come here to accuſe my ſelf.

L. C. J. You are pardon'd if it be ſo.

Dr. *Otes.* My Lord, I did conſent. My Lord, in this Conſult they met together, and an Oath of Secrecy was adminiſtred; my L. *Caſtlemaine* was there too within ſome few days after the Conſult: That is, the Gentleman whom I accuſe for Treaſon, I ſay, did come, and enquir'd about the Copies of ſome Letters for to be ſent up into *Germany*, and did deſire, that an Agreement between them and the Monks might be made up, there being a Difference between 'em, ſo that they might have the Aſſiſtance of that Order to carry on the Deſign.

L. C. J. What Gentleman was this?

Dr. *Otes.* It was the Priſoner, my Lord, at the Bar.

L. C. J. Would the Gentleman let you hear him ſay, that he deſired Aſſiſtance to carry on the Deſign, and you a Stranger to him?

Dr. *Otes.* My Lord, I do not think I was a Stranger to him ſo much as he was a Stranger to me; he knew I was their Servant, and employ'd by them.

L. C. J. Would he ſay in your hearing, that he deſired their Aſſiſtance to carry on the Deſign, and you did not know him?

Dr. *Otes.* My Lord, I did not well know him at that time; and I brought ſeveral Meſſages from the Fathers, and from Mr. *Langhorn*, and I gave them an Account before him.

L. C. J. How often had you ſeen him?

Dr. *Otes.* That time he was there, my Lord.

L. C. J. How many Meſſages had you?

Dr. *Otes.* I will tell your Lordſhip where I had been: I had been at Mr. *Simmonds*'s, who was then Confeſſor to the Earl of *Arundel*, who is ſince turn'd Proteſtant; Confeſſor to him as he pretended, and we looked upon him to be. And I had been at Father *Cain*'s, who was in *Turnmill-ſtreet*; and I had been, my Lord, at Mr. *Langhorn*'s in the *Temple*; and ſome other places which I do not now remember, it is ſo long ſince. So, my Lord, I gave them account of my Buſineſs, and I did ſee that Gentleman, but didn't know his Name till, my Lord, in *June*.

L. C. J. When was this?

Dr. *Otes.* This was, my Lord, as near as I can remember in *May*.

L. C. J. So you did not know his Name till 3 weeks or a month after.

Dr. *Otes.* No, my Lord, it was in the latter part of *June*.

Mr. Juſt. *Jones.* You ſaw him firſt in *May*?

Dr. *Otes.* Yes, my Lord.

Mr. Juſt. *Jones.* And you did not ſee him till after the Conſult? I don't ask you whether he was there or no? But whether you ſaw him before the Conſult was ſign'd?

Dr. *Otes.* No, my Lord.

L. C. J. How did you come to know his Name?

Dr. *Otes.* My Lord, in *June* Mr. *Langworth* and I were going over *Lincolns-Inn Fields*, intending to go to the *Fountain* in *Fullers Rents*, becauſe there was a ſort of Drink that he loved, and we were to drink together, it was in the Evening; and ſo, in our way as we went we met with my L. *Caſtlemaine*, whom Mr. *Langworth* did ſalute, and then we came back to Mr. *Fenwick*'s Chamber.

L. C. J. With whom did you come back?

Dr. *Otes.* With my L. *Caſtlemaine*.

L. C. J. Did you know his Name?

Dr. *Otes.* Mr. *Langworth* told me, it was the Priſoner at the Bar, my Lord, and the Priſoner at the Bar was giving an Account of ſome Letters he had received out of the Countrey; and Mr. *Langworth* was giving him an Account how forward the Rector of *Liege* and the Rector of *Gant* were in offering to have the ſecular Clergy engaged with them; and ſome other Diſcourſe they had which I can't remember, but about the Deſign.

L. C. J. What did they talk of at that time? You muſt as near as you can tell us what Diſcourſe they had.

Dr. *Otes.* I will give your Lordſhip this, They were ſpeaking of the Tranſactions of the Conſult, and how unanimous the Fathers were in ſigning the Conſult.

L. C. J. Who was ſpeaking of it?

Dr. *Otes.* Mr. *Langworth* and Mr. *Fenwick*, and my L. *Caſtlemaine* was preſent.

L. C. J. They did talk of it?

Dr. *Otes.* Yes.

L. C. J. Did they mention the particulars of that Conſult?

Dr. *Otes.* Yes.

L. C. J. What was that?

Dr. *Otes.* Laying aſide the King.

L. C. J. And what elſe?

Dr. *Otes.* And bringing in the Popiſh Religion, the Catholick Religion, I ſpeak their own Words.

L. C. J. And this Diſcourſe they had in the hearing of my L. *Caſtlemaine*?

Dr. *Otes.* Yes; and my L. *Caſtlemaine* ſaid, *Now he ſhould be revenged for the Injuries done to him.*

L. C. J. Go on.

Dr. *Otes.* I have nothing elſe to ſay of my L. *Caſtlemaine* that I can think of at preſent.

L. C. J. Now, my Lord, you may ask him what Queſtions you think fit.

Priſoner. Mr. *Otes*, Repeat your Journey again.

Dr. *Otes.* My Lord, I ſay this; I went a Shipboard in *April*, I returned from *Valladolid* in *November*, I arrived in *London* in *November*, and ſtaid in *London* ſome time, and then I went to St. *Omers* in *November* or *December*, new Stile or old Stile, I ſtaid at St. *Omers*, from thence I went to *Watton*, then, my Lord, in the month of *March* we went to *Liege*, and returned back again; in the month of *April* we came hither, ſome time before the Conſult, and ſtaid here ſome time after.

Priſ. What time were you at *Liege*, pray Sir?

Dr. *Otes.* In *March* 77.

Mr. Juſt. *Jones.* The end of 77?

Dr. *Otes.* No, my Lord, we were at St. *Omers* again in *March*.

L. C. J. You returned in *March* $\frac{77}{78}$.

Dr. *Otes.* Yes, my Lord, the Stile doth ſo alter.

Priſ. That is before *Lady day*?

Dr. *Otes.* Yes, my Lord, it was before *Lady-day*, we arrived here in *London* in *May* or in *April*, and we ſtaid here ſome few days.

Priſ. When did you come over again, pray Sir?

Dr. *Otes.* My Lord, it is now two years ago, or better, and I can't remember every particular time; my Lord, we were here in *May*.

Priſ.

Priſ. I will ask him as many Queſtions as I think reaſonable, and when, my Lord, I do deſire Times, and he can't tell the Times, he muſt tell me ſo.

L. C. J. Mr. *Otes*, Anſwer my Lord what Queſtions he asks you.

Dr. *Otes.* I will tell my Lord *Caſtlemaine* as near as I can remember, my Lord.

Priſ. Mr. *Otes*, When was it you came over?

Dr. *Otes.* Really it was ſome few days before the Conſult.

Priſ. How many days do you think?

Dr. *Otes.* Really I can't remember.

L. C. J. I ſuppoſe you have your Memorials.

Dr. *Otes*, Really, my Lord, no.

L. C. J. Have you any thing more to ask?

Priſ. Yes, my Lord, a great many Queſtions. Were you preſent, Mr. *Otes*, pray, at that Conſult, when I conſented to the King's Death? Was you by?

Dr. *Otes.* I was preſent at the Conſult; but I do not charge you to be at the Conſult.

L. C. J. He asks you where it was he agreed to it?

Dr. *Otes.* At Mr. *Fenwick*'s Chamber, I remember it was about ſeven or eight a Clock that we were going over *Lincoln's-Inn Fields.*

L. C. J. How long might you be at *Fenwick*'s?

Dr. *Otes.* It was about eleven or twelve a Clock I came away.

Priſoner. When you met me in *Lincoln's-Inn-Fields*, was I in a Coach or on Foot, or was any body with me?

Dr. *Otes.* I can't ſay whether your Lordſhip had a man with you or no.

L. C. J. Was there any body with him?

Dr. *Otes.* I did not take notice of that.

L. C. J. You were two Hours together, pray let me ask you this Queſtion, What was your Diſcourſe about?

Dr. *Otes.* That was part of the Diſcouſe, my my Lord.

L. C. J. What? You have given us a very ſhort Account of it in four Lines: You were two Hours together, What was the main of your Diſcourſe about?

Dr. *Otes.* My Lord, I will give you, as plainly as I can, the Diſcourſe at that time.

L. C. J. Pray let us know what the main of your Diſcourſe was about.

Dr. *Otes.* One part of their Diſcourſe was about the Revenues of their Colleges, and how they had ſuffer'd by the *French*'s taking St. *Omer*'s, and what Loſſes they had ſuſtain'd by Reaſon of the Change of Government by the Conqueſt; for the Crown of *Spain* had entail'd on the College of St. *Omer*'s five or ſix Hundred a Year, for the maintaining the Foundation of their Houſe, or Foundation-Rent, and it was taken away by Reaſon of the Conqueſt that *France* had made over the *Spaniſh* Dominions there; and they were conſulting how they ſhould write to Father *Le Cheſe* to be an Inſtrument to move the *French* King to reſtore this Annuity, that was a Settlement entail'd upon it.

L. C. J. How came you into this Diſcourſe?

Dr. *Otes.* This was after the other Diſcourſe.

L. C. J. How came you to diſcourſe this Affair here in *England?*

Dr. *Otes.* I will tell your Lordſhip as near as I can remember: When we met in *Lincoln's-Inn-Fields*, Mr. *Langworth* recommended me to my Lord *Caſtlemaine*, and bad me take notice of him. I can't ſay this is my Lord *Caſtlemaine*, but this is that Man I ſaw.

L. C. J. Did he call him by his Name?

Dr. *Otes.* He told him that I was ſuch a one, and that I was ſerviceable to them. And upon our way as we went to Mr. *Fenwick*'s Chamber, he inquir'd into the Cauſes of my coming over ſo ſoon again, for he ſaid I went over but laſt Month. Said he, *How came it to paſs he came over ſo ſoon again?* Saith he, *We wanted him to do ſome Buſineſs for us.* And there were more Particulars of the Tranſactions of the Conſult mention'd to my Lord *Caſtlemaine.*

L. C. J. How did they bring in the Particulars of that Deſign?

Dr. *Otes.* This is as near as I can remember.

L. C. J. How came they to talk of laying aſide the King and bringing in the Catholick Religion?

Dr. *Otes.* My Lord, after they had given an Account of the Tranſactions of the Conſult: This was one part of the Conſult.

L. C. J. Pray how came they to bring it in, in Diſcourſe?

Dr. *Otes.* My Lord, they ſpake of the Particulars of it.

L. C. J. I wonder what introduced the Particulars: Was it to acquaint him with thoſe Particulars?

Dr. *Otes.* My Lord, I have nothing to ſay to that, they were things ſo generally talked of by thoſe of the Jeſuitical Party, that whenever they met, they ſcarce did talk of any thing elſe but of that, and ſo they did at this time.

L. C. J. Pray tell me the whole Diſcourſe, as you can remember, that relates to this time.

Dr. *Otes.* My Lord, I have told your Lordſhip, we met with my Lord *Caſtlemaine* in *Lincol'ns Inn-Fields.* I have told you, my Lord, that we went to Mr. *Fenwick*'s; I have told you, my Lord, that after ſome Diſcourſe (how it was introduced, I cannot be poſitive, but as I can remember) they were ſpeaking of my going over and coming again ſo ſoon, my going from the Conſult to St. *Omer*'s, and returning again into *England* ſo ſoon, and ſo one word brought in another.

L. C. J. Did you know then that my Lord *Caſtlemaine* had ever heard of this Matter before?

Dr. *Otes.* My Lord, I don't know; but I am morally certain as to my ſelf; but I can't ſwear he did?

Mr. *At. Gen.* Did he ſpeak of it to him as a Stranger to it?

Dr. *Otes.* No.

Mr. Juſt. *Jones.* By the Letter you ſpake of he knew before.

L. C. J. Anſwer my Brother's Queſtion, Was the Letter you had ſeen, before or after that Diſcourſe at *Fenwick*'s?

Dr. *Otes.* My Lord, that was after the Conſult.

L. C. J. Then you know he did know of the Deſign?

Dr. *Otes.* My Lord, I think not of the Particulars of the Deſign.

L. C. J. That is, he knew of this Deſign for the main. When you talk of the Deſign, you always mean the Conſult.

Dr. *Otes.* No, my Lord, when we ſay the Conſult, we mean what was agreed on at that Conſult, not concerning theſe Matters that were done Six Months before.

L. C. J.

L. C. J. Mr. *Otes*, Tell me when you mention the Deſign and the Conſult; Do not you always mean the Death of the King and the bringing in Popery?

Dr. *Otes.* Yes, my Lord, but the Terms are not convertible: For, my Lord, when we ſay the Conſult, there was ſomething elſe done, my Lord, as that Conſult which had not an abſolute Relation to the Deſign, and of that I will give your Lordſhip one Inſtance, as the ſending Father *Cary* to *Rome*, which they did in ſome Three Years.

L. C. J. Some trival Matters concerning their own Government, but the thing you talk of is the ſame Conſult and Deſign.

Dr. *Otes.* When I ſpeak of the word Deſign, it was ſo taken among us, and ſo received by my Lord *Caſtlemaine.*

L. C. J. How can you ſay it was ſo receiv'd by him?

Dr. *Otes.* Becauſe he uſed the ſame word, and anſwer'd us according to our Interpretation.

Mr. Juſt. *Jones.* My Lord, he ſpeaks of the Deſign thus, There was a Deſign for the killing of the King, there was a Deſign of the Prieſts and Fathers for it; but ſaith he, *Afterwards there was a general Conſultation*, and this Deſign came to be form'd by this general Conſult, which my Lord *Caſtlemaine*, as he thinks, had no Knowledge of till the time they met together in *Lincoln's Inn Fields*, and afterward went and diſcourſed about it.

L. C. J. It is very fair, that he doth not know that my Lord *Caſtlemaine* had any Knowledge, before the Conſult, of this Buſineſs; but, he ſays, *The Deſign upon which the Conſult was, that he might know, which was to deſtroy the King, and bring in Popery.* And he ſays, my Lord *Caſtlemaine* did underſtand this word Deſign in that Senſe they did; becauſe he anſwered their Letters according to their Interpretation of it. How do you know he underſtood the word Deſign in its utmoſt Capacity as you underſtood it?

Dr. *Otes.* When we have our Words, we have our Keys whereby we underſtand them. But I will anſwer this Queſtion to the Satisfaction of the Gentlemen of the Jury. My Lord, he hath many times ſpoken in his Letters of introducing the Popiſh Religion, and annex'd it to the word Deſign of promoting the Catholick Religion here in *England.*

L. C. J. Now methinks you have brought the word Deſign to ſomething elſe than killing the King.

Dr. *Otes.* Yes, my Lord, the Subverſion of Religion and the Government.

L. C. J. Did he put in Government? Did he talk of bringing in the Catholick Religion and altering the Government.

Dr. *Otes.* No, my Lord, I won't ſay that.

L. C. J. When we are examining concerning Mens Lives, we muſt be careful of their words in ſuch Matters.

Dr. *Otes.* One part of my Evidence I have omitted, Your Lordſhip did ask me how I came to know my Lord *Caſtlemaine*'s Hand. My Lord, ſometimes we received Letters from him ſubſcribed *Palmer*, and ſometimes ſubſcribed *Caſtlemaine*, ſometimes ſome other Name which I may not remember; and they were generally received as from him. And I have ſeen my Lord Lord *Caſtlemaine* write, for that Night, as near as I remember, it was Poſt-night.

L. C. J. At *Fenwick*'s Chamber?

Dr. *Otes.* At *Fenwick*'s Chamber, and my Lord *Caſtlemaine* did write a Letter, ſubſcribed it and ſealed it, and I was fain to go to the General Poſt-Houſe, it was ſo late.

Mr. Juſt. *Jones.* What did he ſubſcribe then?

Dr. *Otes.* No, my Lord, I ſaw no more than the Superſcription.

L. C. J. Then you did not ſee his Name to it?

Dr. *Otes.* No my Lord. My Lord *Caſtlemaine* did ask, Why he had not Anſwers to ſuch and ſuch Letters? For ſeveral Letters I had ſeen which were not of much Moment.

L. C. J. I wiſh you had one that was of Moment.

Dr. *Otes.* It cannot be expected, my Lord, that I ſhould have them.

L. C. J. My Lord, Ask him what you pleaſe.

Priſ. You ſay, Mr. *Otes*, you received Letters from me in *Spain.*

Dr. *Otes.* I never ſaid ſo.

Priſ. You ſaw Letters in *Spain* from me?

Dr. *Otes.* Yes, I have ſeen Letters in *Spain* that were from you.

Priſ. Look you, Mr. *Otes*, pray let me ask you a Queſtion, you ſaid this, That you did not know me when you met me at the Conſult?

Dr. *Otes.* What Conſult?

Priſ. At *Fenwick*'s Chamber.

Dr. *Otes.* I did not know you at *Wild-houſe.*]

Priſ. There you met me firſt?

Dr. *Otes.* There I met the Priſoner at the Bar.

L. C. J. He ſays he did not know you at *Wild-houſe*, but he came to know you by *Langworth* in *Lincoln's Inn Fields*, and then you went together to *Fenwick*'s Chamber.

Priſ. Mr. *Otes*, Did not you ſay, that at *Wild-houſe* you did not know me, nor I you?

L. C. J. He ſays he can't tell whether you knew him or no, but he did not know you.

Priſ. Was I familiar with you?

Dr. *Otes.* No, my Lord.

Priſ. Did I talk Treaſon at *Wild-houſe?*

Dr. *Otes.* It was the Diſcourſe of the day, but I do not remember every Particular of the Diſcourſe, but I remember what your Opinion was concerning the Rector of *Liege* and the Rector of *Gant.*

Priſ. Was there any thing about killing the King at *Wild-houſe?*

Dr. *Otes.* Really, my Lord, I can't remember, I wont charge it there becauſe I am upon my Oath; though I morally believe, as to my ſelf, that there was Diſcourſe bad enough there.

Priſ. Mr. *Otes*, Pray will you hear me, then the Acquaintance I had with you was by Mr. *Langworth*, and then we went that Night to *Fenwick*'s Chamber, and there we ſtaid very long, and there we had all this Diſcuorſe?

Dr. *Otes.* Yes.

Priſ. Look, Mr. *Otes*, Was there any body by beſides Mr. *Langworth* and Mr. *Fenwick*?

Dr. *Otes.* Really, my Lord, I don't remember any body was by, unleſs a Maid might come to fill a Cup of Drink or ſo.

Priſ. Mr. *Otes*, Pray Mr. *Otes*, did you and I ever meet together after that time?

Dr. *Otes.* Really, my Lord, I can't be exact in that.

Priſ.

Priſ. Did you never ſee me nor diſcourſe with me after that time?

Dr. *Otes.* I cannot recollect my ſelf as to that, I cannot remember.

L. C. J. He does not remember that ever he was with you afterwards.

Priſ. You don't know whether ever I diſcourſed with you afterwards?

Dr. *Otes.* I don't remember.

Priſ. Very well, Mr. *Otes*, Look you, Sir, you don't remember that I ever had any Diſcourſe with you after that time; and no body was by but Mr. *Fenwick* and Mr. *Langworth*?

Dr. *Otes.* As I remember.

Priſ. Was not there another Prieſt there?

Dr. *Otes.* There is no body occurs to my Memory.

Priſ. Mr. *Otes*, you brought me Letters from *Spain*?

Dr. *Otes.* I brought a Letter from *Spain* directed to you in 77.

Priſ. Was I in Town or out of Town?

Dr. *Otes.* I delivered it to the Provincial.

Priſ. You went over to *Liege*; did not you ſee me there?

Dr. *Otes.* No, my Lord, I did not ſee you there, I only went to wait upon a Gentleman that was a Prieſt afterwards, that went to take Orders.

Priſ. Did you not ſee me at *Liege*?

Dr. *Otes.* No, my Lord.

Priſ. You were at *Liege*, did you ſtay there?

Dr. *Otes.* I lay there one Night.

Mr. *At. Gen.* Have you any thing to ask, my Lord?

Priſ. Preſently, my Lord.

Mr. Juſt. *Jones.* It is very reaſonable my Lord ſhould queſtion you. You own him to be the Lord *Caſtlemaine*; When was it you did firſt diſcover this Buſineſs concerning my Lord *Caſtlemaine*?

Dr. *Otes.* My Lord, I did diſcover my Lord *Caſtlemaine* to be in the Plot, the laſt Seſſions of the Long Parliament, and I accuſed my Lord *Caſtlemaine* this *Trinity-Term* was Twelve-months, and my Lord *Caſtlemaine* was committed: For when Mr. *Dangerfield* came in and accuſed my Lord *Caſtlemaine*, I brought a Charge a ſecond time againſt my Lord *Caſtlemaine*.

Mr. Juſt. *Jones.* Did you diſcover all this then?

Dr. *Otes.* I did charge him for having an hand in the Deſign in general.

Mr. Juſt. *Jones.* To the Parliament?

Dr. *Otes.* Yes, to the Parliament.

Priſ. You ſay when I aſſented to the King's Death in *Fenwick*'s Chamber, that I ſaid I ſhould now find a time to be revenged?

Dr. *Otes.* Pray, my Lord, don't put me to mention ſuch reflecting Evidence.

Priſ. When you were before the King, you did in purſuance of this ſpeak of a Divorce.

Dr. *Otes.* My Lord, I will give Evidence as to that if that my Lord comes to be Indicted for his Prieſt-hood.

L. C. J. My Lord may ask what Queſtions he ſhall think fit.

Mr. *At. Gen.* My Lord ſays he has ſaid it, and what he ſaid in another place he is not to treat now of.

Priſ. Suppoſe I can prove him an ill Man in any place, is not that fit to be ſpoken of here? Since he hath brought the King upon the Stage, and ſince he hath accuſed me before the King and your Lordſhips of a Divorce, I ask him whether he ſaw it?

Dr. *Otes.* I will tell your Lordſhip what I ſaid as to the Divorce, I heard it diſcours'd of generally among the Fathers beyond Sea, and this was ſome other part of the Diſcourſe at *Wild-houſe*; and I heard my Lord *Caſtlemaine* ſay that he had been at great Charge to carry on that Buſineſs of the Divorce.

Priſ. At *Wild houſe*?

Dr. *Otes.* At *Wild-houſe*. Now, my Lord, I took no Notice of it, becauſe it was not my Buſineſs. But, my Lord, after that there was a Prieſt's Chamber that was ſearched, and there was the whole Caſe ſtated; now what is become of the State of that Caſe, my Lord, I cannot tell.

L. C. J. By whom was that Caſe ſtated?

Dr. *Otes.* There was a Letter found, whereby my Lord *Caſtlemaine* ſhould have the Matter directed, in order to the carrying on the Divorce that was to be between him and his Wife *Barbara*.

Priſ. Did not you tell the King that you ſaw the Divorce in *Strange*'s Hand?

Dr. *Otes.* My Lord, I will tell you this, I gave an Account to the King, that I ſaw in *Strange*'s Hand an Account of a Divorce that was between my Lord *Caſtlemaine* and *Barbara* Dutcheſs of *Cleaveland*.

Mr. *Recorder.* My Lord, if he ask too many Queſtions that don't relate to this Matter, it is impoſſible to give an Account of every Particular.

Priſ. My Lords, I humbly ſubmit this Caſe.

Mr. *Recorder.* Ask him what you ſaid to ſuch a Man upon the Ninth of *Auguſt* was Twelvemonth, muſt he give an Account?

L. C. J. He muſt ſay he does not know.

Mr. *Recorder.* Indeed it is reaſonable that my Lord *Caſtlemaine* ſhould ask him ſome Queſtions, and that Mr. *Otes* ſhould give him an Account.

Mr. *At. Gen.* My Lord, will you give me leave to ſpeak? If he may ask Queſtions about ſuch foreign Matters as this, no Man can juſtifie himſelf.

L. C. J. This is not ſo mighty remote but uſe may be made of it.

Mr. *At. Gen.* If he ſhould ask whether he were ſuch a day at ſuch an Houſe, and tell him yes, and miſtake the day; any Man may be catch'd thus.

Priſ. How can a man be catch'd in the Truth?

Mr. *At. Gen.* My Lord *Caſtlemaine* may, if he can, catch him in any thing he gives in Evidence here.

Priſ. My Lord, if your Lordſhip over-rule me, I will ſay no more. Mr. *Attorney* ſays I come to catch him, I confeſs I do.

Mr. *At. Gen.* You ſhould not ask him foreign Queſtions.

L. C. J. He asks a plain Queſtion, why do you labour ſo much that he ſhould not ask, whether he had ſeen the Divorce? My Lord *Caſtlemain*, I have ask'd the Queſtion for you, Whether or no he ſaid he had ſeen the Divorce? And he does not remember whether he ſaid ſo or no.

Mr. *At. Gen.* My Lord, I think, with your Lordſhip's leave, that he is not bound to anſwer Queſtions, that are not to the Evidence.

L. C. J.

L. C. J. If ſo be he would come to make Application, it may be well enough.

Mr. *At. Gen.* I ſay it for the method of the Evidence, my Lord, that I would not have theſe Excurſions.

Priſ. I deſire your Lordſhip that I may ſay out what I have to ſay. I ſay this, That no man in the World that ſpeaks Truth can be catch'd, neither will Mr. *Attorney* ſuffer me to catch him.

Mr. *At. Gen.* I ſay you have liberty to catch him in any thing that doth belong to the Evidence.

Priſ. I come to ſhew you the fitneſs of it to this Affair. He comes and tells you, among other Conſults, of *Wild Houſe*; and my meeting him in *Lincolns Inn Fields*, the Recommendations of Mr. *Langworth*, and going to *Fenwick*'s Chamber, where we talked of altering the Government, and my aſſenting to kill the King: And ſince you have brought the King upon the Stage, I will refreſh your memory a little; ſince you talk of revenging my ſelf, look you if you did not mention a Divorce to the King, and alſo to my Lord Chief Juſtice.

Mr. *At. Gen.* My Lord, you are under a miſtake.

Priſ. Pray give me leave, Mr. *Attorney*.

Mr. *At. Gen.* You make ſuch Excurſions into foreign matters.

Priſ. Mr. *Otes*, you did ſay you ſaw a Divorce. I ask you whether you ſaw a Divorce, and where; or whether you ſaid ſo?

L. C. J. He ſays, he does not remember he ſaid ſo.

Dr. *Otes.* I do not remember whether I ſaid ſo or no, my Lord, I have it down, but indeed I did not ſet my thoughts a-work.

Mr. *At. Gen.* He hath given you an Anſwer that may ſatisfie you.

Mr. Juſt. *Raymond.* He hath Papers wherein he hath enter'd *Memorandums* to refreſh his memory, but theſe Papers he hath not by him.

L. C. J. Then he may ſay he hath not.

Mr. *At. Gen.* That he hath already, my Lord.

L. C. J. Have you any more to ſay?

Priſ. I have, my Lord, if you will give me leave to write down two Words.

Priſ. Mr. *Otes*, you told my Lords the Judges that I did ſay, I was at great Expence about a Divorce?

Dr. *Otes.* Yes.

Priſ. That is very well, Mr. *Otes*.

Mr. *At. Gen.* Call Mr. *Dangerfield*.

Dr. Otes *was going out of the Court.*

Priſ. May Mr. *Otes* go out of the Court?

Court. Yes, yes.

Dr. *Otes.* I will be within call, my Lord.

Priſ. I only ſubmit it to your Lordſhips, Whether or no a Witneſs may go out of the Court?

Dr. *Otes.* I will ſtay then.

Mr. *At. Gen.* Swear Mr. *Dangerfield*.

Priſ. Pray ſtay.

L. C. J. Why ſo?

Priſ. Here I am a Priſoner, my Lords, and ſubmit it to your Lordſhips, Whether or no Mr. *Dangerfield*, who hath had the Cenſure of this Court, may be a Witneſs? Whether or no Council ſhall ſhew Reaſons to your Lordſhip, Whether he may ſpeak or no?

Mr. Juſt. *Jones.* You muſt ſhew your Exceptions that you have againſt him.

Priſ. My Exception is this: That he was Convicted of Felony, that he broke Priſon, and was Outlaw'd upon it. Beſides this, my Lord, he is a Stigmatick, hath ſtood in the Pillory, and was burnt in the Hand. Now I humbly beſeech your Lordſhips, that you will be pleaſed to hear what my Council can ſay: and then, my Lords, if you over-rule, I ſhall give place with all my Heart.

L. C. J. I think it reaſonable, if you deſire Council, that they ſhould be allow'd to ſpeak.

Mr. *At. Gen.* If your Lordſhip pleaſe, when my Lord's Exceptions appear.

Mr. Juſt. *Jones.* What are your Exceptions, my Lord?

Priſ. That I told you beforehand; he is an Outlaw'd Perſon, he is Convicted of Felony.

Mr. Juſt. *Jones.* When was he Outlaw'd?

Mr. *At. Gen.* In the 27*th* year of the King, and we ſay he hath a Pardon in the 30*th* year of the King.

L. C. J. How do you prove he was burnt in the Hand, my Lord?

Mr. *At. Gen.* When was he burnt in the Hand?

Priſ. Call *Briſcoe*.

Mr. *At. Gen.* We bring a Pardon unto that, and that will reſtore him.

[*A Record produced.*

Mr. *At. Gen.* That Record we confeſs, ſhew the Pardon, ſhew the Pardon.

L. C. J. Now go to that for which he was burnt in the Hand.

Mr. *At. Gen.* Here is a Pardon that extends to them all.

[*The Pardon read*: Decimo tertio die Januarii, Anno Regni, *&c.*

L. C. J. This does not do it.

Mr. *At. Gen.* Yes, my Lord, it does.

L. C. J. Is that the *Newgate* Pardon?

Mr. *At. Gen.* Yes, my Lord.

L. C. J. We have had it in the Court.

Mr. *At. Gen.* Yes, my Lord.

L. C. J. And Felony and Outlawry is in it.

Mr. *At. Gen.* Yes, my Lord.

L. C. J. Where is that for which he was burnt in the Hand?

Mr. *At. Gen.* For that we give an Anſwer; he was received to the Benefit of his Clergy, and he was burnt in the Hand, and his Pardon is after that too.

L. C. J. So it is.

Mr. *At. Gen.* Then his Pardon anſwers them all.

L. C. J. Now you ſee, my Lord, you think *Dangerfield* ought not to be a Witneſs, who hath gone thro' ſo many Puniſhments, Outlaw'd for Felony, and burnt in the Hand for Felony: Mr. *Attorney* makes Anſwer, We have a Pardon, and by that he is reſtored, as he ſays, to be a Witneſs again. If you deſire Council to ſpeak to this Point, Whether or no a man branded and burnt in the Hand for Felony, and afterwards is pardoned, is capable of being a Witneſs? I ſee no Reaſon to deny it you.

Mr. *At.*

Mr. *At. Gen.* If there be matter for Counſel to ſpeak, in that Caſe we muſt ſubmit, if your Lordſhip make it a Doubt.

L. C J. I do for my own part; in this I am clear: If a man were Convicted of Perjury, that no Pardon will make him a Witneſs, becauſe it is to do the Subject wrong. A Pardon does not make a man an honeſt man; it takes off Reproaches; and the Law is wiſe in that, the Law will not ſuffer endleſs Contumelies to be heap'd upon men, nor to be call'd perjur'd Raſcals, and ſuch things; it is only to prevent upbraiding Language, which tends to the Breach of the Peace. But in my Opinion, if a man ſtands Convicted in Court for Perjury, no Pardon can ever make him a Witneſs, and ſet him upright again. But that is a different Caſe from this; we are upon this ſingle Caſe, Whether a man that is burnt in the Hand for Felony, whether a Pardon can ſet him right or no? For this I make more doubtful than the other; for a man, may be, that hath committed a Robbery, would be afraid to forſwear himſelf; for tho' one is a great, the other is a greater Sin, and that in the Subject matter; which conſidered, I think it reaſonable to allow my Lord Counſel to ſpeak to that ſingle Point, That a Perſon being burnt in the Hand for Felony, and afterwards pardoned. Whether he is capable of being a Witneſs?

Priſ. Then I do name Mr. *Jones*, Mr. *Saunders*, and Mr. *Darnal.*

L. C J. Very well.

[*Mr.* Saunders *was called, but was not in Court.*

L. C. J. Are you prepared, Mr. *Jones*, to ſpeak?

Mr. *Jones.* No, my Lord.

Mr. Juſt. *Jones.* My Lord, do you except againſt that one particular?

Priſ. I ſtand upon both, his being pillory'd, and burnt in the Hand.

L C J. Will you admit that he ſtood in the Pillory?

Mr. *At. Gen.* I know nothing of it.

L. C. J. I will tell you, my Lord, you will ſee whether it be neceſſary to protract this or no; for your Counſel will hardly undertake to argue unprepared about this point, and if the Tryal ſhould be adjourn'd, it would be very troubleſome. I think it the Duty of my place to diſcharge my Conſcience for you and againſt you, as the matter ſhall fall out; and if ſo be that you ſhould inſiſt upon it, and he be capable of being a Witneſs, ſuppoſing it ſo, yet I muſt ſay, you may give in the Evidence of every Record of the Conviction of any ſort of Crimes he hath been guilty of, and they ſhall be read. They ſay laſt Day there were ſixteen; if there were an hundred they ſhould be read againſt him, and they ſhall all go to invalidate any Credit that is to be given to any thing he ſhall ſwear.

Priſ. My Lord, I humbly ſubmit my ſelf to your Lordſhip; ſixteen we have, I bring but ſix, you ſhall have them Mr. *Attorney* when you pleaſe.

L. C. J. My Lord, if you think it worth your while to put it to Counſel to argue, Whether he may be a Witneſs, or whether you think it may be as well for you, ſuppoſing he be a Witneſs, the producing thoſe things againſt him, or the Records of thoſe Crimes that he hath been Convicted of; whether that will be as well for you or no, I leave it to your ſelf to do as you think beſt.

Mr. *Darnal.* I conceive, with ſubmiſſion to your Lordſhip, that he cannot be a Witneſs.

L. C. J. Are you prepared to ſpeak to it now?

Mr. *Darnal.* My Lord, I am ready to offer ſomewhat to your Lordſhip, why I conceive he ought not to be Sworn: But I deſire firſt, that the Pardon may be read, becauſe many Perſons and Offences are comprized in it.

L. C J. It is a Pardon for Felonies and Outlawries of Felony in general.

Mr. *Darnal.* If the Perſons and their Offences are ſeverally and ſufficiently pardoned, then, my Lord, I will proceed unto the other Point.

Mr. Juſt. *Jones.* The whole is good.

Mr. *Darnal.* Then, my Lord, I conceive, notwithſtanding this Pardon, Mr. *Dangerfield* ought not to be Sworn; and that no Perſon attainted of Felony (tho' pardon'd) can be a Witneſs. My Lord, it hath been adjudged in 11 *Hen. 4th, quadrageſimo primo*, That a man atttainted of Felony (as Mr. *Dangerfield* is) tho' he be afterwards pardon'd, cannot be ſworn of a Jury. My Lord, the ſame Queſtion hath been reſolv'd ſince, in *nono Jacobi.* It is reported in Mr. *Brownlow's* and *Goldsborough's* Reports, *Folio Triceſimo quarto.* And my Lord *Cook* in Mr. *Bulſtrode's* ſecond Reports, 154. in *Brown* and *Craſhaw's* Caſe, is of the ſame Opinion. He ſays, A man attainted and pardon'd cannot ſerve upon any Inqueſt; and that by the ſame reaſon, the Teſtimony of ſuch a man for a Witneſs is in all Caſes to be rejected.

L. C. J. Who ſays ſo?

Mr. *Darnal.* My Lord *Cook.*

L. C. J. Men do not ſlight my Lord *Cook*, where do you ſay that is?

Mr. *Darnal.* It is in Mr. *Bulſtrode's* 2*d* Reports, in *Brown* and *Craſhaw's* Caſe, *fol.* 154.

Mr. Juſt. *Jones.* But you ſhould have brought theſe Books hither.

Mr. *Darnal.* I ſuppoſe, Sir, they may be had in the Hall. My Lord *Cook* gives this Reaſon for it in that Caſe; he ſaith, That notwithſtanding his Pardon he is not *probus & legalis homo.*

Mr. Juſt. *Jones.* That Pardon was before any Judgment; it was a Pardon of Felony before any Tryal or Judgment; but here is a Conviction.

Mr. *Darnal.* My Lord *Cook* puts the Caſe there of a man attainted. And, my Lord, *in duodecimo Jacobi*, it is reported in *Brownlow's* Reports, *Fol.* 47.

Mr. Juſt. *Raymond.* Which of his Reports?

Mr. *Darnal.* I know but of one ſet out in his Name alone, the other (which is call'd the Firſt Part) is ſet out in his and *Goldsborough's* Name. I have Mr. *Brownlow's* Reports here, and if your Lordſhip pleaſe you may ſee it.

L. C. J. What is the Page?

Mr. *Darnal.* 47, my Lord; the Caſe there reported is, The King pardon'd a man attaint for giving a falſe Verdict; yet he ſhall not be at another time impannell'd upon any Jury; and the reaſon given there is, that tho' the Puniſhment was pardon'd, yet the Guilt remain'd.

Mr. Juſt. *Jones.* That is a very ſhort Note, and not ſo much in the Book as you have mentioned.

Mr. *Darnal.* I writ it word for word out of the Book, Sir, and I am ſure there is ſo much in my Book. My Lord, in Mr. Juſt. *Crooke's Eli-*

zabeth, fol. 686. in *Shelborn's* Caſe, it is held, That tho' the King may pardon *Simony*, yet he cannot enable a *Simoniack* to retain a Living.

L. C. J. The Act doth make him not capable.

Mr. *Darnal.* I conceive, Sir, it is upon the ſame Reaſon, becauſe the Pardon cannot take away the Guilt, tho' it may the Puniſhment of the Offence.

Mr. Juſt. *Raymond.* He can't diſpenſe with *Simony*, he can't give a Diſpenſation to take a Living.

Mr. *Darnal.* My Lord, upon theſe Reſolutions and the Reaſon of them, I humbly ſubmit it to your Lordſhip, Whether Mr. *Dangerfield* (having been attainted of Felony, tho' he be ſince pardoned) can be a Witneſs.

Mr. *At. Gen.* My Lord, with your Lordſhip's Favour, this is quite contrary to the conſtant and general Opinion, and contrary to the conſtant Practice: For, my Lord, with your Lordſhip's Favour, When a man is pardon'd for any Crime, if a man can't ſay he is a Felon, or he is perjured, then he can't be reckoned ſo to any intent or purpoſe whatſoever.

L. C J. I told you before it is conſonant to all the Reaſon and Law in the World, that a Pardon ſhould ſtop mens mouths from reviling Speeches that ſignifie nothing; but it is one thing to ſay men ſhall not go reviling, that can have no conſequent good, but which tends to the breach of the Peace, and another thing to ſay he ſhall be *Liber*.

Mr. *At. Gen.* My Lord, when the King gives him a Pardon, it is as if he had never committed the Offence.

L. C. J. He may be Outlaw'd notwithſtanding the King's Pardon, and then it is not as if he had never committed the Offence.

Mr. Juſt. *Jones.* It reſtores him to wage Battle, and it makes him *liber & legalis homo*: For if a man may wage Battle, he is *liber & legalis homo*.

Mr. *At. Gen.* Then, my Lord, if he be ſo, he ſhall be a Witneſs: For, my Lord, in the point of *Perjury*, a man that after a Conviction of *Perjury* had a Pardon, hath been admitted ſeveral times.

L. C. J. Was the Exception taken, Mr. *Attorney*?

Mr. *At. Gen.* Yes, my Lord, and he rejected before he had a Pardon.

Mr. Juſt. *Raymond.* How many men have been Witneſſes that have been convicted of Felonies, after the Kings have pardoned them?

Mr. *Recorder.* I will not adventure to ſay that there hath been a particular Objection made, and ſo that the Court hath had the Debate of it; but I will undertake to give your Lordſhip ſeveral inſtances of men that have been convicted, and the Judges ſitting there knew them to be ſo convicted, and did not take notice of it.

Mr. Juſt. *Raymond.* I ſpeak of *Witherington* particularly.

Mr. *Recorder.* He was a Witneſs, tho' every man did know that *Witherington* was convicted. I beg your Lordſhips leaves to ſpeak it, that the Judges themſelves did know that he was convicted and had received Sentence of Death.

Sir *Francis Winnington.*

Mr. *Sol. Gen.* The conſtant Practices of the Judges is a mighty Concluſion.

L. C. J. What think you, Mr. *Attorney*, if a man be convicted of Felony, and afterwards hath a general Pardon, is he a Witneſs?

Mr. *At. Gen.* Yes truly, my Lord, it ſignifies the ſame thing, my Lord, as to be a Freeman again.

Mr. Juſt. *Jones.* He cannot be of a Jury if he be attainted of Felony; and the Reaſon is, becauſe he is not *probus & legalis homo*; and why he ſhould not as well be of a Jury as a Witneſs I cannot underſtand.

Mr. *At. Gen.* There is a great deal of difference, my Lord, a great many men may be admitted to be Witneſſes, that cannot be admitted to be Jurymen.

Mr. Juſt. *Jones.* Shew me any man that is excluded from a Jury and admitted to be a Witneſs, except in the caſe of Kindred.

Mr. *At. Gen.* An hundred.

L. C. J. Shew me any man who being of a Jury was excluded, and yet made a Witneſs.

Mr. *At. Gen.* A Villain was not admitted to be a Juryman, but a Villain was always to be a Witneſs, and that was a point of Infamy.

L. C. J. What Infamy was contained in being a Villain?

Mr. *At. Gen.* He was a Criminal, he was not *liber homo*.

L. C. J. But tho' he be not a Freeman, he may be an honeſt man.

Mr. *Recorder.* My Lord *Hobart* ſays, A Pardon takes away the Guilt.

L. C. J. It takes away Guilt ſo far as he ſhall never be queſtioned; but it does not ſet a man as if he had never offended. It cannot in reaſon be ſaid, a man guilty of Perjury is as innocent as if he had never been perjured.

Mr. *At. Gen.* I ſay, if a man be pardoned, he is as if he were not guilty.

L. C. J. If I were in my Lord *Caſtlemaine's* Caſe, I would ſubmit it; but when he hath given his Teſtimony, my Lord ſhall have liberty to give in the Records againſt him of what Crimes he hath committed.

Mr. Juſt. *Jones.* I do confeſs indeed, that my Lord *Hales*, in his little Book *Of the Pleas of the Crown*, ſaith, That a man that hath had the Benefit of his Clergy is reſtored to his Credit.

Mr. Juſt. *Raymond.* If that Caſe be allowed, it is a plain Caſe; for there is no man can wage Battle, but he that is *liber & legalis homo*.

Mr. *Recorder.* A man broke Priſon, and therefore he could not wage Battle; he replies, the King hath pardoned me that Felony, and thereupon he is admitted to wage Battle.

Mr. Juſt. *Jones.* Where there is no Judgment given in the Caſe, and the King doth pardon a man, that doth make a very great difference.

Mr. *Recorder.* In the Caſe of *Witherington*, my Lord Chief Juſtice did look upon the Records, and afterwards ſaid he was a good Witneſs, and was admitted.

Priſ. If you have Law by you, I muſt conſent.

L. C. J. Then you muſt conſent.

Mr. *Recorder.* There are ſeveral Perſons who have had Pardons after Robberies, and we are forced to make uſe of ſome of theſe Fellows.

L. C. J. Before Conviction.

Mr. *Recorder.* No, after Conviction, my Lord, I have known a Priſoner at the Bar, when my Lords the Judges have been there, to be a Witneſs; and if the Court had made any doubt, it would

would have been a Queſtion before this time of day.

Mr. *At. Gen.* My Lord, if you pleaſe, Mr. *Dangerfield* may be Sworn, if your Lordſhip pleaſes.

L. C. J. My Lord ſhall have the Benefit of excepting againſt his Credibility.

Then Mr. Juſtice Raymond *went down to the Court of Common Pleas, to know their Opinion.*

Mr. Juſt. *Jones.* Have you any other Witneſs in the mean time?

Mr. *At. Gen.* No, my Lord, he is a principal Witneſs.

Mr. *Sol. Gen.* Beſides the common practice, here is a Book that ſays he ſhall wage Battle.

Mr. Juſt. *Jones.* That is, when there is a Pardon before Conviction.

Mr. *Sol. Gen.* But here, my Lord, he ſays the *Reatum* is taken away, and then it takes away his Diſabilities too. The difference can be nothing here before Conviction, and after, becauſe before Conviction there is a Diſability, before Conviction he is diſabled from waging Battle: So that that makes no difference before Conviction, and other Caſes after Conviction, and the Diſability is taken away by the Pardon, and he is reſtored to be a Freeman.

L. C. J. There is a Diſability upon Preſumption, tho' not upon Conviction.

Mr. *Sol. Gen.* There is the ſame legal impediment in the one as in the other; but his Credit is left to the Breaſt of the Jury.

Mr. *Recorder.* When a Pardon comes, it takes away not only *Pœnam*, but *Reatum*; and the Reaſon my Lord *Hobart* gives.

L. C. J. Nay, give your Reaſon.

Mr. *Recorder.* For Felony is *contra coronam & dignitatem*, is a Fault againſt the King; and when the King pardons it it, ceaſes. And in another place it is ſaid, It pardons all Diſabilities incident to him.

Mr. Juſt. *Jones.* That is before Conviction ſtill.

L. C. J. Don't my Lord *Cook* tell you expreſly, That the taking a Pardon doth not prove any Offence? You take a Pardon, it ought not to be concluded that you are guilty; but the proper Concluſion of a wiſe man is, That you would be ſafe. It can't be thought that every man that hath a Pardon in *England* is guilty of all thoſe Offences that are there pardoned.

Mr. Juſt. *Jones.* There is a difference between a general Pardon and a particular Pardon: When a man doth accept of a ſpecial Pardon, it muſt be intended that he hath ſome conſciouſneſs of Guilt, or elſe he would not take it; but he that is included in a general Pardon may be clear, becauſe all men are included in it, unleſs ſome perſons particularly excepted; and the difference is taken in that very point, from accepting a general and a ſpecial Pardon.

L. C. J. That the acceptance of a general Pardon, doth not barely of it ſelf intend men to be guilty of the Crimes, is plain, and the Reaſon is moſt apparent; for beſides that men be ſafe, ſo there be times that give a Reaſon why men ſhould have a Pardon, becauſe no man knows when he is ſafe; Perjury ſo abounds that no man can ſay he is ſafe, and that is a Reaſon, why men ſhould be very willing to accept of Pardons.

Cl. of Cr. Here's my Lord *Hales*'s Book about the Pleas of the Crown.

Mr. *Recorder.* He ſays, When the King hath diſcharged and pardoned him, he hath cleared the perſon of the Crime and Infamy.

Mr. Juſt. *Jones.* It is ſo no doubt.

Mr. *Sol. Gen.* May we paſs upon theſe Authorities?

Mr. Juſt. *Jones.* Sir *Francis*, we are not willing to go about it till it be concluded; for that purpoſe we have deſired my Brother *Raymond* to know the Judges Opinions of the *Common Pleas.*

Mr. *Recorder.* He doth expreſly ſay, It hath reſtored him to his Credit; and in *Witherington*'s Caſe he did call for the very Records.

Mr. *At. Gen.* If it reſtore him to his Credit, I hope it ſhall not blemiſh him ſo much when he is ſworn, that he ſhall not be believed.

L. C. J. We won't have any Prepoſſeſſion in that caſe, his Crimes ſhall be all taken notice of; is it fit to have men guilty of all ſorts of Villanies, and not to obſerve it?

Mr. Juſt. *Jones.* In that very Caſe my Lord *Hobart* ſays, A man may ſay of a pardoned man, he was a Felon, tho' he cannot ſay now he is a Felon; and now what can be objected to this Caſe?

Mr. *Recorder.* Things may be objected againſt a perſon, and his Credit left to the Jury; but the Queſtion now is, Whether he ſhall be a Witneſs or no?

L. C. J. We have men grown ſo inſolent, they behave themſelves with that vile inſolence, that now they take upon them to ſpeak againſt whole Societies of men; as if ſo be there were any thing in them that ſhould render them better than their former Lives or Natures. Humility becomes penitents, and no wicked man is ſuppoſed to be a penitent that hath not that; but theſe carry it with that inſolency, as if they were not concerned themſelves, when God knows the beſt of them diſcover what they do, by being but parties themſelves.

[*Mr. Juſtice* Raymond *returned from the Court of Common Pleas.*

L. C. J. I will tell you what my Brethrens Opinions are; he hath put it to them on both Accounts, That he was convicted of Felony and burnt in the Hand for it, that he was Outlaw'd for Felony, and hath a general Pardon. They ſay they are of Opinion, That a general Pardon would not reſtore him to be a Witneſs after an Outlawry for Felony, becauſe of the intereſt that the King's Subjects have in him. But they ſay further, That where a man comes to be burnt in the Hand, there they look upon that as a kind of a more general Diſcharge than the Pardon alone would amount to, if he had not been burnt in the Hand. They ſay, If he had been convicted of Felony and not burnt in the Hand, the Pardon would not have ſet him upright; but being convicted and burnt in the Hand, they ſuppoſe he is a Witneſs.

Mr. *Sol. Gen.* Swear Mr. *Dangerfield.*

L. C. J. The very Attainder is taken away, and ſo all is gone.

Mr. *At. Gen.* Come, Mr. *Dangerfield*, are you Sworn?

Mr. *Dangerfield.* Yes, Sir.

Mr. *At. Gen.* Pray tell what you know of my L. *Caſtlemaine.*

L. C. J. I perceive my Brethrens Opinion is, That if a man were convicted of Perjury, if there be no Burning in the Hand in the caſe, that a Pardon could not ſet him upright, becauſe of the Intereſt of the People in the King.

Mr. *At. Gen.* Come, Mr. *Dangerfield*, are you ſworn?

Mr. *Dangerfield.* Yes, Sir.

Mr. *At. Gen.* Then pray ſay what do you know of my L. *Caſtlemaine*?

Mr. *Dangerfield.* About this time Twelvemonth, my Lady *Powis* ſent me with a Letter for the Priſoner at the Bar, my L. *Caſtlemaine*.

L. C. J. Don't you know him?

Mr. *Dangerfield.* Yes, my Lord, this is the Perſon. And, my Lord, the Contents of that Letter I know not: But his Lordſhip made me ſtay till he wrote an Anſwer, and the Contents of the Anſwer, my Lord, were to this effect: For I return'd with the Anſwer, to the Lady *Powis*, and ſhe opened and read it while I was preſent.

L. C. J. Aloud?

Mr. *Dangerfield.* Aloud, my Lord.

L. C. J. To you.

Mr. *Dangerfield.* To me.

L. C. J. Who was there?

Mr. *Dangerfield.* Mrs. *Cellier* was there beſides. And the Contents of this Letter were, *This Perſon I like well, and though he be no Schollar, he will ſerve to inſtruct the Youths as he ſhall be directed.* By the Youths were meant the St. *Omer*'s Witneſſes.

L. C. J. How do you know?

Mr. *Dangerfield.* Becauſe I know my Lord was employed for that purpoſe. I know his Lordſhip did uſe to inſtruct the Youths; and it was a common ſaying among them, when one of them was out of his Part, they uſed to ſay, I muſt go to my Lord *Caſtlemaine*.

L. C. J. What Part?

Mr. *Dangerfield.* That which they were to ſay, and one of them did ſay, I am out of my Leſſon, I muſt go to my Lord *Caſtlemaine*.

L. C. J. When did he ſay ſo?

Mr. *Dangerfield.* Before the Tryal, my Lord, and my L. *Caſtlemaine* went along with them to the Tryal, and his Lordſhip complained of ſome ill Uſage that the Witneſſes received there. His Lordſhip was one of the Perſons that imployed me to get *Lane* out of the *Gate-houſe*, my Lord, and his Lordſhip ſent me to a Sollicitor of his, whoſe Name was Mr. *Lawſon* (the Perſon is now in Court) to take an Account how far he had proceeded in this Affair. I did take an Account, and I proceeded in it afterwards and got him diſcharged.

L. C. J. How came you into my Lord's Acquaintance?

Mr. *Dangerfield.* That was the firſt time, when my Lady *Powis* ſent me with that Letter, my Lord. A pretty while after this, in the Month of *July*, I went to wait upon his Lordſhip at his Houſe in *Charing-Croſs*, the ſame place where I found his Lordſhip before; and I was to take his Advice about ſome Letters that came from one *Nevil* alias *Paine*. Thoſe Letters and Liſt of Names I ſhewed his Lordſhip, and he gave his Approbation of them, and deſired good ſtore of Copies might be writ: For it was of conſequence, and ought not to be neglected. And ask'd me, Are there working Perſons employ'd in that Buſineſs? And ſaid he, Encourage them, and I will pay my Part. So my Lord, after there were a great Number of Copies writ of theſe Letters, I writ a Letter to my L. *Caſtlemaine*, to let his Lordſhip know that the People had finiſh'd their Work, and that there was ſomething more to be done as a Gratuity; and then his Lordſhip in anſwer to this Meſſenger (who is here alſo in Court) with a Letter his Lordſhip ſent Forty Shillings for his Part. And Mrs. *Cellier* told me ſhe received Forty Shillings and diſpoſed of it to the Uſe intended; now, my Lord, the Contents of theſe Letters were to the ſame Effect with thoſe Letters and looſe Papers which I conveyed into Collonel *Manſel*'s Chamber; and theſe all tended to the promoting the Sham-plot, my Lord.

L. C. J. Pray tell me what was the Subject of theſe Letters; what was the Subſtance of them.

Mr. *Dangerfield.* To the promoting the Sham-plot, my Lord.

L. C. J. That is a General no body knows what to make of.

Mr. *Dangerfield.* I will give your Lordſhip an Account in particular: The Contents of many of them were to this purpoſe.

L. C. J. Were they not all alike?

Mr. *Dangerfield.* The Copies were the ſame, and there were ſo many Originals to draw Copies from.

L. C. J. Were not the Originals all to the ſame Purpoſe?

Mr. *Dangerfield.* Agreeable in Point of Senſe.

L. C. J. Pray tell us the Purpoſe of them?

Mr. *Dangerfield.* The Purpoſe was, That ſo many Letters ſhould be convey'd into the Houſes of ſeveral Perſons of Quality in this Kingdom, that were called Presbyterians: For that was the Notion, that all Perſons, that were not for the immediate promoting of the Catholick Intereſt, lay under; becauſe they looked upon that Notion to be moſt obnoxious.

L. C. J. Who and where?

Mr. *Dangerfield.* In general, my Lord.

L. C. J. In general, where?

Mr. *Dangerfield.* By my Lady *Powis* and the Lords in the *Tower*.

L. C. J. Were you by when the Lords in the *Tower* did agree to it?

Mr. *Dangerfield.* When my L. *Petre* and my L. *Arundel* did.

L. C. J. What did they agree to?

Mr. *Dangerfield.* My Lord, the thing is this, after they received an Account from one Mr. *Paine*, I brought a Billet from that *Paine*; wherein was contain'd a Ground or Scheme of the Presbyterian-Plot; ſo from thence it derived its firſt Name, my Lord: So that when I came to diſcourſe with the Lords in the *Tower* about it, they call'd it the Presbyterian-Plot; and Mrs. *Cellier* and the Lady *Powis* ſaid, This is a Notion that will do the Buſineſs, as it is moſt obnoxious, and as beſt to our purpoſe.

Mr. Juſt. *Jones.* How far was my Lord *Caſtlemaine* concern'd in this?

Mr. *Dangerfield.* I have not heard his Lordſhip ſpeak of it under that Notion.

L. C. J. Pray let us hear what you can ſay againſt my L. *Caſtlemaine*.

Mr. *Dangerfield.* Now, my Lord, ſome conſiderable time after I had gotten *Lane* out of Priſon, I was imploy'd by ſeveral other Perſons, his Lordſhip was one, and he ſent me to his Lordſhip's Sollicitor, that is now in Court.

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A pretty while after this, and the Letters and Liſts of Names, containing Matter to the ſame effect as I told you before, as thoſe in *Manſel's* Chamber, and all tending to the Credit of the Sham-plot, or the Presbyterian-plot. Now, my Lord, a pretty while after this, in *Auguſt*, as near as I can remember; about the middle of *Auguſt*, I went to wait upon his Lordſhip, the very next day after I had been treated withal in the *Tower* to kill the King, whom God preſerve, my Lord; and his Lordſhip had a Servant then in the Room, and he ſent his Servant down Stairs, and looked upon me with a very Auſtere Countenance: Said he, Why would you offer to refuſe the Buſineſs for which you were taken out of Priſon?

L. C. J. To you?

Mr. *Dangerfield.* To me, my Lord.

L. C. J. Who was by?

Mr. *Dangerfield.* No body but his Lordſhip and my ſelf; for he ſent his Servant out before: So he asked me, Why I would offer to refuſe the Buſineſs I was taken out of Priſon for? I asked his Lordſhip, What that was? Said he, Was not you at the *Tower* yeſterday? Yes, my Lord, I was. Would your Lordſhip have me kill the King, I ſuppoſe that's the Buſineſs? Yes, that is, ſaid he. Upon which my Lord fell into ſuch a Fury, that I was forc'd rudely to leave the Room, and went down Stairs. I think at the ſame time his Lordſhip was writing the Compendium of the late Plot; for there I ſaw ſome Words in a Paragraph that lay upon the Table, which I afterwards ſaw in that Book. There was Ink ſet upon the Table, and open in his Lordſhip's hand. And his Lordſhip did uſe in his Diſcourſe to call his Majeſty Tyrant.

L. C. J. Have you heard him? In what Company?

Mr. *Dangerfield.* In his familiar Diſcourſe. As to ask when his Majeſty will return from *Windſor*? Says he, When the Tyrant pleaſes. And I remember I heard his Lordſhip mention the word Tyrant to Mrs. *Cellier* at *Powis-houſe*.

Mr. *At. Gen.* How came that Diſcourſe about killing the King? What was the Occaſion of that Diſcourſe?

L. C. J. Had you refuſed it to my Lord?

Mr. *Dangerfield.* Yes, my Lord, I refuſed.

L. C. J. What did you ſay to him?

Mr. *Dangerfield.* I ſaid any body but my King, my Lord.

L. C. J. He ſaid, Why did you refuſe to do that for which you were taken out of Priſon? What is that, my Lord? Was not you at the *Tower* yeſterday? Why won't you do it? What is it, my Lord? Is it to kill the King? I ſuppoſe that it is, ſaith he, that your Lordſhip intends. Yes ſays he, That is it, why won't you do it? That is what he ſays.

Mr. *At. Gen.* That is the Evidence we give.

Mr. Juſt. *Jones.* You ſay he was very violent?

L. C. J. Was you ever in his Company afterwards?

Mr. *Dangerfield.* No, not after that, my Lord, that I know of.

L. C. J. What kind of Fury did he ſhew to you at that time?

Mr. *Dangerfield.* My Lord, he was in a great Rage, as his Lordſhip is very cholerick; he was buſtling about, and I knew not what he intended to do, and I was unwilling to ſtand the Teſt of his Anger. His Lordſhip ſeemed by his look to be meditating Revenge.

L. C. J. How?

Mr. *Dangerfield.* I ſay this, After his Lordſhip had ſent his Servant out of the Room, ſaid he, Why would you offer to refuſe the Buſineſs for which you were taken out of Priſon? Said he, Were not you at the *Tower* yeſterday? Said I, Yes, my Lord, I was; Would you have me kill the King? Is that the Buſineſs? Yes, that it is ſaid my Lord very angrily.

Priſ. When did you go to the *Tower*? Was this the next day after it?

Mr. *Dangerfield.* The next day after it.

Priſ. Mr. *Dangerfield*, Pray let me ask you one Queſtion. Did not I threaten to kill you, or have ſome of my Servants kill you, if you came unto me again?

Mr. *Dangerfield.* One time his Lordſhip ſaw me at my Lady *Powis's* Houſe, and he ſhewed me a very particular Favour. I ſpeak it in the Preſence of Almighty God, nothing out of Revenge, nor for any ſort of Intereſt.

Priſ. Was I never angry with you but at that time?

Mr. *Dangerfield.* No, my Lord, I know not of any other time that your Lordſhip was angry.

L. C. J. Now what ſay you, my Lord?

Priſ. The firſt thing I deſire to do, is, Here are two Gentlemen give in Evidence againſt me, the one is Mr. *Otes*, the other Mr. *Dangerfield*. Mr. *Otes* ſays, That he in *Spain* did ſee ſeveral Letters from me: That when he came over into *England*, he brought a Letter from *Spain* to me, that that Letter was given to the Provincial, and the Provincial (he ſuppoſes) gave it me. Now, my Lord, I only deſire this, that the firſt thing that ſhall be done, is, that you will pleaſe to call Mr. *Parker*, who will ſhew you what a kind of man Mr. *Otes* is. And I am glad, ſince you ſay that Mr. *Dangerfield* is a good Witneſs, that I can prove that every word he ſays is a Lie. And ſo begin with Mr. *Otes*.

Priſ. I would offer you a Record, a Record of ſome particular Actions from *Haſtings*.

L. C. J. Read the Record.

The Record read.

L. C. J. What uſe can you make of this?

Priſ. My Lord, the Caſe is only this, My Lord, I will tell you, here is Mr. *Otes*, this is only to ſhew what kind of man this Mr. *Otes* is. Mr. *Otes* he comes and accuſes a man at *Haſtings* for Buggery, there he is Indicted and comes to his Tryal, and then he is found Innocent: Now, my Lord, I ſent for this Mr. *Parker*, to tell your Lordſhip what kind of man this Mr. *Otes* was, and for that purpoſe ſhew the whole Proceeding.

L. C. J. My Lord, you ſhall have all the Juſtice in the World; but we muſt have right done to the King's Evidence. You have brought in a thing, whereby all you can make againſt Mr. *Otes* is this, That he was the Proſecutor of a man for the Crime of Buggery, and is ſuppoſed to have taken his Oath there, and notwithſtanding the Jury would not believe him, and found the man not Guilty.

Priſ. My Lord, I come to ſhew you the Motives how the Jury came to clear him, that is, by proving this man was in another place at that time, and ſatisfied the Court and Jury, that he was from Eleven a-Clock or ſooner, till Eight or Ten a-Clock with them in Company; where

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it was only the malice that was between *Otes* and *Parker*; and ſeveral Witneſſes that were in the place where he ſaid the Buggery was committed, ſaid that he was not there; and the Witneſſes poſitively ſaid they were with him, and all looked upon Mr. *Otes* as a deteſtable man, and ſent him out of the Court.

L. C. J. Do you prove this by any but *Parker*?

Mr. Juſt. *Raymond.* This ought not to be admitted; for if it be, Mr. *Otes* ſtands here to anſwer all the Faults that ever he committed.

L. C. J. Here is the Caſe; Suppoſing it be true now, that Mr. *Otes* proſecuted a man for Felony, and he gave Teſtimony, ſuppoſing it ſhould be ſo, and yet the Jury acquitted him; what uſe can you make of it? You can make no inference; it is a thing we muſt allow all the Juries in *England*: For there is Witneſs generally given on both ſides; and when there are for the Plaintiff, the Defendant's Evidence are all perjured; and when for the Defendant, the Plaintiff's Evidence are perjured.

Priſ. My Lord, this is the Inference. Thus much I make of it, that this *Parker* is innocent. *Otes* ſwears poſitively he did ſo, the other ſwears poſitively this man was not there; to ſhew the malice *Otes* had againſt him.

L. C. J. My Lord, you can go no further than you have gone. The Reſult of all is, that the Jury found him Not Guilty; for what Grounds no man can come to ſay, but the Jurymen themſelves. No man can tell what prevailed with the Jury to find him Not Guilty, that is in their own Conſciences, and theſe are things that cannot be examined. His Jury, notwithſtanding Mr. *Otes* was the only Proſecutor, they found him Not Guilty, and it amounts to nothing.

Priſ. My Lord, there is another thing: While this man was in Priſon, what does *Otes* do, but comes here to *London*, accuſes the Father, who was a conſiderable man in the Town, a Juſtice of the Peace, and Mayor the year before; accuſes him becauſe he ſhould not aſſiſt his Son; accuſes him before the King of ſpeaking ſcandalous words; then he gets him by a Meſſenger brought up before the Council: The King was preſent at the Hearing, and there it was proved to the King, as the Order of Council ſhews, that he was an honeſt man, and ſo the Council ſent *Otes* away with the greateſt contempt, and freed the other man.

L. C. J. Was this before the Plot was diſcovered?

Priſ. Yes, my Lord, in purſuance of it.

L. C. J. You ſaid it was that he ſhould not help his Son, his Son was not free.

Priſ. No, he was in Priſon, my Lord.

Mr. *Recorder.* My Lord may think hard if he hath not ſome competent liberty; but he muſt keep to the Buſineſs. You ſay, that notwithſtanding he hath the Opinion of the Court, that the Jury muſt take notice; then the Jury muſt take notice it ſignifies nothing.

Priſ. Very well. Having told you this, I deſire you would be pleaſed to take notice, after *Otes* was thus forced to run away from *Haſtings*, here it ſeems he was converted to be a Papiſt, by a perſon whom Mr. *Otes* hath ſince converted to be a Proteſtant; and you ſhall ſee what an Account this Gentleman will give of him.

L. C. J. What is his Name?

Priſ. *Hutchinſon.*

L. C. J. What will you do againſt him?

Priſ. Several things, my Lord.

L. C. J. You muſt not do it: If you are able to diſprove Mr. *Otes* in any of theſe particulars, you may do it. If you alledge Teſtimony againſt the particular matter he hath Sworn, you will do very well; but pray, my Lord, keep to that.

Priſ. I will, my Lord; I will ſubmit any thing to your Lordſhip's Commands; and therefore, my Lord, I will tell you for what Reaſon I ſent for this man, to tell you how Mr. *Otes* went to *Spain*, and how he lived in *Spain*.

L. C. J. If you can ſhew the Jury any Reaſon why they ſhould not believe his Evidence, that will be very proper.

L. C. J. What is your Name?

Hutchinſon. My Name is *Hutchinſon*.

Priſ. Mr. *Hutchinſon*, pray ſay what you have to ſay, and not follow Mr. *Otes*'s method: I only ask you this Queſtion, Sir, Whether you did convert this man, that is, reconcile him to the Church of *Rome*?

Hutchinſon. Yes, my Lord, that I did.

L. C. J. You ought not to ask him ſuch Queſtions, you bring him in danger of his Life; you are not to ask him ſuch Queſtions.

Mr. *Recorder.* Let us ſee the Statute-Book.

Cl. of Cr. It is High Treaſon.

L. C. J. You thought this had been meritorious now, and it is High Treaſon.

Mr. *Recorder.* This it is to abound in a man's own Senſe. We muſt beg your Lordſhip's Advice in this.

L. C. J. Are you a *Proteſtant* now?

Hutchinſon. Yes, my Lord.

Priſ. He was a Prieſt, and confeſſes his Error.

L. C. J. Did you know *Otes* firſt in *Spain*?

Hutchinſon. No, my Lord, I knew him firſt here; and we were in Company, and I told him, He could not be a true Prieſt, ſince he was of the Church of *England*.

Mr. *At. Gen.* He offers ſuch things as are not Evidence.

L. C. J. Pray what do you know of his Employment in *Spain*?

Hutchinſon. I received Letters from him when he was in *Spain*. He went over to ſtudy Philoſophy and Divinity there, and I ſaw his Recommendations to the Rector of *Liege*.

L. C. J. Did you ſee him?

Hutchinſon. Yes, my Lord, I did ſee him before he made this Diſturbance.

L. C. J. What Diſturbance? Do you know? What Diſcourſe had you with him?

Hutchinſon. I employ'd him in writing for me,

L. C. J. Writing what?

Hutchinſon. In writing certain things againſt the Corruption of the Church of *Rome*. He had 10 *s.* I gave him, and this was before the Diſcovery he made (as he pretends) of the Plot. And he told me he would ſuffer no more for Conſcience-ſake: *It is an hard thing*, ſaid he, *Mr.* Berry, *for a Man to want Bread*; upon which I gave him 10 *s.*

L. C. J. He ſays, Having been formerly with Mr. *Otes*, he employ'd him to tranſcribe many things for him, and Mr. *Otes* ſaid to him, *He was reſolved no more to ſuffer for Conſcience ſake. How*, ſaith he, *not ſo. Oh but Mr.* Berry, ſaid he, *it is a very ſad thing to want Bread.* And upon that, he ſays, he gave him 10 *s.* for his Pains in writing.

Hutchinſon. And hereupon, my Lord, in *May* was Twelvemonth he ſent for me, when I heard he

he had done ſome more miſchief; and I went to him, my Lord.

L. C. J. That was after the Diſcovery?

Hutchinſon. Yes, my Lord, upon that he was very kind to me, and gave me 20 *s.* Said he, Mr. Berry, *you have been civil to me, and you ſhall never want any thing ſo long as I have it.* Said I, Mr. Otes, *are theſe things true that you ſwear againſt the Jeſuits?* Said he, *As I hope for Salvation they are.* And that was the trueſt word he ſpake theſe 3 years. *Then,* ſaid I, *Mr.* Otes, *anſwer me this only one thing. There are an hundred and twenty perſons that ſaw you every day, and dined and ſupped with you at St.* Omers, *and theſe you have recommended to me for vertuous people, and I know them to be ſo.* He ſaid, *They are Outlaw'd men.*

L. C. J. What did Mr. *Otes* ſay more?

Hutchinſon. He was with me frequently, my Lord.

Mr. *Recorder.* He paid you your *Angel* well when he gave you 20 *s.*

Hutchinſon. Mr. *Otes,* Speak the Truth: There is a God in Heaven.

Dr. *Otes.* Shall I be allowed to ſatisfie the Court as to this Evidence? I will give the Court a very good Account.

L. C. J. The Subſtance is this; That you were poor. Is it true that he gave you 10 *s*?

Dr. *Otes.* My Lord, I believe I might not have much money among them.

L. C. J. And you ſaid, *You would ſuffer no more for Conſcience ſake?*

Dr. *Otes.* That is not ſo, my Lord.

L. C. J. And, *That it is an hard thing to want Bread?*

Dr. *Otes.* My Lord, I never wanted Bread.

Hutchinſon. But you ſaid ſo to me, Mr. *Otes.*

Mr. *At. Gen.* Hark, Mr. *Hutchinſon*——

Dr. *Otes.* To ſhew the invalidity of this Evidence, my Lord, the Biſhop of *London* hath turned him out of his Living at *Barkin.*

L. C. J. What is that?

Dr. *Otes.* To ſhew that he is not fit to be truſted.

L. C. J. Why you have never a Living.

Dr. *Otes.* Yes I have, my Lord.

L. C. J. Where?

Dr. *Otes.* In *Kent,* my Lord.

L. C. J. How long have you had it?

Dr. *Otes.* I was reſtored to it laſt Summer.

Mr. *Recorder.* He ſays that he had Diſcourſe with him concerning his Prieſthood; Whether Mr. *Otes* thought himſelf to be a good Prieſt: that is, as he was made by the Order of the Church of *England?*

Mr. *At. Gen.* He ſays, He converted Mr. *Otes* to be a Papiſt.

Dr. *Otes.* And I have a Charge of High Treaſon againſt that man, for ſeducing me from my Religion, my Lord; I will ſwear he turned me to the Church of *Rome,* and I deſire it may be Recorded.

Dr. *D.* I have one thing to tell your Lordſhip, the man is mad, he is diſtracted.

L. C. J. This Doctor of Divinity is a very honeſt man, he will tell you.

Dr. *D.* He was my Curate at *Barkin*, and my Lord of *London* having ſome information againſt the manner of his preaching, ſent me word to *Rippon* he would provide me another Curate; on *Saturday* laſt, dining with him, my Lord told me he was diſtracted.

Mr. *Recorder.* His Behaviour is a very concurrent Teſtimony.

Mr. Juſt. *Raymond.* I appeal to my Lord, if I did not tell him, as he came into the Court, that he was a diſtracted man.

L. C. J. Call another Witneſs.

Priſ. Here's a Gentleman was his School-fellow at *Valladolid.* I ask you, Mr. *Armſtrong,* Whether you knew any thing of Mr. *Otes* there?

L. C. J. How long had he been there?

Armſtrong. He was three months there before me.

L. C. J. How long was he there in all?

Armſtrong. A matter of a month.

L. C. J. Was he not there four months?

Armſtrong. Yes, a matter of four months in all.

L. C. J. He ſays, he had been there three months before he came, and a month after he came; and that then he was but a common Scholar.

Dr. *Otes.* My Lord, I will ſatisfie the Court when they queſtion me.

L. C. J. In what would you ſatisfie us?

Dr. *Otes.* About being a Scholar. I was ready to commence when they came; but being they were Strangers in the Town, not being Town-Scholars, and not undertaking Philoſophical Dictates the Fathers did pray me to ſhew them the way to School; and I went with them two or three times.

L. C. J. Call another, my Lord.

Priſ. Mr. *Palmer* and Mr. *Dorrington.*

L. C. J. Did you know Mr. *Otes* at St. *Omers*?

Palmer. Yes, my Lord, and he was an ordinary Scholar there, and din'd and ſupp'd with us.

L. C. J. You ſaid he din'd at another Table.

Palmer. Yes, my Lord, he did dine at a Table by himſelf, but it was at the ſame time.

Dr. *Otes.* Had I Scholars Commons? Pray, my Lord, ask them that.

Palmer. He had the ſame Commons that we had; but they had a Reſpect for him as he was an ancienter man, and that was the Reaſon that he had more freedom than the reſt.

Priſ. My Lord, he ſays he came from St. *Omers* at the Conſult: Pray, Sir, who did you come along with? Did you come with *Hilſley*?

Dr. *Otes. Hilſley* came with me in the Pacquet-Boat.

Priſ. Call Mr. *Hilſley* and *Osbourne*——My Lord, this Gentleman: I would bring nothing to offend your Lordſhip, or nothing that hath been old, if it had not ſome new inference from it; therefore, my Lord, this is the reaſon that I ſent for Mr. *Hilſley.* Mr. *Hilſley,* did you come with Mr. *Otes* in *April* in the Pacquet-Boat?

Hilſley. No, my Lord.

Priſ. You left him at St. *Omers*?

Hilſley, Yes, my Lord.

Priſ. Now, my Lord, I have ſeveral Witneſſes to prove this. And pray, Mr. *Osbourne,* tell my Lord what he ſaid to you.

Osbourne. My Lord, about the latter end of *April* I heard Mr. *Hilſley* was in Town; I went to ſee him, and one time at a Coffee-houſe about the *Turnſtile* we fell in Diſcourſe.

L. C. J. My Lord, you ſay you have two Perſons of Quality: I will tell you, my Lord, what you ſhall expect; I will not be for one,

and

and not for t'other; but be equal as near as I can. If he comes only to teſtifie what *Hilſley* told him, it ſignifies nothing.

Priſ. I do depend upon *Hilſley*; but this is that *Hilſley* told him, That there was one *Otes* at St. *Omers*.

L. C. J. That is no Evidence; nor can Ladies of Quality prove by their own Experience what Mr. *Hilſley* affirms, That *Otes* came not over with him.

Priſ. My Lord, they can tell; and one Lady, a Proteſtant, that talking with this Gentleman before the Plot —

L. C. J. This is only Diſcourſe what another man ſays; if Mr. *Otes* himſelf ſhould have ſaid ſo, then indeed it is proper: But to ſhew you this, it is impoſſible, ſuppoſing they ſpeak truth; that is, if they do witneſs what they do not, That long before they heard of the Name of *Otes*, this Gentleman ſhould tell them, one *Otes* was left at St. *Omers*; it ſignifies nothing.

Priſ. Does not that confirm Mr. *Hilſley*'s Teſtimony?

L. C. J. No, indeed.

Priſ. I only refer this to you, my Lord; *Hilſley* ſays, in *April* he did leave *Otes*, and here are four or five Witneſſes that *Hilſley* told them ſo.

Mr. Juſt. *Jones.* All that my Lord ſays, is this, That he did leave Mr. *Otes* at St. *Omers*. If it be objected, They are Catholicks, as they call them; Says my Lord, *Hilſley* did tell this Story before there was any Plot. Why ſhould he tell them ſo? It is not in favour of that Religion that he ſpeaks; but the time of teſtifying ſuch a thing, ſhews he ſpeaks true. This is all.

Priſ. This is the inference; this is only to corroborate and ſhew you the Credit of his Teſtimony.

Mr. Juſt. *Raymond.* It may be a miſtake tho'; and it is of no more force than what he ſays now.

Mr. *At. Gen.* They were all miſtaken in that matter.

Dr. *Otes.* My Lord, he did leave me at St. *Omers*, but I overtook him at *Calais*.

L. C. J. Will you ſwear it, Mr. *Otes*?

Dr. *Otes.* I ſay, upon my Oath I did it.

L. C. J. It were a great matter if you had any body to prove, that this Gentleman came alone; but that is ſtill but one man's Teſtimony.

Priſ. But here is confirmation to his Evidence, that he could not invent it.

Mr. *At. Gen.* You had 16 once, but the contrary was proved and believed, and ſo it may be again.

Priſ. Call Mr. *Gregſon* and Mr. *Rigby*. Mr. *Gregſon*, were not you Landlord to Mr. *Otes* before the Plot was diſcovered? How long before the Plot did he lie at your Houſe?

L. C. J. What time?

Gregſon. A Week before *Eaſter*, 77.

Mr. Juſt. *Raymond.* When did he go away from you, Sir?

Gregſon. The *Sunday* after *Eaſter day*.

Mr. Juſt. *Raymond.* When did you ſee him again?

Gregſon. He came to me about *All Saints*.

Mr. Juſt. *Raymond.* The ſame Year?

Gregſon. Yes.

Dr. *Otes.* Who paid for my Quarters? Pray ask him that, my Lord.

Gregſon. He paid for it himſelf.

Dr. *Otes.* Did not Mr. *Fenwick* pay for it?

Gregſon. He did after you came from St. *Omers*.

Dr. *Otes.* My Lord, when I came laſt from St. *Omers*, I went directly to his Houſe.

Priſ. Was not he in a poor condition?

Gregſon. He was then indifferently poor.

Priſ. My Lord, this is only to prove his condition.

Dr. *Otes.* My Lord, I had only what the Jeſuits allowed me.

L. C. J. You had nothing but what they allowed you?

Dr. *Otes.* Nothing elſe, my Lord.

Mr. Juſt. *Jones.* They allowed you a very ſcanty living.

Priſ. Call Mr. *Littcott*. Mr. *Littcott*, Do you know any thing about a Divorce?

L. C. J. What ſhould he know?

Priſ. Pray, my Lord, don't diſcourage me.

Mr. Juſt. *Raymond.* But you muſt not ask things that are not to the purpoſe.

Littcott. My Lord, it was morally impoſſible there ſhould be a Divorce.

L. C. J. Was there any endeavour by my Lord concerning it?

Littcott. There was no ſuch Deſign.

L. C. J. How was that? But pray mind, you will be morally not believed elſe: Do you know my Lord uſed any endeavours, in order to obtain a Divorce?

Mr. *Recorder.* That is all that he ſays, *He never knew any thing.*

Priſ. I only ſay this, my Lord, Mr. *Otes* comes here and ſays, that he heard me ſay, that I did ſpend a great deal of money. Now if I ſatisfie the Court that I never ſpent a Farthing towards a Divorce——

L. C. J. If he had ſaid, your Lordſhip laid out ſums of money, then it had been an Anſwer to that, if you could prove you had not.

Priſ. You know I ſtand here accuſed for a great Crime; pray give me leave.

Mr. Juſt. *Raymond.* If it were a matter of moment we would.

Priſ. Pray, my Lord, hear me: Here's a man ſays, I ſpent a great deal of money about a Divorce; I come to tell your Lordſhip, that this very man, before your Lordſhips, and alſo before the King, and if your Lordſhips have forgot it, I will ſhew you Witneſſes that he ſpake it before the King, and before the Houſe of Commons, that I did actually ſue out a Divorce: Now I will ſhew, my Lord, that I neither could nor did go about it.

L. C. J. We are not to take notice of that now. If he did ſay a falſe thing before the Houſe of Commons, we cannot take notice of it now; for we cannot go to try whether he ſaid ſo, and whether that be true or falſe.

Priſ. I humbly beg, my Lord, if this man that is upon his Oath hath ſworn before the King that he did actually ſee the Divorce, and I prove that it was impoſſible that he ſhould ſee the Divorce, becauſe it was impoſſible to get a Divorce——

L. C. J. What then?

Mr. Juſt. *Raymond* You muſt not be permitted to prove that, it is not pertinent to the Queſtion.

Priſ. My Lords, with humble Submiſſion to you, he hath told me this before your Lordſhips, that

that I ſpent a great deal of money about a Divorce.

L. C. J. My Lord, you will be ſatisfied, when we have acquainted you what the ordinary Proceedings of a Court of Juſtice are in Matters of this Nature; what is, and what is not to be admitted. If you ſhould come to prove Mr. *Otes* had falſly ſworn a thing in another Court, and five or ſix Witneſſes ſhall come and ſay it is not true; we are not to hearken to it. The Reaſon is this, firſt you muſt have him perjured, and we are not now to try, whether that thing ſworn in another place be true or falſe? Becauſe that is the way to accuſe whom you pleaſe; and that may make a man a Liar, that cannot imagine this will be put to him: And ſo no man's Teſtimony that comes to be a Witneſs, ſhall leave himſelf ſafe. And this is another Caſe, If he ſwore in another place what is contradictory to what he ſays now; then it is proper. If you could prove that he had ſworn in another place that he never ſaw you, it is very proper: But now to us he ſays, That he doth not remember whether ever he had ſeen a Divorce, or that you had ſued out a Divorce. All that he remembers, is, That you ſaid, you had expended a great deal of Money about a Divorce, and this is all he teſtifies here.

Priſ. My Lord, my Evidence againſt Mr. *Otes* is this, That he waves what he ſaid before, when I came to ask him, and ſays, I don't remember. Now, my Lord, if he lies in one thing he may in another.

Mr Juſt. *Raymond.* No man can remember all the things that ever he did in his Life.

Priſ. I have Witneſſes to appeal to, to witneſs every thing; and I repreſent it here to you, that I would withal my heart have indicted him of Perjury, but for Mr. *Attorney General:* For I imployed Two to attend the Clerk of the Peace for Copies of the Indictments againſt Mr. *Langhorn* and Mr. *Ireland*; they did come to the Clerk of the Peace, ſaith the Clerk of the Peace, I can't do it without Mr. Attorney's Authority. My Lord, ſaith he, I would give them you with all my heart, but I muſt have leave from the Table.

Mr. *At. Gen.* No, my Lord, I told you, I would not give it you without you had an Order from the King, and the Council did not think fit to give it you.

Priſ. I think this is a little pertinent.

Mr. Juſt. *Jones.* How doth any thing that your Lordſhip excepts againſt in this Gentleman's Teſtimony contradict it ſelf? All that you accuſe him of, is, That Mr. *Otes* had ſaid he heard you ſay, you had ſpent a great deal of Money about a Divorce.

Priſ. I only ſhew, if you are pleaſed to hear it, that he reported to the King that he actually ſaw the Divorce.

Mr. Juſt. *Jones.* That agrees well enough with what he ſays now.

Priſ. He ſaid ſo in your Lordſhip's Hearing.

L. C. J. I don't remember it, if I did I would ſpeak of it; I don't remember it upon my word.

Mr. Juſt. *Raymond.* I proteſt I don't remember a word.

Mr. Juſt. *Jones.* In the Court, did he ſay it?

Mr. Juſt. *Raymond.* Here we are all three that were preſent, I proteſt I don't remember it; but as to the Buſineſs of the Divorce, I might look upon it as impertinent, and ſo poſſibly might not mind what he ſaid.

Priſ. I only offer this to you, and if your Lordſhips command me to deſiſt, I will deſiſt.

Dr. *Otes.* I deſire my Evidence to prove that I was in Town.

Mr. Juſt. *Raymond.* Pray, Mr. *Otes*, you are an Evidence, you muſt be govern'd by Mr. *Attorney.*

L. C. J. It would be very fit, Mr. *Attorney*, to prove that Mr. *Otes* did come over with *Hilſley* in the Pacquet-Boat.

Mr. Juſt. *Raymond.* Mr. *Otes*, I remember very well gave an Account of his coming over, ſaid he, I did come over with ſuch and ſuch Perſons, and among the reſt was Mr. *Hilſley*. This is only to prove that he was at the Conſult.

Mr. *At. Gen.* We can prove it.

Records produced againſt Mr. Dangerfield.

L. C. J. Here is, That he was burnt in the Hand, and Out-lawed for Felony, Pilloried for Cheating, twice Pilloried, and ſee whether he was Whip'd or no.

Mr. *Sol. Gen.* I know nothing of the Pillory.

Mr. Juſt. *Raymond.* Here was a Record of being burnt in the hand, and a Record for putting away falſe Guineas.

L. C. J. For that he was to ſtand in the Pillory.

Cl. of *Cr.* Here is one Record for another Shilling gilt.

L. C. J. Was that in the Pillory too?

Mr. *At. Gen.* He was fined Fifty Pounds.

Cl. of Cr. Here are Three in *Salisbury* for three ſeveral Guineas, and he was adjudged to the Pillory for them all.

Mr. *At. Gen.* It was all at one Aſſizes, my Lord.

L. C. J. My Brother Try'd him.

Cl. of Cr. He was Try'd before Mr. Juſtice *Jones*, and to ſtand in the Pillory for all three.

L. C. J. What have you elſe to ſay?

Priſ. Call Mrs. *Cellier* and Mr. *Dowdal.*

L. C. J. What is your Name, Sir?

Dowdal. My Name is *Bennet Dowdal.*

L. C. J. What have you to ſay to him, my Lord?

Priſ. Mr. *Dowdal*, the Caſe is this, Mr. *Dangerfield* tells me I was angry with him at ſuch a time for a Buſineſs at my Houſe; Was I not angry with him at *Powis's Houſe* for going to the Lords in the *Tower*?

Mr. *At. Gen.* Then he did go about it?

Dowdal. Mrs. *Cellier* ſpake to me to ſpeak to Mr. *Dangerfield* not to be troubled at your Anger.

Mr. Juſt. *Raymond.* When was this?

Dowdal. After the Jeſuites died.

Priſ. He proves this, That Mrs. *Cellier* ſpake to him to pacifie Mr. *Dangerfield*, and *Dangerfield* did tell him I was angry with him for going in my Name to the Lords.

Mr. Juſt. *Raymond.* He ſays no ſuch thing, my Lord.

L. C. J. You muſt not ask him what Mrs. *Cellier* ſaid.

Mrs. *Cellier.* This day Twelve-month he and I had been employ'd in writing Copies of ſome Letters, and I ſent him to my Lord to know if he would go ſomething towards the Printing them, and he went from him to the Lords in the

Tower. In an hour and half after, my Lord came to me very angry: Mrs. *Cellier*, ſaid he, I thought you would not forfeit your Diſcretion to ſend ſuch a Raſcal to me; if you ſend him to me again I will bid my Servants kick him. And, ſaid I to Mr. *Dangerfield*, you are not to note that; for he is a very good Man, and may be angry one time and pleaſed another; and I would have ſent him another time, and ſaid he, Pray Madam, don't ſend me thither, I would rather go an hundred Miles of your Errand.

L. C. J. Dangerfield, that Diſcourſe you had with my Lord, was it before the Jeſuites dy'd or after?

Mr. *Dangerfield*. What Diſcourſe?

L. C. J. When you diſcours'd about killing the King.

Mr. *Dangerfield*. No, my Lord, Two Months after.

L. C. J. When was the time that theſe words were ſpoken?

Mr. *Dangerfield*. When his Lordſhip was in that Paſſion.

L. C. J. When was that?

Mr. *Dangerfield*. My Lord, it was about the middle of *Auguſt*.

L. C. J. Was you ever in his Company after?

Mr. *Dangerfield*. No, my Lord, I ſaw him once at *Powis*'s Houſe.

L. C. J. Had he ever been angry before?

Mr. *Dangerfield*. No not till this time, my Lord.

L. C. J. Here Mrs. *Cellier* witneſſes, that this Day twelvemonth, my Lord was extremely angry, inſomuch, that when ſhe would have had you go on an Errand, you would not.

Mr. *Dangerfield*. My Lord, that time I had been with my L. *Caſtlemaine*, I went home to Mrs. *Cellier*'s Houſe, which I did then call my home, and ſaid I, my L. *Caſtlemaine* is moſt violently angry with me.

L. C. J. When was this?

Mr. *Dangerfield*. This was the latter end of *Auguſt*.

L. C. J. But ſhe talks of this time Twelvemonth.

Mr. *Dangerfield*. It is no ſuch thing, my Lord.

Mrs. *Cellier*. I ſaid, Pray carry this Letter to my L. *Caſtlemaine:* Pray excuſe me, ſaid he, I had rather go an hundred Miles than go by his Door.

L. C. J. Whereas *Dangerfield* ſays, He had this Diſcourſe in *Auguſt*, Mrs. *Cellier* ſays in *June* or *July*, this day Twelve-month particularly ſhe gave him a Letter, and he ſaid, Pray excuſe me, I would go an Hundred Miles for you; but I would not go into my Lord's Company again if I could help it.

Priſ. My Lord, Mr. *Dowdal* can tell it.

L. C. J. Did he acknowledge to you my Lord's Anger in the beginning of *July*?

Dowdal. It was within a Week after the Jeſuits died.

L. C. J. I don't know that.

Dowdal. It was about the Twenty firſt of *June*.

L. C. J. Here are two Witneſſes, one ſays in *June* or the beginning of *July*; ſays Mrs. *Cellier*, this Day Twelve month he came and told me my Lord was extreamly angry with him. And ſhe would afterwards have had him carried a Letter: But he ſaid, Pray excuſe me, I would go an Hundred Miles, but he would not go again to him if he could help it. And *Dowdal* ſays he told him about that time of my Lord's Anger with him.

Mr. *At. Gen.* Hold your Tongue, Mr. *Dangerfield*.

Mr. Juſt. *Raymond*. What Jeſuits?

Dowdal. The Five Jeſuits.

Priſ. If you pleaſe, my Lords, I would only tell you this. My Lords, you ſee that theſe two Witneſſes teſtifie, that I was angry with Mr. *Dangerfield*, in *June*, my Lords, I only ſay this to you, that when I was examin'd at the Council before the King of this Particular, my Lord Chancellour ask'd him the Particulars of it, and he did confeſs this thing which I now prove. Now my Lords, I inferr this, if I was ſo angry with him for offering to go to the *Tower*, when he went to the *Tower* in my Name——

L. C. J. That they have ſaid, that you were very angry.

Dowdal. *Dangerfield* told me ſo, that he was angry about his going to the *Tower* in my Lord's Name unknown to him.

L. C. J. Here are two Witneſſes to prove, that my Lord was angry with him for going to the *Tower* in his Name, and they both teſtifie he was extreamly high and refuſed to carry a Letter to my Lord; and yet he ſays in *Auguſt* following he had this Diſcourſe.

Priſ. I have now only one thing to ſay, what hath paſs'd between Mr. *Otes* and Mr. *Dangerfield*.

L. C. J. Do it as near as you can.

Mr. *Sol. Gen.* We have ſome other Evidence to anſwer this.

Mr. *At. Gen.* If your Lordſhip pleaſe, we will call two or three Witneſſes to prove the Point. Firſt, to prove this laſt thing, that we have been in my Lord's Company later than my Lord ſpeaks of.

L. C. J. He ſays *Auguſt*.

Mr. *At. Gen.* We will prove after that time that is the time that pinches us.

Priſ. My Lady *Powis* is in Court, will you hear her?

Lady *Powis*. My Lord, I never did ſend a Letter by Mr. *Dangerfield* to any body in my life, nor I never read a Letter in Mr. *Dangerfield*'s preſence, nor never had him ſo much in my company to read a Letter or any Tittle to him.

L. C. J. I will tell you Gentlemen, what he ſays, Mr. *Dangerfield* ſwears he carried a Letter from my Lady *Powis* to my Lord *Caſtlemaine*, and there was an Anſwer brought back, and that that Anſwer of my Lord *Caſtlemaine*'s was read before him, and (you will do well to call Mrs. *Cellier* in again) my Lady *Powis* doth deny that ſhe ever ſent a Letter by him to my Lord *Caſtlemaine*, or any body elſe, by him in her life; or that ſhe ever communicated any Letter to him: This is apt Evidence, this is the Truth of of it; for it anſwers directly to what he ſays againſt my Lord *Caſtlemaine*.

Sir *Richard Barker*.

L. C. J. What ſay you, Sir *Richard Barker*, can you give an Account of *Otes*? When was Mr. *Otes* in Town? What time that you know of?

Sir *R. Barker*. My Lord, I remember we were once upon this before your Lordſhip.

L. C. J. In 78?

Sir *R. Barker*. Yes, my Lord, the Evidence that I gave, my Lord, was only this, that my Servants told me that Mr. *Otes* had been at my Houſe:

Houſe: It was before *Whitſontide*, in *May* 78.

L. C. J. Did you ſee him then? When was it you ſaw him?

Sir *R. Barker.* My Lord, I ſaw him after.

L. C. J. How long after?

Sir *R. Barker.* My Lord, it was about the latter end of *June.*

L. C. J. He ſays to his own Knowledge he ſaw him in *June.*

Mr. *At. Gen.* But we have his Servants here too, *Phillip Page*, and *Cecily Mayo.*

L. C. J. Do you hear, Mrs. *Cellier*, was there any Letter ſent by my L. *Caſtlemaine* to my Lady *Powis*, that was read before you and *Dangerfield*?

Mrs. *Cellier*, No, my Lord.

L. C. J. Here are two Witneſſes, my Lady ſays there is no ſuch thing, and Mrs. *Cellier* ſays it.

Priſ. There is another thing, that is, The teaching the Scholars at St. *Omer*'s, that I taught the Scholars their Leſſons.

—*Turner.*

Mr. *Sol. Gen.* Pray inform my Lord and the Jury, what time it was you ſaw Mr. *Dangerfield* at my L. *Caſtlemaine*'s.

L. C. J. What Month can you charge your ſelf to ſay, you ſaw *Dangerfield* in my L. *Caſtlemaine*'s Company?

Turner. I can't ſay juſt the time.

L. C. J. Might it be *Auguſt*?

Turner. I can't well tell, I think it might be about *July.*

Mr. Juſt. *Raymond.* Why do ye think ſo?

L. C. J. You are not asked to accuſe your ſelf in any thing, but when you ſaw them together.

Turner. I was coming down Stairs, my Lord.

Mr. Juſt. *Raymond.* You don't tell when it was.

L. C. J. Tell us whether you can tell or no: If you are doubtful, ſay you are doubtful; but ſpeak the truth.

Turner. I can't be poſitive.

L. C. J. It might be in *June*, or *July*, or *Auguſt*, but you think *July*?

Turner. Yes, Sir.

Mr. *Sol. Gen.* The ſooner it is after that the Evidence is, the better againſt it.

Mr. *At. Gen.* Madam, I think your Ladiſhip ſays you never ſent a Letter by *Dangerfield*?

Lady *Powis.* Yes, Sir.

Mr. *At. Gen.* Nor did you never receive any Notes from him?

Lady *Powis.* I have received ſome Notes from Mrs. *Cellier*, which were his Writing.

L. C. J. But did you ever receive a Letter from my L. *Caſtlemaine*?

Lady *Powis*, Never, my Lord.

—*Woodman.*

Mr. Juſt. *Raymond.* What do you ſay, Mr. *Attorney*?

Mr. *At. Gen.* Heark you, *Woodman*, were you ſent with any Letter?

Woodman. To whom?

Mr. *At. Gen.* To my L. *Caſtlemaine*, or any body?

Woodman. I was ſent with one Letter, it was Mrs. *Cellier*'s, my Lord.

L. C. J. To whom?

Woodman. To my L. *Caſtlemaine*; as I remember, my Lord, I took it from Mrs. *Cellier*'s Daughter.

Mr. *At. Gen.* Did you ever receive any money of my L. *Caſtlemaine*?

Woodman. Yes, my Lord.

L. C. J. What was it? How much was it?

Woodman. About three Pounds, or thirty Shillings, I believe.

L. C. J. How do you believe it?

Woodman. To the beſt of my Thoughts it was.

Mr. *At. Gen.* Was it for *Dangerfield*?

Woodman. My Lord I don't know that.

L. C. J. Have you any more?

Mr. *Sol. Gen.* My Lord, I have this to ſay to prove Dr. *Otes* was in *London* in *April* 78.

L. C. J. He doth not deny but he might be here too.

Priſ. I don't diſpute it, my Lord, I have only this one word more. It is not of Treaſon, but it is againſt my Reputation; becauſe this man, before your Lordſhip, I think hath accuſed me of it; and I think, my Lord, I ſhall give you very good Satisfaction: That is, that the Boys that came from St. *Omer*'s were not inſtructed and taught by me. Now if you pleaſe, my Lord, to give me leave to ſhew it, I have done. Look, my Lord, the thing that I can ſay, is this, Mr. *Littcott.*

Mr. Juſt. *Raymond.* You ſee he ſaid it was morally impoſſible.

Priſ. Pray my Lords.

Mr. Juſt. *Raymond.* I will undertake you will ſay it is time loſt.

L. C. J. I would ſtay ſome time to obſerve to the Jury what I have taken notice of with all my heart, but I ſhould be gone.

Priſ. I have done, my Lord, I would not ſay any thing to diſguſt any body.

L. C. J. Gentlemen of the Jury, I will deliver my Obſervations in this Cauſe as I would in any Cauſe, to the beſt of my Underſtanding, and I will make thoſe Obſervations that are as natural as I know how to do; and proper for you to take notice of. It is in vain to diſpute what my Lord ſtands indicted of: It is for attempting to murder the King, and change our Government and our Religion. To prove this, there have been two Witneſſes only that are material, and that is Mr. *Otes* in the firſt place, and Mr. *Otes* his Evidence, the Sum of it is to to be reduced——

L. C. J. Mr. *Attorney*, do you ſtand up to ſpeak any thing?

Mr. *At. Gen.* If your Lordſhip pleaſes, we will ſum up the Evidence for the King, not to offend your Lordſhip.

L. C. J. If you would be ſhort, Mr. *Attorney*, we would not hinder you of any thing.

Mr. *At. Gen.* I will be very ſhort.

If it pleaſe your Lordſhip, and you Gentlemen of the Jury, My L. *Caſtlemaine* is here charged with High Treaſon. The Proof that we have againſt him is by two Witneſſes, that is, Dr. *Otes* and Mr. *Dangerfield.* Mr. *Otes* he doth ſwear this, namely, That after the Conſult (for I will bring it in ſhort) that after the Conſult that was for killing the King and altering the Government, my L. *Caſtlemaine* being acquainted with it at Mr. *Fenwick*'s Chamber, did hope it good Succeſs, and that he ſhould come to be reveng'd. Mr. *Dangerfield* he hath prov'd, That being treated with to kill the King, and having refuſed to do it, my L. *Caſtlemaine* was very angry with him for it, and ſaid, *Why won't you do that for which you were taken out of Priſon?* Here are two Witneſſes expreſs. What is ſaid againſt Mr. *Otes* ſignifies nothing. As to Mr. *Dangerfield*, there are ſome Exceptions, which we

muſt confeſs to be true; but he is a Witneſs, and my Lord, ſuch matters are to be expected to be proved by ſuch Witneſſes: For if a man will diſcover Robberies, he muſt go to ſuch Perſons as do ſuch things; and if Treaſons, it muſt be among them that have been employ'd in ſuch things. Tho' he were a diſhoneſt man before, yet he may be honeſt now: He was never guilty of any Treaſon but as he was employ'd amongſt them. There are ſome Witneſſes brought to encounter him, and one is my Lady *Powis*, who, as he ſays, ſent him with a Letter to my Lord *Caſtlemaine*; but ſhe ſays ſhe did never ſend a Letter by him: And others ſay, he would never come at my Lord *Caſtlemaine* after he was angry, which was in *June*. Now for that, Gentlemen, you do hear *Turner* ſay, That in *July* or *Auguſt*, for he can't tell which, he thinks it might be *July*, he ſaw *Dangerfield* at my L. *Caſtlemaine*'s; ſo that That encounters that Evidence.

L. C. J. If Mr. *Attorney* had not interrupted me, I would not have left out any thing of this nature, for I would be certainly careful where the King's Life lies at ſtake: I would be ſure to preſerve my Sovereign above all things; and therefore no man ought to think that I ſhould be partial in a Cauſe wherein our Religion, and the Life of the King and the Government is in danger. But I muſt ſay on the other ſide, That there ſhould be good competent Proofs of theſe things againſt thoſe accuſed, becauſe their Lives and Fortunes, and Honours, and all are at ſtake. And ſo, Gentlemen, we ſhall diſcharge our Conſciences to the beſt of our Underſtandings, and deal uprightly on both hands.

For the Caſe it ſtands thus: It is truly obſerv'd by Mr. *Attorney*, That there are but two material Witneſſes to the Charge of this Indictment, that is to ſay, Mr. *Otes* and Mr. *Dangerfield*. Mr. *Otes* his Teſtimony is in two things, the one cloſe, the other is more remote. That more remote is, That he had a Letter to ſend to my L. *Caſtlemaine*, which he gave to the Provincial to ſend it, and as he ſays, he ſaw a Letter ſubſcribed *Caſtlemaine*, and that afterwards by ſeeing him write a Superſcription, he could recollect the Character ſo well, that he believed that to be his Hand which he ſaw in *Spain* among the Jeſuits or the Fathers, as they call them there, to whom they communicated that Letter; wherein he mentioned the general Deſign, that is, the bringing in Popery, which is the bringing in the Catholick Religion, as they call it. That is more remote. He ſays, there were Letters paſt between 'em, wherein my Lord approved of ſome things and diſapproved of others, which related to the Deſign; by which, ſays Mr. *Otes*, we meant the whole Matter and Tranſaction of killing the King; and that doth appear by that Letter he ſaw of my L. *Caſtlemaine*'s, for that annexes to Deſign the advancing the Catholick Religion. The firſt time he ſaw him he did not know who he was, and there, at *Wild-houſe*, he ſays, That my L. *Caſtlemaine* ſhould drop out ſome Words which were ſuſpicious, and one thing, as if he underſtood ſomething of this matter that they had in agitation.

But more particularly he ſays, That when he came to *Fenwick*'s Chamber, there was the great matter. They talked before but of the Deſign in general, at *Wild-houſe*; but afterwards meeting in *Lincolns-Inn Fields*, where he was told who he was, they went to *Fenwick*'s Chamber, where they fell a diſcourſing about ſeveral things that related to the Concern, and at laſt they fell upon the matter in hand, and ſaid, They were glad to ſee the Fathers ſo unanimous in this matter: I asked about what matter? He ſaid, The killing of the King and bringing in Popery; to which, he ſays, that my Lord ſhould make anſwer, He wiſhed them good Succeſs in their Deſign, and that then he ſhould be revenged. This is the Subſtance of what Mr. *Otes* ſays: Againſt whoſe Teſtimony, I muſt tell you, there hath been but little. There is but little thrown upon Mr. *Otes* by way of Diſgrace and Infamy; for that Verdict that the Jury found againſt his Evidence, it is not material, for then every man muſt be accuſed when the Jury does not go acording to the Teſtimony he gives. It is not to be denied, but there is ſomething ſaid againſt him in another particular, and that is his coming over from St. *Omers*; where he ſays that Mr. *Hilſley* came over with him in the Pacquet Boat, but Mr. *Hilſley* denies it; Mr. *Otes* would have ſalved it, by ſaying he left him at St. *Omers*: 'Tis true, ſays Mr. *Otes*, but I overtook him afterwards; but he ſays to the point, that he came not with him. Now it is not to be denied on the other hand, but Mr. *Otes* might be here, and my Lord of *Caſtlemaine* ſeems to admit it, and it is probable enough Mr. *Otes* might be here. This is all I remember in reference to Mr. *Otes*. You muſt weigh well with your ſelves how probable or not probable what he does ſwear is. But I muſt tell the Jury they are to weigh the natures of people among themſelves, as they carry probability or not, or elſe the confidence of a Swearer ſhall take away any man's Life whatſoever. And to that that Mr. *Otes* ſays firſt, I underſtand not how he ſhould be ſo free Mr. *Otes* being a Stranger to him, when he knew not my Lord, and doth not know, whether my Lord knew him or no. But he ſays, my Lord muſt needs ſee the Jeſuits truſted him, and that might make him more confident: That afterwards going to *Fenwick*'s Houſe, he ſpoke broader, in plain Engliſh. They were talking of a Deſign to kill the King and bring in the Catholick Religion; and Mr. *Otes* ſays, he wiſh'd 'em good Succeſs in the Deſign, and that then he ſhould be revenged. How far this Oath is to be taken or not, I muſt leave to your conſideration.

The next is Mr. *Dangerfield*, for nothing infamous is proved againſt Mr. *Otes*. * *Dangerfield* is a man of whom there is enough. You ſee what Crimes there are, for it is the Duty of every Judge, and I can't ſee how he can diſcharge his Conſcience, and the Duty he owes to the Government, in reſpect of his Oath and Place, if he doth not make thoſe juſt Obſervations to the Jury which are done in all Caſes: That is to ſay, when men have contracted great Crimes upon themſelves, tho' by Law they may be Witneſſes; yet it hath always been obſerved, and their Credit left to them to conſider of. You ſee how many Crimes they have produced, a matter of ſix great enormous Crimes; and by them you will ſee how far you ought to conſider his Teſtimony. Had Mr. *Dangerfield* been guilty only of being concerned in the Treaſon, and come in as a Witneſs, I ſhould have thought him a very competent Witneſs, for that is Mr. *Otes*'s Caſe; but they prove Crimes of another ſort and nature, and whether the man of a ſudden be become a Saint, by being become a Witneſs, I leave

leave that to you to conſider, and how far you are ſatisfied in the main.

The next thing is the Oppoſition to his Teſtimony. He hath ſworn that he carried a Letter from my Lady *Powis* to my Lord *Caſtlemaine*, and an Anſwer returned back from my Lord to her, and that my Lady *Powis* did read it in the preſence of Mrs. *Cellier* and him. Of this my Lady *Powis* hath been asked (it is true they are not upon their Oaths, but that is not their fault, the Law will not allow it) and my Lady *Powis* hath affirmed to it, as much as lay upon her to do, that ſhe never ſent a Letter by Mr. *Dangerfield* to my Lord *Caſtlemaine*, nor any body elſe. And whereas he ſays Mrs. *Cellier* was preſent, ſhe ſays, ſhe knows of no ſuch Letter, nor was any read in her Company. And this is a contradicting his Evidence, ſuppoſing him to be a man otherwiſe untouch'd. And whereas *Dangerfield* ſays, that in *Auguſt* he was with my Lord, and he ſaid, How chance you would not do that thing for which you were brought out of Priſon? *What? Would you have me kill the King? Yes*, ſaith he, *that it is.* And my Lord ſpeaking very angrily and very roughly, made him think it time to withdraw out of his Company, and never come into his Company more; and that this was the time of his Anger, and no other time, my Lord rather complementing him, as he would ſay, with friendly Salutations. But they produce Witneſſes againſt this. Says Mrs. *Cellier*, This Day Twelvemonth; and ſays t'other, about a Week after the Jeſuits were executed, which was about the beginning of *July*, ſaith ſhe, I would have you carry a Letter to my L. *Caſtlemaine*; Saith he, I would not do that, I would go 100 miles upon another Errand, but I would not go to him. Another Witneſs ſays, my Lord was mighty angry with him, and told him the cauſe, becauſe he went in his Name to the Lords in the *Tower*. Firſt, This contradicts what he ſaid, as if there had been no Anger before. The next is, That it is very improbable that my Lord ſhould be angry with him ſo much, that my Lord ſhould be very angry with him for going in his Name to the *Tower*, and afterwards for his refuſing to kill the King; when he ſaid, *Why did you not do that you came out of Priſon for? What, my Lord, to kill the King? Yes, that.* This is an Argument in oppoſition to his Teſtimony.

The next is a Conſideration for his Teſtimony. *Turner* ſays in anſwer to that, in *July* he takes it, but can't charge himſelf whether *June*, or *July* or *Auguſt*, but he himſelf thinks *July*, that he ſaw him at the L. *Caſtlemaine*'s Houſe. And the King's Counſel would gather from that, there could not be ſuch an unwillingneſs to go before that time, it being after the time they ſpeak of that this man ſaw him there. Whether or no it was in *June*, or *July*, or *Auguſt*, is ſomething uncertain. So that I have repeated, as near as I can, all that is ſubſtantial on either part; and I have, according to the beſt of my Underſtanding, dealt fairly on both ſides, and obſerved to you what hath been ſworn againſt my Lord, and what hath been ſaid in contradiction to what they ſwear, and what appears upon Record; as to *Dangerfield*.

There is a great deal of difference between Mr. *Otes*'s Teſtimony and Mr. *Dangerfield*'s; for you may believe one, when you may perchance not believe another. There are not thoſe things caſt upon Mr. *Otes* that are upon Mr. *Dangerfield*. Now I muſt tell you, tho' they have produced two, if you believe but one, I think (if ſo be my Brethrens Opinions be otherwiſe, I would be very willingly contradicted in this matter) if two Witneſſes are produced, both ſpeaking materially to the thing, the one is believed and the other not; Whether upon theſe two Witneſſes the Jury can find a Perſon Guilty, or no? I am of Opinion, it is but one Witneſs, if you don't believe one; and I am ſure one is not ſufficient to find one Guilty: And therefore if ſo be you are of another Opinion, let us deal fairly and above-board, that it may appear we deal rightly between the King and his Subjects, and ſo preſerve men that are accuſed and not guilty.

Mr. Juſt. *Jones*. I think in the firſt place, my Lord hath very faithfully delivered the Evidence; and I do think it neceſſary, in a Caſe of Treaſon, That there muſt be Two Witneſſes believ'd by the Jury.

Mr. Juſt. *Raymond*. I never heard any man queſtion it. If the Law ſays, there muſt be two Witneſſes produced, it ſays, They muſt be Both believed.

L. C. J. Now you have our Senſe of it.

[*The Jury went from the Bar, and returned.*

Cl. of Cr. Are you all agreed of your Verdict?

Jury. Yes.

Cl. of Cr. Who ſhall ſpeak for you?

Jury. The Foreman.

Cl. of Cr. Roger Palmer, Eſq; Earl of *Caſtlemaine* in the Kingdom of *Ireland*, Hold up thy Hand, look upon the Jury.

Cl. of Cr. Is *Roger Palmer*, Eſq; Earl of *Caſtlemaine* in the Kingdom of *Ireland*, Guilty of the High Treaſon whereof he ſtands Indicted, or not Guilty?

Jury. Not Guilty.

Cl. of Cr. This is your Verdict, You ſay he is Not Guilty, ſo you ſay all?

Jury. Yes.

THE

THE TRYAL OF JOHN GILES.

THE Seſſions began on *Wedneſday* the Seventh Day of *July*, 1680. the Ninth Day Mr. *John Giles* was brought to the Bar to be tried; and there pretended that he had Witneſſes at *Monmouth*, who could teſtifie very material things for him, and therefore pray'd the Court to put off his Tryal until the next Seſſions. Then the Court asked him his Witneſſes Names, and what they could ſay? Which he then declared to the Court. Upon which Mr. *Arnold* being preſent, and Proſecutor (*Tam pro Domino Rege, quam pro ſeipſo*) the Court asked his Conſent, and what he could ſay, why the Tryal ſhould not be put off; that ſo all the World might hereafter ſay, That Mr. *Giles* had all the Favour that he could reaſonably deſire, and what the Court could in Juſtice ſhew him, and that no manner of Excuſe might be left him.

After which, Mr. *Arnold*, in a very pertinent Speech, declared part of the Fact, and alſo of the Proceedings before his Wounding, as it had occurred between him and Mr. *Herbert*; and of his favourable and juſt Proceedings againſt Mr. *Herbert*, and alſo againſt *John Giles*, after the Fact was committed; and declared that *Giles* had ſufficient notice of his Tryal; but notwithſtanding he did ſubmit himſelf to the Judgment of the Court.

Thereupon the Court adviſing a minute or two's ſpace, it was ordered, That the Court ſhould be Adjourned until the *Wedneſday* following; by which time Mr. *Giles* might ſend to *Monmouth*, and have what Witneſſes brought up he could get.

And the Day appointed being come, and the Court being ſat, Proclamation was made according to Cuſtom. Then the following Jury were called and Sworn, *viz.*

Chriſtopher Plucknet,	Jur'	*James Partridge*,
William Dodd,		*Lawrence Wood*,
Anthony Nurſe,		*John Bradſhaw*,
John Burton,		*William Withers*,
Nathan Goodwin,		*Edward Proby*,
George Wood,		*Richard Bromfield.*

Who according to the Form of Law, were charged to enquire, Whether the Priſoner were Guilty of the following Indictment, upon which he had been Arraigned, and had pleaded Not Guilty?

Cl. of Cr. The Jurors of our Lord the King, upon their Oaths, do preſent, That *John Giles*, late of the Pariſh of St. *Dunſtan in the Weſt*, in the County of *Middleſex*, Gentleman, not having God before his Eyes, but being moved and ſeduced by the inſtigation of the Devil, contriving and maliciouſly, by a moſt wicked Conſpiracy, with divers other Malefactors to the Jurors unknown, forethought and had, intending one *John Arnold*, Eſq; a faithful Subject to the King, and one of the Juſtices of the Peace for the County of *Monmouth*, inhumanly to maim, wound, kill and murther, the Fifteenth of *April*, in the Thirty Second Year of the Reign of our Sovereign Lord *Charles* the Second, by the Grace of God, King of *England*, *Scotland*, *France* and *Ireland*, Defender of the Faith, *&c.* with the ſaid Malefactors unknown, at the Pariſh of St. *Dunſtan in the Weſt* aforeſaid, in the County of *Middleſex* aforeſaid, in and upon him the ſaid *John Arnold*, then and there being in the Peace of God and the King, unlawfully, voluntarily, and of his malice fore-thought, with Force and Arms, that is to ſay, with Swords, Staves and Knives, of deſign, and by lying in wait, did make an Aſſault; and him the ſaid *John Arnold*, did then and there beat, wound, maim, and evilly intreat, and the Throat and Face of him the ſaid *John Arnold*, did grievouſly cut with a certain Knife, alſo divers almoſt mortal Wounds then and there to the ſaid *John Arnold*, that is to ſay, one Wound of the depth of ſeven inches in his Body, between his Belly and his left Pap, two Wounds upon his Breaſt, and two Wounds in his left Arm, with certain Swords, did then and there give and impoſe, ſo that it was deſpaired of the ſaid *John Arnold*'s Life, and other Enormities then and there unto him did bring, to the great danger of the ſaid *John Arnold*, and againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

Mr. *Gibbs.*

Mr. *Gibbs.* Gentlemen, this is an Indictment againſt *John Giles*, the Priſoner at the Bar, for aſſaulting and intending to diſpatch and murder *John Arnold*, one of his Majeſty's Juſtices of the Peace, on the 15*th* Day of *April*. This *John Giles* and ſeveral others, did intend to kill Mr. *Arnold*, and ſet upon him in *Jackanapes's-Lane*; threw him down, and endeavoured to thruſt their Swords into him, but finding no Penetration there, they kneeled upon him, and with a Knife endeavoured to cut his Throat, and in one place made a very large Gaſh, and cut his Face; he endeavouring to keep them from his Throat, they gave him a Wound in his Side Seven Inches deep, between his Belly and left Pap. They gave him ſeveral other Wounds. To this he has pleaded not Guilty.

Mr. *Holt.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am Counſel for the King, and the Indictment hath repreſented to you the moſt Horrid, Vile and Barbarous Aſſault that has been almoſt ever committed, and that any man has heard of; and which I think ſcarce any thing in Hiſtory can parallel. It was, Gentlemen, in its Nature moſt cruel, by the giving him ſo many Wounds as are ſet forth in the Indictment; having firſt way-laid and ſurprized him near a place, and at ſuch a time, as was convenient for the Execution of their wicked Deſign. This Mr. *Arnold* having occaſion to go through *Bell-yard*, between the Hours of Ten and Eleven of the Clock at Night, at the End of *Jackanapes's-lane*, he was ſuddenly ſeized by two Men, and by them halled into the Lane, where they gave him ſeveral Wounds, and uſed him in a moſt barbarous manner. And this did not ariſe from any private Difference or Animoſity, that they could conceive againſt Mr. *Arnold*; but from a Cauſe more general, that is, the Proſecution of the horrid Popiſh-Plot; againſt which, Mr. *Arnold*, as became him, and according to the Duty of his Office, he being a Juſtice of the Peace, was a very zealous Perſon. Gentlemen, in the firſt place we will call Mr. *Arnold*, who ſhall plainly prove that this Priſoner at the Bar, was one of the Three Aſſaſſines; and he proves it by a miraculous Providence: For juſt before they ſeized upon him, a Woman in *Bell-yard* held out a Candle, which gave Mr. *Arnold* an Opportunity to ſee the Priſoner at the Bar, and did perfectly diſcern him. Gentlemen, though this is enough, conſidering the Integrity and Reputation of the Perſon; yet we ſhall fortifie his Evidence by ſtrong and undeniable Circumſtances, Circumſtances that do particularly relate to this matter. In the firſt place, Gentlemen, the very Day that this Fact was done, this Perſon, though he had a good Sword by his ſide, yet he did inquire where he might buy a more convenient Sword, and did deſire to know where he might have a Rapier, which was thought more convenient for this Deſign, and the very next Day after this Fact, though Mr. *Arnold*'s having Armour on was a Secret which no Perſon but Mr. *Walcup*, a Juſtice of the Peace, and Mr. *Arnold* himſelf knew; yet this ſame *Giles* could ſay, *Arnold* had Armour on; and if *Arnold* had not had Armour on, his Buſineſs had been done. And after this Fact was committed, this *Giles* goes into *Glouceſterſhire*, and being purſued by a guilty Conſcience, he durſt not ſtay there, for he was afraid, as he ſaid himſelf, of being apprehended for aſſaſſinating Mr. *Arnold*. After this, Gentlemen, he came to one *Darcy* a Cutler in *Monmouthſhire*, with his Sword which was broken, and deſired him to mend his Sword. *How now*, ſays he, *how came this Sword to be broken? Have you been fighing with the Devil? No*, ſays he, *I have been fighting with damn'd* Arnold. And at the very ſame time when theſe Villains thought they had effected their bloody Purpoſe, and gave Mr. *Arnold* his Diſpatch, one of them ſaid to him, *Now Villain, if thou haſt any Life in thee, pray for the Soul of Captain* Evans; which *Evans* was a Prieſt executed in *Wales*, upon Mr. *Arnold*'s Proſecution, at whoſe Execution this *Giles* was preſent, and dip'd his Handkerchief in his Blood. Now, Gentlemen, conſidering all this, which we will make plain to you by Mr. *Arnold*, and all theſe Circumſtances; I ſuppoſe you will have ſufficient Evidence to find him guilty.

Mr. *Thompſon.* My Lord, and you Gentlemen of the Jury, the Indictment has been opened, and the Matter of it, that baſe Attempt made upon Mr. *Arnold*, that was a Juſtice of the Peace in *Monmouthſhire*, that is ſhewed in the Indictment. But I muſt crave your Lordſhip's leave, that I may more particularly open this Caſe. This is a Caſe, Gentlemen, of very great Conſequence, and though it more immediately concerns Mr. *Arnold*, yet it highly concerns every man preſent; you of the Jury, and I; nay, every other Freeman of *England*, which ought to be protected by the Laws, muſt needs be concerned at ſo great a Violation of them, and cannot but ſet our Faces againſt ſuch villainous and barbarous Attempts as theſe, wherein there did not want the good Will of the Actors to make it a moſt barbarous and bloody Murder. In the Courſe of our Evidence, and the Method we will take to proceed in, it will be neceſſary to do theſe three things. Firſt of all, we ſhall acquaint you with that which we apprehend to be the Reaſon and Occaſion of this horrid Fact. Next we ſhall tell you what that Fact was. And in the laſt place, enquire how far this Defendant is guilty thereof.

For the Firſt, give me leave to acquaint you with what we apprehend to be the true Reaſon of this Aſſaſſination, 'tis notorious to moſt men, but eſpecially to the County of *Monmouth*, where Mr. *Arnold* was a Juſtice of Peace; how active and diligent, how faithful and vigorous a man he has been in the Diſcharge of his Duty to his King and Countrey, in putting the Laws in execution againſt the Papiſts, and endeavouring to ſuppreſs Popery: This was the Ground of their Malice, as you will find by the Evidence, and by the ſeveral Threats that he had before this Act was done. But more particularly there was this Occaſion, there was one whom they call'd Captain *Evans*, but indeed was Father *Evans* a Popiſh Prieſt; this man in *Monmouth* was taken by Mr. *Arnold*, and was proſecuted according to Law and convicted. I mention this Circumſtance, becauſe our Evidence will refer to it, and that you will ſee out of the Actors own mouths, if we may believe the Actors in this bloody Tragedy when they did the Fact: This Proſecution of Father, Captain *Evans*, was no ſmall Occaſion of their Villany which they acted upon Mr. *Arnold*. Theſe were the Grounds of their Malice, Gentlemen, and what happened

to

to Mr. *Arnold* was the Effect. And I do the rather mention this particular, that you may know what ſort of People theſe were that practiſed this Villany upon Mr. *Arnold*, for it will be a neceſſary Circumſtance in our Proof againſt this Priſoner at the Bar, to ſhew that he is one of that bloody Tribe.

Gentlemen, the next thing is to ſhew what this Fact was, and how it happened. Mr. *Arnold* had a Controverſie with one Mr. *Herbert*, another Juſtice of the Peace in *Monmouthſhire*; that Cauſe between them was to be heard before the King and Council the next day after this Fact was committed: I mention Mr. *Herbert*, but I hope he is more a Gentleman than to be concern'd in ſuch a Villany. We will not at this give any Evidence that relates to him: For truly I believe this could only be the Contrivance of a Jeſuit and the Practice of bigotted Papiſts. But thus it happen'd. Mr. *Arnold* going to attend his Counſel upon this Occaſion, to prepare himſelf for this Hearing that was to be before the King and Council; in *Bell-yard* there he is Set upon, there he is Wounded, there he is Murder'd, as theſe Aſſaſſines thought. And this Mr. *Arnold* will prove to you when he comes to give his Evidence. This to the Fact.

Gentlemen, the next is, now to conſider how far this man at the Bar is guilty of it; and for that, Gentlemen, we will give you Evidence of ſeveral ſorts:

1. The poſitive Proof of Mr. *Arnold* himſelf, who, as Mr. *Holt* has obſerv'd before, almoſt by a Miracle, diſcover'd the Defendant's Face; for a Light accidentally coming out of one of the neighbouring Houſes, and the Defendant looking at Mr. *Arnold*, to ſee whether he was the Man they wanted, immediately upon that he was aſſaulted and carried into *Jackanapes's-lane*, and was wounded in ſeveral places. This Gentlemen, is plain, and will be poſitively prov'd; and then when this man was taken upon Suſpicion, and was carried before a Juſtice of Peace, and Mr. *Arnold* was ſent for, though Mr. *Arnold* had no private Intimation, no kind of Knowledge before-hand of *Giles's* being taken, and there were ſeveral men ſtood beſides this man, yet though he had never ſeen him before, but at the time when the Fact was done, Mr. *Arnold* immediately charged him with the Fact, and as ſoon as he heard him ſpeak he knew his Voice. This was ſo plain upon *Giles*, that he had not the Power, though he might have had the Confidence, at that time to deny it: But inſtead of a Denial, ſaid, The matter could but amount to an Aſſault and Battery. In the next place we have Evidence from the Defendant's own Mouth, which in a Caſe of this Nature ought to weigh as much as can be, and I think is as much as the Nature of the thing is capable of. This man the very next day after Mr. *Arnold* had been thus aſſaulted, diſcourſing with one *Philips* by Name, and relating the Buſineſs which happened to Mr. *Arnold*, and before he could know he had Armour on, as we will prove from the Circumſtance of the Time (what does *Giles* ſay?) Says he, *Damn him, Rot him,* Mr. *Arnold*, ſaid he, *had Armour on*: And, this, Gentlemen, could not be known by him at that time, if he had not been a Party in this baſe Attempt. And there is a Circumſtance that goes yet beyond this, which I would have you obſerve, that when Mr. *Arnold* was aſſaſſinated, when they made their Attempt, in the very Act were theſe words uſed, *Damn him, Rot him, he has Armour on.* Theſe very words were ſpoken then, and upon that they fell to cut his Throat. We have this Circumſtance more; he had broken his Sword, and went to a Cutler, one *Darcy* by Name; this man was a Papiſt, and ſays he, *Where haſt thou been* Giles, *fighting with the Devil? No, it was with damn'd* Arnold. This we will prove to you: Theſe are Evidences that are poſitive.

Some other Witneſſes we have, that will be very material to prove to you what ſort of man the Defendant is. That he has declared there is no Plot; that thoſe that believe it, are Rogues; and if ever any of the Lords in the *Tower* ſhould Suffer, this Nation ſhould feel a bloodier War than ever it had done; by which you may ſee his bloody Nature. Gentlemen, beſides this we ſhall prove (according to their Cuſtom of Shaming) that he has from time to time pretended as if Mr. *Arnold* had done this Buſineſs himſelf, or ſome of his Friends, to revive the Plot. A very fine Contrivance indeed! for a Perſon to ſtab himſelf and cut his own Throat, to revive the Plot. Theſe things we will make out clearly to you: And I muſt tell you it is a notorious Crime, ſuch a Fact as has no Precedent: There's no Remembrance in Hiſtory, that I know of, of ſuch barbarous Attempts, except in the Caſe of Sir *Edmundbury Godfrey*, who was moſt barbarouſly murder'd by this ſort of Men. And this Caſe, Gentlemen, differs from that only in this, that there they accompliſh'd their Villany upon him: But the Providence of God ſaved Mr. *Arnold*'s Life, and I hope to as good purpoſe: For as Providence ordered that to confirm the Truth of the Popiſh Plot; ſo this Aſſaſſination of Mr. *Arnold* muſt convince all mankind (not concern'd in the Plot it ſelf) that this damn'd Popiſh Plot ſtill continues, and that 'tis high time for all honeſt men, as much as in them lies, to endeavour to ſuppreſs it. You, Gentlemen, will do your Duty in finding this man Guilty (if the Evidence we give ſatisfies your Conſciences that he is ſo, elſe God forbid) and then I doubt not but the Court will do their Duty, in putting ſuch an examplary Puniſhment upon this Villain, that may deter the like barbarous and bloody Attempts for the future.

Mr. Arnold *Sworn.*

Mr. *Thompſon.* Pray Mr. *Arnold* give an Account of this Buſineſs.

Mr. *Arnold.* My Lord, I was ordered by the King and Council to attend upon them the next Day after this Villany befel me. I was upon the 15*th* Day of *April* in my Chamber in the Afternoon, and my L. *Chandois*, and ſeveral other Perſons came to my Chamber, and one *Evans*, one of the Meſſengers belonging to the Council, came to give me Notice that my Hearing (which I was inform'd was to be at Four in the Afternoon) was ordered to be at Ten in the Morning, which was the Reaſon I ſent my Servants out to give Notice of this Alteration to my Witneſſes and Counſel. And though I had reſolv'd not to ſtir out that Night, I went out with the Company to the *Devil* Tavern, where we were, and ſtaid till about Ten, or paſt; and juſt as we were breaking up, I recollected that

that I had ſome Buſineſs with Mr. *Phillips*, who is a Counſellor at Law, and lives near the end of *Bell Yard*. I deſired the Company to ſtay and I would come to them in a moment. I went to the Room where ſeveral Servants were, and called to ſome of them to go with me; for ſeveral of my Friends and Neighbours being in Town, I very often took their Servants with me, when mine were buſie or out of the way. As I went croſs *Fleetſtreet*, I did ſee two men in Campaign Cloaks follow me, and I thought them to be Servants belonging to ſome of my Company, who had followed me on my calling; and as I came into *Bell Yard*, one of them went faſter than I went, and got before me, and turned and looked earneſtly in my Face, and I went by him, when a Woman ſtanding in a Door about the middle of *Bell Yard* with a Candle in her Hand, I looked in his Face, and that Perſon was the Priſoner at the Bar; and when his Companion or Companions came up to him, I heard them laugh aloud; I took no notice but went on, and went as far as to that Houſe.

Sir *George Jeffries*. Mr. *Recorder*. You knew him before, Mr. *Arnold*?

Mr. *Arnold*. I did not know him ſo well before as to know his Face. At the Kennel at the end of *Jackanapes-lane*, I looking down to find the Kennel, a Cloak was thrown over my Head, then I found very rough Hands upon my Shoulders, and they ran me into *Jackanapes-lane*, juſt croſs the Lane againſt the oppoſite Wall, and they run my Head ſo hard I think they broke it; I drew my Sword before, but before I could uſe it I was ſtruck, and immediately upon that one of them ſtruck me; then I apprehended what it was, but could not turn to make any Defence. I received a ſecond Blow and fell, and the firſt thing I was ſenſible of was a very ſharp quick thruſt in my ſide, and the point at that thruſt ran into my Belly; then I recovering began to make what defence I could. With a broad Sword I was run thro' my Arms, and with a ſmall Weapon I was run thro' in another place of my Arm. I had ſeveral other Wounds; one of them ſet his Foot hard upon my Breaſt, and kept me down, and he was, as I conceive, run into the Leg by one of his Companions; for I heard him ſay, *Damme, Thou haſt ſpoiled my Leg*. They laughed all the while and were exceeding merry. I had then on a pair of Bodice of Whalebone, notwithſtanding which I had four or five Wounds in my Body thro' them, for they were not Proof, but they imagin'd they were, finding their Swords double ſometimes, and then ſaid one of them, *Damme, he has Armour on, Cut his Throat*. Immediately one kneeled down, and gave me ſeveral Cuts in the lower part of the Face, and I did what I could to defend my ſelf, but they have given me ſome indelible marks, Characters that will never be obliterated while I live, and I am afraid I ſhall never be my ſelf again, by reaſon of the Bruiſes in my Head and Breaſt. By a Candle in a Window, I conceive in Sir *Timothy Baldwin*'s Houſe, and ſome Women in his Yard, gave them the firſt diſturbance, and a Boy coming by with a Link the ſame time, I both ſaw the Face of the Priſoner at the Bar again, and remember'd I ſaw him in the Lane juſt before. They then pulled the Cloak from off me, aod I ſeeing the Light, and being eaſed of the weight, I ſtrained all my ſtrength and cried out, and then ſome Company came in, who are here to prove it; but ſeeing me all Blood and Dirt, they ſtood gazing on me a time, but at laſt took me up and carried me into the *Sugar-Loaf*, and from thence I was carried to my Lodging, where all the Company I left came to me, and a Surgeon was ſent for, who is alſo here to prove his knowledge of the Condition he found me in. And when they went away, they did not ſteal away as other Malefactors uſe to do, but clapt their Swords cloſe to their Bodies and went away laughing aloud; but as they were going, one of them ſaid theſe Words, *Now you Dog pray for, or pray again for the Soul of Captain* Evans. Captain *Evans* was a Jeſuit, and was Executed at *Cardiffe* for being a Prieſt; and I have been informed by ſeveral Perſons of good Quality, that when the Under-Sheriff came to give him Notice, that he had a Warrant for his ſpeedy Execution, the ſaid *Evans* being in a Game at Tennis, ſaid, *God damme, I will play out my Set firſt*.

Mr. *Recorder*. Mr. *Arnold*, I would know one thing: Will you undertake to Swear poſitively, that this Perſon was one of the Perſons who ſtept before you? Will you take it upon your Oath, That that Perſon, the Priſoner at the Bar, went before you?

Mr. *Arnold*. I will take it upon my Oath, as far as a man can do, for one man, 'tis poſſible, may be like another both by his Voice and his Face; I can Swear I believe he is the man.

Mr. *Thompſon*. You are ſatisfied upon the firſt ſight that you had of him in the Countrey, that he was the man.

Mr. *Arnold*. Yes, Sir; and he can tell you that by a very good Token, for I had like to have run him thro'.

Mr. *Recorder*. We muſt not expect that there can be exact and poſitive Proof; for men that commit Offences of this impudent Nature, don't uſually call Witneſſes to be preſent to ſee them done; therefore we would come as near as we can to Circumſtances, whereby a Fact of ſuch a Nature is to be proved. Mr. *Arnold*, Do you believe that the Priſoner at the Bar was one of the Perſons that went before you in *Bell Yard*?

Mr. *Arnold*. Upon my Conſcience I do believe he was the man.

Mr. *Recorder*. What a Clock was it?

Mr. *Arnold*. About Eleven a Clock, or between Ten and Eleven.

Mr. *Recorder*. When the Link came there, was there Three? And do you believe by the light you had by the Link, that that was one of the Perſons that was there?

Mr. *Arnold*. I ſaw his Face and Habit, and believe he was.

Mr. *Recorder*. What Habit had he on?

Mr. *Arnold*. He had a grey Cloak, a Campaign Cloak and a Coat, I think lin'd with Red. It is impoſſible to give an Account of every particular under thoſe Circumſtances I was in.

Mr. *Recorder*. It is not to be expected that a man under your Circumſtances ſhould be extraordinary preciſe in Circumſtances; therefore it is I asked you, that according to the beſt of your Apprehenſion, you might acquaint the Court with thoſe Circumſtances that may be remembred by the Jury, that they may ſee there be no injury done to the Priſoner at the Bar, but that Right be done on both ſides, and that in every Circumſtance.

Mr. *Holt*. Now, Sir, we will call Mr. *Phillips*, with whom he had this Diſcourſe the next Day.

Mr. *Recorder*. Will the Priſoner ask him any Queſtions?

Priſoner. Truly Mr. *Arnold* knew me in *Monmouthſhire*, and knew me as well as any man in the City.

Mr. *Recorder*. Did you not very well know him?

Mr. *Arnold*. It is very poſſible I might ſee him and often at Aſſizes and Seſſions; but not to know him, nor did ever know whether his Name were *Giles*, or what it was. Your Lordſhip ſees many Perſons here, and often, and its poſſible do not know them; he lives I think a dozen miles from me.

Priſ. That's a wonder; if it pleaſe you, Sir, my Wife is a near Relation to you, both by Father and Mother, and I have ſpoken with you in your Chamber.

Mr. *Arnold*. 'Tis poſſible ſhe may, but I do not know it.

Stephen Phillips.

Mr. *Holt*. Pray Mr. *Phillips* give an Account of what Diſcourſe you had with *Giles* the day after the Buſineſs was done.

Mr. *Phillips*. We went to the Tavern, and drank two or three Bottles of Wine, and we had ſome Diſcourſe concerning Mr. *Arnold*; it was about Eight or Nine a Clock in the Evening the next Day, ſome Diſcourſe happened concerning his miſerable Condition, and how he was hurt, and of that nature.

Mr. *Recorder*. How many was there in Company?

Mr. *Phillips*. One or two more.

Mr. *Recorder*. What Houſe?

Mr. *Phillips*. At the *Crown* Tavern in *Newſtreet* in *Covent Garden*; and among the reſt, Mr. *Giles* was talking of it, and ſaid he, *God damn him, God rot him, he had Armour on*; the Word was, *God damn him*, or, *God rot him, he had Armour on, they ſay*.

Mr. *Holt*. What time of Night was that?

Mr. *Phillips*. As near as I can remember, it was about Eight or Nine the next day in the Evening.

Mr. *Thompſon*. The very Words that Mr. *Arnold* Swears when they went to cut his Throat.

Priſ. My Lord, if you pleaſe, there was Mr. *Phillips* and another; and I ſpake nothing but what I heard as News, that they had killed him if he had not on Armour.

Mr. *Recorder*. For that matter, Mr. *Giles*, you ſhall have your time, and you may call up other Witneſſes, but the Gentleman poſitively Swears you ſaid theſe Words; and if ſo, I'll aſſure you it does not look as if you were a-kin to him, or your Wife either.

Walter Watkins.

Mr. *Holt*. Mr. *Watkins*, What did you hear that *Giles* ſhould ſay in *Glouceſterſhire* about this Buſineſs?

Mr. *Thompſon*. What ſaid he about this Buſineſs of Mr. *Arnold*?

Mr. *Watkins*. My Lord, all I can ſay is this: I being at the ſtating ſome Accounts between Mr. *John Giles* and Mr. *Richmond*; I asked Mr. *Giles* for ſome Horſehair to make a Fiſhing-line: Mr. *Giles* replied, *That he had left very good Hair for me at a Farrier's in* Glouceſter; *for he and* Mr. Herbert Jones *made ſuch haſte through the Town of* Glouceſter, *that they did not call for the Horſehair*. I asked Mr. *Giles* what was the occaſion of his haſte? Said he, *For fear we ſhould be ſtopt in our Journey, as ſuſpected to be concerned in Mr.* Arnold's *Buſineſs*.

Mr. *Recorder*. What time was that?

Mr. *Watkins*. About the 5*th* of *May*.

George Richmond.

Mr. *Holt*. Mr. *Richmond*, What can you ſay concerning this thing?

Mr. *Richmond*. I deſired Mr. *Giles* to meet me, that we might even our Accounts; and upon the 5*th* of *May* laſt he met me, and I deſired Mr. *Watkins* to be preſent as a Witneſs.

Mr. *Recorder*. Where was it?

Mr. *Richmond*. At *Uske*. And as we were making up the Account, ſaid Mr. *Watkins* to Mr. *Giles*, *Where is the Horſehair you promiſed me to make Fiſhing lines*? *Giles* replied, *He left very good Horſehair at a Farrier's in* Glouceſter: And he asked him, *Why he left it*? He ſaid, *He made haſte for fear of being taken and ſtop'd for Mr.* Arnold's *Buſineſs*. I cannot ſay whether he called him Eſq; *Arnold*, or Mr. *Arnold*, or what; he ſeldom uſed to give him ſo good words.

Walter Powel.

Mr. *Holt*. What do you know concerning *Giles* his being at the Cutler's?

Mr. *Powel*. If it pleaſe you, Sir, I was at the Cutler's.

Mr. *Recorder*. Name the Time when, and the Place where.

Powel. The 5*th* of *May*, at a Place call'd *Uske* in *Monmouthſhire*, Mr. *Giles* and I we came there; and Mr. *Giles* asked *Peter Darcy*, Whether he would mend him that Sword or no? But Mr. *Darcy* had ſome Buſineſs that he could not get time to mend it that morning, but would do it in the afternoon. Says *Darcy*, *Where have you been, you have been hot at it*? *What have you been fighting with the Devil*? *No*, ſaid he, *with damned* Arnold.

Mr. *Recorder*. What did you ſay when the Cutler asked him, Whether he had been fighting with the Devil? And he ſaid again, No, not with the Devil, but with damn'd *Arnold*.

Powel. *Peter Darcy* ſaid he muſt not ſpeak ſuch words; and *Giles*'s Wife pluck'd him by the Coat, and bid him hold his Tongue.

Mr. *Darnal*. Who was by?

Powel. There was one *Peter Darcy*.

Mr. *Darnal*. Was one *John Jones* there?

Powel. I think there was another indeed by the Apprentice.

Mr. *Recorder*. There was the Apprentice, but he does not know his Name, and *Darcy*, and *Giles* and his Wife.

William Richmond.

Mr. *Holt*. What did you hear *Giles* ſay about the Rapier?

W. Rich-

W. Richmond. He asked me in the Afternoon before Mr. *Arnold* was hurt, Where he might buy a very good Rapier? I told him I could not tell. He then had a good Back-Sword in the Houſe.

Mr. *Gibbs.* Tell the Court what Acquaintance *Giles* had with Father *Lewis* the Jeſuit, ſince executed.

W. Richmond. My Lord, He told me he would go to the Executioner, and perſuade him not to execute Mr. *Lewis*, but I had the Executioner lock'd up, and I would not ſuffer him; but I did ſee him very active at the Execution dipping Cloths in *Lewis*'s Blood.

Mr. *Thompſon.* What do you ſay as to his coming to his Lodging?

W. Richmond. We went to ſeveral places that day, and at Eight or Nine, or between Eight and Nine, we came to the *Kings Arms* in St. *Martins-lane*, and I left him at the Kitchin Fire, and went up into the Chamber, and drank a conſiderable quantity of Drink; and as near as I can gueſs, it was between Twelve and One a Clock before he came to his Bed; for after I was going to Bed, about one of the Clock I heard *John Giles* come up the Stairs, and bid me good Night; he called at my Door juſt as I was pulling off my Breeches to go into Bed.

Mr. *Recorder.* What time was this?

W. Richmond. As near as I can gueſs it was between Twelve and One, or very near One.

Mr. *Recorder.* At what Houſe was it?

W. Richmond. The *Kings Arms* in St. *Martins-lane.*

Mr. *Recorder.* What did you ſay when the maid was making the Bed?

W. Richmond. I asked her who it was for? And ſhe ſaid, for a man that was not willing to lie with any body.

Mr. *Recorder.* What time did you come to the Houſe?

W. Richmond. About Nine.

Mr. *Recorder.* Did you ſtay in that Houſe till that time?

W. Richmond. I lay in the Houſe, Sir.

Mr. *Recorder.* You were not out of the Houſe all the while?

W. Richmond. No, Sir, I was not out of it.

Mr. *Recorder.* And you are ſure that you did not ſee him again till he came to your Door going to Bed?

W. Richmond. Yes, Sir.

Mr. *Recorder.* What time was that?

W. Richmond. Nigh One.

Mr. *Thompſon.* You ſee the Contradiction between this, and what this Fellow ſays upon his Examination; where he ſays he was a-bed at Nine a Clock.

Mr. *Recorder.* Where did you go at that time?

W. Richmond. We went to *Long-lane*, to one *Philpot*'s, and ſhe told us her Husband was gone to Exerciſe at the next Church; I do not know the Church's Name, and there we went and looked upon the Soldiers, but did not ſee him: we came back to his Houſe again, and the Gentlewoman gave us a Tankard of Beer or Ale. And after that we went back, and we had a mind to make ſport with a Countrey Fellow we had with us, and went into *Whetſtone's Park*, from thence we went to the *Helmet* in *Drury-lane.*

Mr. *Recorder.* You went to *Whetſtone's Park*, and what did you ſpend there?

W. Richmond. Sixpence, and he paid it.

Mr. *Recorder.* Whither did you go from thence?

W. Richmond. Into *Drury-lane.*

Mr. *Recorder.* How long did you ſtay in *Drury-lane*?

W. Richmond. It was not long, Sir, about an Hour.

Mr. *Recorder.* Where after that?

W. Richmond. From thence to the *Peacock*, and ſtaid till Eight or Nine.

Mr. *Recorder.* Who did you meet withal between your going from the *Helmet* in *Drury-lane* to the *Peacock*?

W. Richmond. We met with one *Powel*, and another, and one *Elizabeth Edwards.*

Mr. *Recorder.* What did you drink there?

W. Richmond. We did drink both Ale and Brandy.

Mr. *Recorder.* Well ſaid: How long did you ſtay there?

W. Richmond. We ſtaid there a pretty while, an Hour or more, or two Hours.

Mr. *Recorder.* What time of Night was it that you went from thence?

W. Richmond. About Eight or Nine.

Mr. *Recorder.* And then you went to your Lodgings?

W. Richmond. Yes.

Mr. *Recorder.* Did you drink at the *Kings Arms*?

W. Richmond. No, we drank not all together.

Mr. *Recorder.* And there you ſtaid till Twelve or One a Clock?

W. Richmond. Yes.

Mr. *Recorder.* But can you remember, as near as you can gueſs, what time was it you ſaw this maid making of the Bed?

W. Richmond. I cannot ſay poſitively, but I judge it was about Twelve a Clock.

Mr. *Thompſon.* As to that Circumſtance of his coming home at Twelve at Night, deſire Mr. *Arnold* to give an Account of his Examination, what time of Night he came to his Lodging.

Mr. *Holt.* Do you believe that is *John Giles*'s Hand?

Mr. *Recorder.* That is a Copy.

Mr. *Arnold.* He did confeſs before a Juſtice of the Peace, that he was at his Lodging at Ten a Clock: This I heard him ſay, and I believe he won't deny it; and I heard him own this Examination, my man will prove it.

Giles. Deny it? Yes I will deny it, there was no ſuch word ſaid: I did ſay, Mr. *Arnold*, I went to Bed then.

Mr. *At. Gen.* The Jury muſt take notice of this; That upon his Examination he ſays, he came home by Nine; which is before the thing was done: But by Proof he did not come in till Twelve, which was after the thing was done. *Sir Creſwel Levins.*

Mr. *Holt.* We will give you now, Gentlemen, an Account of this man's Principles.

Mr. *Recorder.* This is the Buſineſs: *Richmond* ſays, They came together to their Lodging before Night, but he left him at the Kitchin Fire, and went into another Room to drink with ſome Company; and this Mr. *Richmond* ſays, his Bed was not made till Twelve a Clock, and that he himſelf went to Bed about One of the Clock, and that he heard the Priſoner at the Bar, while he was pulling off his Breeches, call to him, and therefore he took notice of that as a Circumſtance, that he does particularly remember he did not go to Bed till that time; and he ſays he did not ſtir from that place after Nine a Clock.

Mr. *Thompſon*. There is a Contradiction in that.

Mr. *Recorder*. There is no Contradiction: The other Witneſs ſays that he came along with him at Nine a Clock.

Mr. *Thompſon*. I will tell you where this is a Contradiction.

Mr. *At. Gen.* He ſays he came to the Houſe at Nine a Clock, but he came not to Bed till after One.

Mr. *Recorder*. The Evidence does not go ſo far: *Richmond* ſays they came to the *King*'s-*Arms*, and left him in the Kitchin at Nine a Clock, and he went into his Chamber and ſtaid up till One, and all that time he did not come to Bed.

Mr. *Thompſon*. So far it lies upon him to give an Account where he was between Nine and Twelve.

Bridges.

Mr. *Holt*. Heark you, Sir, have you had any Diſcourſe with *Giles* concerning the Plot, and concerning the Lords in the *Tower*? And what did he ſay to you?

Mr. *Bridges*. I had ſome Diſcourſe with him concerning the Papiſts, he ſaid that it was the beſt Religion, and that thoſe that were not of that Religion ſhould be damn'd: I alledg'd againſt him, and told him the contrary: I thought not. Can it be ſuch a Religion, ſaid I, that will act ſuch things againſt the King and the Government? Says he, If any ſays there is ſuch a Plot againſt the King or the Government, he is a Rogue and a Thief.

Mr. *Holt*. What did he ſay of the Lords in the *Tower*?

Bridges. Nothing more.

Giles. How long ago was this?

Mr. *Recorder*. When was this?

Bridges. This was, my Lord, about a Twelve-month ago.

Mr. *Thompſon*. Did he ſpeak any thing to you further concerning the Plot?

Bridges. Not further.

Giles. My Lord, I beſeech you I may ſpeak to this man. Do you hear, Sir, Were not theſe the Words that I ſaid when you charged me to be a Papiſt, That I knew of no Popiſh Plot, and they that ſaid I was a Papiſt, or knew any thing of the Plot, were Rogues or Whores, or worſe.

Bridges. You ſaid thus, That the Papiſts were the beſt Religion, and that thoſe that were not of that Religion were damn'd.

Giles. Have not you been a Papiſt, Sir?

Bridges. I am not now.

Giles. Will you ſay that I am a Papiſt?

Bridges. I ſay you defended it ſo much I thought you were. Said I, I wonder it being ſuch a good Religion, that they would offer to act ſuch a thing againſt the King and Government. Said he, He that ſays this Plot is acted by the Papiſts, is a Rogue and a Thief.

Giles. How long ago is this?

Bridges. A Twelve-month ago; you remember it well enough; you remember when you ſent for me to the *George*.

Walter Moor.

Mr. *Holt*. What Diſcourſe have you had with him concerning the Plot?

Mr. *Thompſon*. What has he ſaid about it?

Moor. He ſaid, If the Lords in the *Tower* were Executed, there would be a greater War than ever was in *England*; and ſwore that if theſe Lords were put to death, it would coſt more Blood than ever was ſpilt. And I asked him again, Why they ſhould not be put to death if they ſhould deſerve it? For if a poor man had done ſuch a Fault, he would be hanged out of the way preſently. He ſaid again, They did not deſerve it, for there was no Plot at all.

Giles. Pray, Sir, Who was with you when you ſay I ſaid theſe Words?

Moor. I was at *George Taylor*'s Houſe.

Giles. Did not you ſay that *George Taylor* diſcourſed this with you?

Mr. *Thompſon*. Is this the man that ſpake it, upon your Oath?

Moor. Yes, this was the man.

Giles. What did *Taylor* ſay to you? Do you think my Lord, I would ſay ſuch a thing to ſuch a man as this is?

Mr. *Recorder*. Do you hear Mr. *Giles*, for that matter is not the Queſtion, the man has ſworn it, except the Jury know of their own Knowledge that the man is perjured, he is not ſo as to me.

Moor. It is the firſt time that I ever took an Oath.

Mr. *Reynold.*

Mr. *Holt*. Mr. *Reynold*, What have you heard *Giles* ſay concerning Mr. *Arnold*?

Reynold. Sir, I was in Company with *John Giles* and another, and we had Diſcourſe concerning one *Arnold*, and *John Giles* ſaid——

Mr. *Recorder*. What was that?

Reynold. I being in Company with him, we fell in Diſcourſe about Juſtice *Arnold*, how he was wounded.

Mr. *Recorder*. Where was it?

Reynold. In *Monmouthſhire*, at *Langoone*, the ſecond Day of *May*: *John Giles* anſwered us, That he could not ſee but he wounded himſelf.

Mr. *Recorder*. What Day did you ſay?

Reynold. The Second Day of *May*.

Mr. *Recorder*. He did diſcourſe the 5*th* Day of *May* at *Uske*, I would fain know when he came through *Glouceſter*.

Mr. *Thompſon*. What did he ſay about Mr. *Arnold*?

Reynold. He thought that he wounded himſelf, ſays his Wife, How could he wound himſelf in his Arms? Said he, It was himſelf or ſome of his Friends.

Mr. *Recorder*. Or ſome of his Relations.

Reynold. Some of his Friends.

Mr. *Hobbs.*

Mr. *Thompſon*. Mr. *Hobbs*, Pray tell how you found Mr. *Arnold* when he was wounded.

Mr. *Hobbs*. I found Mr. *Arnold* bleeding.

Mr. *Thompſon*. Tell what Wounds there were.

Mr. *Hobbs*. Two in his Arm, Two others upon the Face, another upon the Throat, which bled very much; another two upon the Breaſt, and one in the Belly.

Mr. *Thompſon*. What Depth might that be?

Mr. *Hobbs*. Two Inches and an half long.

Mr. *Thompſon*. Where elſe?

Mr. *Hobbs*. There was another upon his Breaſt.

Mr. *Thompſon*. What Depth?

Mr. *Hobbs*. They were not very deep, but there was one upon the Belly Six Inches and an half; there was Two through his Arm, and a Wound and ſeveral Bruiſes in his Head.

Mr.

Mr. *Thompſon.* This is likely to be a fine Contrivance, that he ſhould do it himſelf, as likely as that Sir *Edmundbury Godfrey* put his own Sword through his Body after his Neck was broke. A great Shout given.

Lord *Mayor.* Do you believe a man could wound himſelf ſo?

Mr. *Hobbs.* No, Sir.

Mr. *Recorder.* I believe a man could do it, but I believe a man would not do it himſelf.

Fifteen or Sixteen Witneſſes more for the King, that were attending in the Court were not examin'd, the Court being in ſome Haſte, and the King's Counſel not preſſing to have them examin'd, there being ſo full Evidence: Nor was there one word replied to the Priſoner's Witneſſes, they being all either frivolous or contradictory.

Mr. *Darnal.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am of Counſel for *Giles* the Priſoner at the Bar, and I muſt needs ſay there has been a ſtrong Evidence given againſt him, and if I were ſure he was concern'd in this barbarous Attempt upon Mr. *Arnold*, I would not open my mouth in this Cauſe: But if my Brief be true, I make no queſtion but to ſatisfie your Lordſhip and the Jury, nay and Mr. *Arnold* himſelf, that he had no hand in this bloody Action.

And Firſt, my Lord, in Anſwer to the Evidence that hath been given, there have been ſworn among others, Mr. *Richmond*, Mr. *Phillips*, and one *Powel*. Firſt, as to *Phillips*'s Evidence of what paſſed in diſcourſe at the *Crown* Tavern in *Covent Garden*; we have a Witneſs here who was preſent at the ſame time, that will give you an Account of the whole Diſcourſe, and that there were no ſuch Words ſaid by *Giles* in relation to Mr. *Arnold*, *As damn him, he had Armour on*; and as to the Evidence given by *Watkins*, of what paſs'd at *Uske*, about Mr. *Herbert Jones*'s and the Priſoner's making ſuch Speed through *Glouceſter*, we have Witneſſes here my Lord, that will ſatisfie your Lordſhip and the Jury, that when they came to *Glouceſter*, though it was at the time of the General Quarter-Seſſions, yet they ſtaid there four or five Hours, at a Publick-Houſe without the leaſt Sign of their Apprehenſion of any Purſuit; which ſhews the Improbability of any ſuch Diſcourſe at *Uske*: And my Lord, as to the Evidence of *Powel* of what was ſaid in *Darcies* the Cutler's Shop at *Uske*; we have, my Lord, a Witneſs here that was preſent at that time, who will give your Lordſhip and the Jury an Account, that the words ſaid then by the Priſoner, did much differ from what Mr. *Powel* ſwears; beſides the Improbability that any man ſhould be ſo weak to publiſh himſelf guilty of ſuch a Crime as this in this manner; after his Majeſty's Proclamation out, with the Promiſe of ſo great a Reward to any man that would make a Diſcovery of this horrid Action: So far, my Lord, we ſhall anſwer the Evidence that hath been given, but to ſatisfie your Lordſhip and the Jury, that it was impoſſible the Priſoner at the Bar could be concern'd in this foul Action, we ſhall prove to your Lordſhip, That upon the 15*th* of *April*, upon the Evening of which Day this bloody Attempt was made upon Mr. *Arnold*, the Priſoner at the Bar came firſt to Town; and we ſhall prove that he came to Town but at One a Clock that Day. We ſhall prove further, if my Brief be true, by Five or Six ſubſtantial Witneſſes, againſt whom there can be no Exception, how and where he imploy'd himſelf all that Day, from the Minute that he came to Town: And that when he return'd to his Inn, about Nine a Clock at Night, the Maid of the Inn lock'd his Chamber Door after he was a-Bed, and kept the Key of the Chamber all Night. And, my Lord, if all this be clearly prov'd, I make no doubt but your Lordſhip and the Jury and all Perſons here, will be ſatisfied that the Priſoner at the Bar is not guilty of this Indictment. My Lord we will firſt begin with Mr. *Philpot*.

Mr. *Philpot.*

Mr. *Darnal.* Mr. *Philpot*, Pray do you acquaint my Lord and the Jury, what Diſcourſe paſt between you and *Giles* at the *Crown* Tavern in *Covent-Garden.*

Mr. *Philpot.* We drank one Bottle of Clarret, Mr. *Phillips* came in when the Bottle was almoſt ended. But by and by ſome Friends came in, and they aked him what News, Sir? Said he, I hear of no News but a cruel Aſſaſſination upon Mr. *Arnold*, but for my part I am ſorry for it: But ſaid he, if any thing ſhould be upon Mr. *Arnold*, it is a very ſtrange thing.

Mr. *Darnal.* Were you there all the time, Sir?

Mr. *Philpot.* Yes, Sir, all the time.

Mr. *Darnal.* And you heard no other Diſcourſe?

Mr. *Philpot.* No, he did not ſay damn him, nor ſink him, for I hate ſuch Company.

Mr. *Holt.* Mr. *John Philpot*, Where do you live?

Mr. *Philpot.* In *Long-lane.*

Mr. *Holt.* What Sign do you live at?

Mr. *Philpot.* At the *Crown.*

Mr. *Holt.* What Trade are you?

Mr. *Philpot.* A Saleſman.

Mr. *Darnal.* Now we will go on to the Diſcourſe at *Uske*, about their paſſing with ſuch ſpeed through *Glouceſter.*

Mr. *Recorder.* Mr. *Darnal*, they do not pretend you were in great Fear, but they ſay you ſaid ſo. It is not the Queſtion, Whether you did ſtay long at *Glouceſter* or no? But the Queſtion is, Whether you told this man ſo? Becauſe the man asked you, Why you would leave the Hair at the Farrier's in order to a Fiſhing-line? Truly I was in great Haſte, for fear I ſhould be taken up about the Buſineſs of Mr. *Arnold.*

Mr. *Darnal.* It is very true, and therefore we bring this Evidence to ſhew the Improbability that we ſhould ſay any ſuch thing, when it was falſe, and eſpecially when it was to accuſe our ſelves of a Crime.

Herbert Jones *Mayor of* Monmouth.

Mr. *Darnal.* Mr. *Jones*, Pray give an Account to the Jury of your paſſing through *Glouceſter*, and how long you ſtaid there.

Mr. *Jones.* My Lord, I came with the Priſoner.

Mr. *Recorder.* What Day did you come thro' *Glouceſter?*

Mr. *Jones.* I cannot poſitively tell you the Day: We went out of Town upon *Friday*, we came to *Glouceſter* either *Wedneſday* or *Friday*, and there we went to the *Old Bear* in *Glouceſter*, and there ſtaid an hour before we went to Dinner; it

it was a publick time, the Quarterly Seſſions, and ſeveral People came to us to hear the News; we told them, and were as ſorry for it as any Perſons could be, and did confeſs it a very ill thing. We went from the *Old Bear* after we had dined to the *New Bear*, and drank ſeveral pints of Syder. I believe, by the Oath I have taken, we were ſeveral hours in the Town.

Mr. *Milburn.* Do you know Mr. *Arnold* is acquainted with Mr. *Giles*?

Mr. *Jones.* I do believe Mr. *Arnold* has great reaſon to be acquainted with *Giles.*

Mr. *Thompſon.* Yes now he has.

Mr. *Milburn.* Was he chief Conſtable?

Mr. *Jones.* Yes, he was; and certainly Mr. *Arnold* in reaſon would take notice of the chief Conſtable.

Mr. *Milbourn.* Mr. *Herbert Jones*, I am informed that you know this Gentleman goes to Church and receives the Sacrament. Give an Account what Religion he is of.

Mr. *Jones.* Always a Proteſtant; I ſaw him at Church within this half year.

Giles. I can ſhew a Certificate of my going to Church ſince I came to Town.

Mr. *Recorder.* There are many People that can go to Church to ſerve their turn.

Giles. And, my Lord, I have taken the Oaths of Allegiance and Supremacy.

Mr. *Thompſon.* An excellent Proteſtant to diſcourſe ſo of the Plot, I muſt needs ſay that.

John Jones, *the Cutler's Apprentice.*

Mr. *Recorder.* How old are you?

Jones. Between 15 and 16.

Mr. *Recorder.* Hark you, Do you know the danger of forſwearing your ſelf?

Jones. Yes, Sir.

Mr. *Recorder.* What is it?

Jones. I am in danger of Everlaſting Fire.

Mr. *Recorder.* Very well.

Mr. *Darnal.* My Lord, this is the Apprentice to the Cutler, in whoſe Shop *Powel* ſays we had ſuch Diſcourſe: *Jones*, pray tell my Lord and the Jury, Whether you were by when one *Walter Powel* came into your maſter's Shop, when he and *Giles* were talking about *Giles*'s Sword?

Jones. Sir, *John Giles* came in the morning and brought a Sword, my maſter was not within, and he told me, Give this Sword to your maſter to be mended; ſo I took the Sword and laid it up till my maſter came in: When he came in, I told my maſter of it; and when he came again this *Walter Powel* was in the Shop: Said *Giles* to my maſter, *Did you mend my Sword?* Says he: Says my maſter, *Mr.* Giles, *How came your Sword broke? Have you been fighting with the Devil? No*, ſays he, *for he never met with* Arnold.

People. Hiſs 'm hiſs.

Mr. *Recorder.* It does not become the Decency and Gravity of a Court of Juſtice, to be humming and hiſſing when Facts are Trying of this great Concernment.

Mr. *Milburn.* It was the common Diſcourſe there, That Mr. *Arnold* had been Aſſaulted.

Mr. *Recorder.* You have been in a great Combat; have you been fighting with the Devil? What did he ſay to that?

Jones. He never met with *Arnold*, my maſter asked him, *Mr.* Giles, *Have you been in ſome Battle or other? Have you been fighting with the Devil? No, Sir, For I never met with* Arnold.

Mr. *Recorder.* You did not hear his Wife bid him hold his Tongue?

Jones. No, Sir.

Mr. *Thompſon.* Did he tell you how he did break his Sword?

Jones. No, Sir.

Giles. My Lord, here is Mr. *Philpot* can tell, that I was ſitting down in a Chair, and broke off a piece of the Guard.

Mr. *Thompſon.* You will do well to prove it, Sir.

Mr. *Milburn.* Was there any Diſcourſe in the Countrey about Mr. *Arnold*?

Mr. *Recorder.* Did they not talk any thing about killing the Devil?

Jones. No, Sir.

Mr. *Darnal.* If your Lordſhip pleaſes, we will call Witneſſes to give an Account when we came to Town, and where we were all that day; and we will call the maid that lock'd the Chamber-door after we were in Bed, on the ſame Night when this Fact was committed.

John Howel.

Mr. *Darnal. John Howel*, Pray tell my Lord and the Jury when *Giles* came to Town?

Howel. If it pleaſe you, my Lord, I came to Town and *John Giles* together.

Mr. *Recorder.* What time of Day was it?

Howel. It was Twelve a Clock.

Mr. *Recorder.* Who is thy maſter?

Howel. William Richmond.

Mr. *Darnal.* What time of Night was it, Friend, when you heard him call to your maſter, and bid him good Night.

Howel. About 11 or 12 a Clock.

Mr. *Milburn.* You ſay about 9 you were at your Lodging with him? Did your Party company with him?

Howel. Yes, Sir, we did.

Mr. *Thompſon.* Where did you go at that time?

Howel. We went into the Chamber, and drank two Pints of Brandy.

Mr. *Thompſon.* What time of Night was that?

Mr. *Recorder.* After two pints of Brandy, I wonder how he can remember any thing.

Ann Beron.

Mr. *Milburn.* Tell what time of the Night *Giles* came in; where you were in his company; what time of Night it was?

Mr. *Recorder.* Speak as loud as thou wouldſt do if thou wer't at home: When was this?

Ann. The *Thurſday* after *Eaſter.*

Mr. *Recorder.* The *Thurſday* in *Eaſter* Week, or the *Thurſday* in the next Week?

Ann. The *Thurſday* in *Eaſter* Week; we were never out of company; when he came home to his Lodging I believe it was near 10 a Clock.

Mr. *Recorder.* Where was your Lodging, at the *King's Arms?*

Ann. At the *King's Arms.*

Mr. *Recorder.* Good Woman, Did you go with him to *Whetſtone's Park?*

Ann. No not I.

Mr. *Recorder.* Were you with him at the *Artillery Ground?*

Ann. No not I.

Mr. *Recorder.* Were you with him in *Drury-lane?*

Ann. No not I

Mr. *Recorder.* He did go out of your company at all?

Ann.

Ann. Yes, about 10 a Clock.

Mr. *Recorder.* Woman you muſt be miſtaken; he came to Town at 12 or 1, and might be in thy company: but it is plain he went to a Broker's in *Long lane*, and ſo to the *Artillery Ground* at *Cripplegate*, for I gueſs it might be ſo; then they went to *Whetſtones Park*, and ſpent Sixpence, and after that they went into *Drury lane*.

Priſ. My, Lord, ſhe don't ſay ſhe was with us all the while; but we came to an Houſe where ſhe was, and ſeveral other People our Neighbours.

Mr. *Recorder.* She ſays you did go out ſome time: Now ſee whether I miſtake you.

Ann. Yes you do miſtake me.

Mr. *Recorder.* He went out, did he?

Ann. Yes, he went out after we came into the City, he and ſome others, and then they came back to me again in 2 or 3 hours.

Mr. *Recorder.* Then you were 2 or 3 hours at Dinner. Now I ask you, After they came back, was you with him all the while?

Ann. Yes that I was.

Mr. *Recorder.* Where was it?

Ann. At the *Peacock*.

Mr. *Recorder.* That is the place in *Drury Lane*.

Ann. No, indeed, it is in *Covent Garden*.

Mr. *Darnal.* When did he go to Bed, do you know that upon your Oath?

Ann. We were in the Inn between 9 and 10 a Clock, nearer 10 than 9, and I ſaw him ſitting taking a Pipe of Tobacco.

Mr. *Darnal.* What time was that?

Ann. A little after 10 I believe.

Mr. *Thompſon.* He ſat there till he was called away to do his Buſineſs.

Elizabeth Crook.

Mr. *Darnal. Elizabeth Crook*, Pray do you tell my Lord and the Jury about what time *Giles* went to Bed?

Crook. Indeed Sir, he went to Bed between 10 and 11.

Mr. *Darnal.* How long was it that he came to his Lodging before that? Can you ſay how long he was in the houſe before he went to Bed?

Crook. I asked him, if I ſhould take away his Candle; he ſaid he would put his Candle out, but I might lock him in and take the Key, but I did not do it.

Mr. *Thompſon.* Did he go to Bed as ſoon as he came in?

Crook. No, I think he did not.

Mr. *Recorder.* You made the Bed, did not you?

Crook. I did.

Mr. *Recorder.* Upon your Oath, what time of Night was it?

Crook. I think it was nearer 11 than 10.

Mr. *Recorder.* Did you make the Bed after he went into it? What time did you make the Bed, upon your Oath?

Crook. I made the Bed about 10 a Clock.

Mr. *Recorder.* I ask you, Do you remember *Richmond* came in to you, and asked you any thing about making the Bed? Do you remember he was in the Chamber?

Crook. In whoſe Chamber?

Mr. *Recorder.* Did *Richmond* come in when you were making the Bed?

Crook. He was not there that I knew of.

Richmond. Was not I in the Chamber when you made the Bed?

Crook. No, I don't remember you.

Richmond. My Lord, when this maid went to make the Bed, I went into the Room after her, and had ſome diſcourſe with her, we leaned together upon the Window, and I told her I was in love with her; I told her, if ſhe liked of it, I would marry her the next morning; I did it to make merry, for indeed I am a married man.

Mr. *Recorder.* What time of night was it?

Richmond. About 12 a Clock.

Mr. *Recorder.* If you forget your other Sweethearts, can you remember this? Do you remember now he was there?

Crook. I remember he was there.

Priſ. Mr. *Arnold*, pray do not laugh at my Witneſſes and make may-games at them, it is not the part of a Gentleman.

Richmond. And ſhe told me, that he would lie by himſelf, tho' the Houſe was very full.

Mr. *Recorder.* Do you remember any ſuch Diſcourſe?

Crook. I do remember that Mr. *Richmond* did come in.

King's Counſel. What time of night was it that he was making love to you?

Crook. I think about 10 a Clock.

King's Counſel. Time paſſed merrily away with you then.

Richmond. It was 12 a Clock.

Crook. Why do you ſay ſo? Our Houſe was all quiet preſently after 11.

Richmond. Why will you ſay ſo? Were not we ſinging and roaring together?

Mr. *Recorder.* Come don't be angry, you were not angry when you were making love together?

Richmond. I am not angry indeed Sir.

Edward James.

Mr. *Milburn.* Tell my Lord what time of night *Giles* came into his Lodging, and where it was?

James. It was in *Eaſter* Week he came in, and ſo were drinking at the *King's Arms* in St. *Martins Lane*, and from Dinner, and from 9 a Clock.

Mr. *Recorder.* How! You did not dine there, you dined at the *Peacock*.

James. Yes we dined there, but from 9 a Clock we were there till 12.

Mr. *Recorder.* How do you know?

James. I was there with him.

Mr. *Recorder.* After 12 a Clock you ſay you left him?

James. Yes.

Mr. *Recorder.* Where did you leave him?

James. In the Kitchin.

Mr. *Recorder.* Are you ſure?

James. Yes, my Lord, I am ſure of it.

Mr. *Recorder.* I ask you, becauſe I have an unhappy memory: You are ſure it was 12 a Clock when you ſaw him in the Kitchin, and here is a maid ſaw him go to Bed at 11.

Mr. *Recorder.* Have you any more? You know the matter that was the occaſion of the Diſpute t'other day: I would not by any means, that in a Cauſe of this publick Concern, there ſhould be any pretence for any to ſay they were ſurprized; therefore call as many Witneſſes as you pleaſe.

Robin

Robin Gibbon.

Mr. *Milburn.* What can you ſay when Mr. *Giles* came into his Lodging?

Gibbon. It was about Ten a Clock. I gave his Horſe about half a Peck of Oats.

Mr. *Milburn.* Where?

Gibbon. At the *King's Arms* in *Martin's-Lane.*

Mr. *Milburn.* Do you know how long he ſtaid before he went to Bed?

Gibbon. No Sir, I cannot tell.

Mr. *Thompſon.* He ſpeaks honeſtly, this Man.

Mr. *Recorder.* Have you any more?

Giles. There is another, a Tranſlator, my Counſel knows his Name.

John Chadwick.

Mr. *Recorder.* What is your Name, Sir?

Chadwick. John Chadwick.

Mr. *Recorder.* Go on.

Chadwick. I ſay this *John Giles* was at my Houſe between Eight and Nine a Clock.

Mr. *Recorder.* Where is your Houſe?

Chadwick. My Houſe is——

Mr. *Recorder.* Can you ſay any more to it?

Mr. *Chadwick.* No.

Elizabeth.

Mr. *Recorder.* What have you to ſay?

Elizabeth. Sir, I went with Mr. *Giles* home, and it was between Nine and Ten a Clock, and I ſaw him in his Lodging, and I ſaw him in the Morning.

Elizabeth Crook.

Mr. *Recorder.* Are you ſure he went to bed when you made it?

Crook. It was between Ten and Eleven a Clock.

Mr. *Thompſon.* You ſee how they contradict one another.

Mr. *Recorder.* Is your Name *James?*

James. Yes, Sir.

Mr. *Recorder.* You ſay you are certain you left him in the Kitchin at Twelve?

James. Yes, Sir.

Mr. *Recorder.* But here is one that ſays he went to bed by Eleven.

James. O Lord, no Sir.

Mr. *Holt.* Theſe are your own Witneſſes, Mr. *Giles.*

Mr. *Thompſon.* You ſee how they contradict one another.

Peter Powel.

Powel. My Lord, I met ſome of my Countreymen about an hour before Night.

Mr. *Thompſon.* What Day?

Powel. About *Thurſday*, Sir.

Mr. *Thompſon.* What Week was it in?

Powel. I believe in *Eaſter* Week, and I heard them ſay that Mr. *Arnold* was come to Town, and Mr. *Herbert* and he was to have an Hearing the next Day.

Mr. *Recorder.* How long was you in his Company?

Powel. I had been in my Friend's Company about an Hour before he came, and we ſtaid till near Nine or thereabouts, and then we parted, and I never ſaw him afterwards, till laſt *Monday* was Seven-night.

Roger How.

Mr. *Recorder.* What ſay you?

How. Mr. *Giles* was in my Company, and ſtaid till about Nine a Clock, or thereabouts, and then we went away, and I ſaw him no more for that Night.

Mr. *Recorder.* Have you any more?

Giles. No.

Then Sir George Jefferies *the Recorder, gave Directions to the Jury to this Effect.*

Gentlemen of the Jury, the Evidence has been very long, and I know you have taken particular Care to write down and take Notice of all the Circumſtances that have been offer'd to you in this Caſe: According to the beſt of my Memory, I ſhall refreſh yours with ſuch of them as I apprehend to be moſt material in this Cauſe; and if any thing happen to be omitted, others will ſupply it.

In the firſt place I am to take Notice, and I think I am bound to do it, in diſcharge of my own Conſcience and of my Duty to the Court, that certainly if the Priſoner at the Bar be guilty of the Offence of which he now ſtands indicted; the Puniſhment that we can inflict upon him, cannot be proportionable to the Offence: For the Offence is too great for any Puniſhment that the Law can inflict, for men are not preſumed to be guilty of ſuch Actions as this; and therefore the Law has not proportioned Puniſhments to them, becauſe it preſumes no man to be guilty of ſo baſe and barbarous an Action as this; and becauſe it never could be preſumed that any man would be guilty of ſuch Offences, therefore the Law has not provided Puniſhments proportionable to them. But this is not your Queſtion, the Queſtion before you is, Whether this Man be Guilty or not Guilty? That there was a Popiſh Plot, no man ſure doubts at this time of day. Certainly there can be none here under ſo ſtrange an Infatuation, as in the leaſt to doubt but that there was a Plot; eſpecially, when ſo many Perſons upon full and clear Evidence and Tryals, have been Convicted as Inſtruments in that bloody Tragedy. But you are not to make uſe of theſe things by way of Evidence againſt the Priſoner at the Bar: But only in the general to premiſe ſome things by way of Introduction to their particular Evidence, and I muſt plainly tell you (for it is fit it ſhould be mention'd) that if any Villany can come near that horrid Murder of Sir *Edmundbury Godfrey*, this does; and I am ſorry with all my heart, that within the Government of the City of *London*, or ſo near it, there ſhould be ſuch a barbarous Attempt as this made and concealed ſo long. It would not be ſtrange to hear of ſuch Villanies committed in other Popiſh Countries: But for the Honour and Credit of that Religion which I hope we ſhall maintain with our Lives, that is, the Proteſtant Religion, I ſay in a Proteſtant Countrey, where the Proteſtant Religion is profeſs'd, I never heard of ſuch a barbarous Act committed before this one; becauſe our Principles of our Religion will not allow us to commit ſuch Villanies by any Diſpenſation whatſoever. Juſtice and Truth, and Righteouſneſs, are the things that our Religion teaches us. God Almighty, and our bleſſed Saviour Jeſus Chriſt,

Chriſt, by whom alone all Mankind muſt be ſaved, have commanded the contrary.

Their Religion may diſpenſe with ſuch villanous Actions; but this I can ſay in vindication of ours, ours cannot do it; nay, it would be no Religion if it could.

In the next place, Gentlemen, all Circumſtances of Time and Place, of Men and Things, ſhould be taken notice of; for dark Caſes muſt be made appear by Circumſtances: For as I hinted before, no body calls Witneſſes when they do ſuch Facts and Works of Darkneſs, the Works of the Devil, that is the Father of all ſuch Works. I do not mean the Devil, Mr. *Arnold*, but I mean they are the Works of the Devil: *Belzebub* himſelf, the Prince of Devils, can be only an Inſtrument and an Agent in Affairs of this Nature.

Another thing that is fit to be taken Notice of by you, is this, That by way of Circumſtance, whatever has been ſaid one way or another, relating to the Plot, relating to the Buſineſs of Sir *Edmundbury Godfrey*, is not to be taken notice of, as Evidence againſt the Priſoner. You ſhall have a Faithful Account of what has been ſaid by every Witneſs, both for and againſt him; for Right is to be done. Our Law comes even to a Proverb, We muſt give the Devil his due; we muſt give every body right. You know that this Buſineſs was deferr'd, that the Priſoner at the Bar might be left without all manner of Excuſe; for if innocent, all Mankind would be glad to have him cleared; if guilty, every honeſt Man would have him convicted. Now this being premiſed, the Evidences againſt the Priſoner are ſeveral, and I will as far as I can, give you an Account of them. And

Firſt of all, It is not doubted but Mr. *Arnold* has behaved himſelf like an honeſt man, and as every honeſt man ought to do for the Intereſt of his Religion; for there is no man can do too much, if he does it legally for the Preſervation of his Religion; of that Religion which he is bound to rely upon for the Salvation of his immortal Soul. Now, ſays Mr. *Arnold*, in the firſt place he gives an honeſt Account of his being one Night, one *Thurſday* Night in *Eaſter* Week, at the *Devil* Tavern, about Nine or Ten a Clock with ſome Friends, and he went out between Ten and Eleven a Clock, and his own Servant not being there; he did intend to call ſome other Servants by. But as it happened, he went away without them, and he perceiv'd Two men in Campaign Cloaks follow him into *Bell-Yard*. He does take it upon his Oath, that about the middle of the Lane, there happen'd to be a Candle coming out, and one of theſe two, that he did ſo obſerve to dog him, having a Campaign Cloak upon him, and likewiſe a Coat lin'd with Red, he did obſerve came before him; and he doth take it upon his Oath, that he does believe the Priſoner at the Bar to be that very man that ſo came before him; he does ſay that he had a perfect ſight of him, and he does ſay that the Reaſon why he ſhould believe him to be the man, is, that he does remember his Face, and knew his Voice. He tells you likewiſe that there were Perſons caſt a Cloak over his head, ran him into *Jackanapes's-Lane*, fell upon him, bruiſed his Head, and wounded him in ſeveral places; particularly he mentions that there was at the ſame time, ſaid by one of them, *Pray for the Soul of Captain* Evans; and at the ſame time, which is a wonderful Circumſtance, *Damn the Dog, he has got Armour on, cut his Throat.* He ſays that one man held him up by the Chin, having ſeveral Paſſes made at him, and he ſays he had ſomething or other to preſerve him; but notwithſtanding that, he was run into the ſide, there were three men, he does tell you, and that one overtook him in *Bell-Yard*, and he continues to ſwear it was the Priſoner at the Bar, according to the beſt of his Underſtanding and Conſcience; he ſays it was he, and he diſcover'd him by the ſight of a Candle. Beſides this, which is a material Circumſtance, ſome other Perſons being brought to Mr. *Arnold* about it, Mr. *Arnold* did not tax them; but did poſitively tax that Perſon to be one of the Perſons. But he tells you he ſuffer'd by Paſſion, as I cannot blame any man for being in a Paſſion at ſuch a time. But his Witneſſes determine the thing, that that is the Man, and he did poſitively ſay it, his Memory being better ſettled than he could at firſt pretend to; but however, he gives that for another Evidence, that he was not deceived in the Perſon. This is the Subſtance, as I remember, I would not do any Injury to the Priſoner, by repeating any thing that has not been ſaid; nor would I do any Injury to the Evidence for the King, in omitting any thing that occurs to me. The next is one *Phillips*, and he tells you that the next Day being *Friday*, about Six or Seven a Clock at Night, he happen'd to be in company with him at an Houſe in *Covent-Garden*, and having ſome Diſcourſe concerning *Arnold*, and concerning that bloody, baſe, and foul Attempt that was made upon him, he was ſo far from having the Bowels of an *Engliſhman*, or any thing of Chriſtianity in him, that he does ſay he broke out into this extravagant Expreſſion, *Damn him, Rot him, he had Armour on: Damn him, Rot him, he had Armour on*: I ſpeak it twice over, becauſe Mr. *Arnold* tells you that the Perſons during the Fact was committing, ſaid, *Damme Cut his Throat, he has Armour on.* The next Perſon comes and tells you, at a certain Place in *Monmouthſhire* upon the *5th* of *May* following, that he went with one of the *Richmonds* to this *Giles*, and had ſome Diſcourſe: Says he, *How chance you have not been as good as your word, about providing me Horſehair to make Fiſhing-lines, and you promiſed to leave it at a Farrier's in* Glouceſter? How chance it was not ſo? He immediately adds, *We were in ſuch extraordinary Haſte, becauſe we thought we were purſued about the Buſineſs of* Arnold. And that he gives as the Reaſon why he did not ſtay at *Glouceſter*. If in caſe it had not been ſo, why ſhould he come and tell him he could not ſtay about the Buſineſs of the Hair, becauſe he was like to be purſued about the Buſineſs of *Arnold*? The next thing, Gentlemen, is concerning one *Powel*; *Powel*, he tells you, that he being at one *Darcy's* Houſe, a Roman Catholick, that is a Sword-Cutler that lives, I think, likewiſe at *Uske*. And it ſeems the Priſoner at the Bar came to him to have his Sword mended. By the way I ſhould have told you that the Priſoner at the Bar, before the Fact was done, did enquire at a Place where he might have a good Rapier: That was before the Fact was done. The Witneſs ſpake of it laſt, which was the Occaſion that I did not give it you in order. He asked where he might have a good Rapier?

But now to come to *Darcy*, *Darcy* having been very familiar with him, inquired, Wherefore, having had his Sword ſo lately, he ſhould have it to mend already? *Have you*, ſaid he, *been fighting with the Devil?* Immediately upon that he ſwears the Priſoner return'd, *No, but with damned* Arnold. And upon that his Wife pluck'd him by the Coat, and bid him hold his Tongue. I think that is the Subſtance of what he ſwears. He ſays there were by at that time the Priſoner at the Bar, the Apprentice to this *Darcy*, and a Woman that is the Priſoner's Wife.

William Richmond he comes and gives you a further Account, that he being in his Company; he tells you, they went to ſome place in the City to inquire after their Friends, and afterwards went to the *Artillery* to ſee the Exerciſe, then to *Long lane*, from thence to *Whetſtone*'s-*Park*, and afterwards to *Drury-lane*; and that about Nine a Clock at Night they came to their Inn, and he left *Giles* taking a Pipe of Tobacco in the Kitchin, and went up into his Chamber with ſome other People drinking and making merry; and he does poſitively ſay that between Eleven and Twelve a Clock at Night, he ſaw the Servant Maid come up into the Room, and did ſee ſhe was making the Bed; that he ſeem'd to be a little ſurprized that any body ſhould make a Bed at that time of Night, which occaſioned him to go in to her, and ask her the Queſtion. The Anſwer that he had was very material, that ſhe ſaid, *There is a Gentleman below that I muſt make this Bed for, he does not deſire to have any body lie with him.* That was the Anſwer the Maid gave. There was, he ſays, ſome little talk of Love between him and the Maid, and that he poſitively ſays was near upon Twelve a Clock. He ſays that after this, he went into his own Chamber, and continued in his own Chamber till nigh One, and about One, being pulling off his Breeches, the Priſoner at the Bar came and knocked at his Chamber-door and ſpake to him, and that was near one a Clock at Night. But it is plain, during that time the Priſoner was not in his Chamber, if you believe him, nor indeed is there any Account given of the Priſoner from Nine a Clock till near One, till he knock'd at his Door, as he was pulling off his Breeches and going to Bed. As to the Anſwers that are given by the Witneſſes of the other ſide, I ſhall give you them, when I deſcend to give the Teſtimonies of the other ſide.

To give you yet this further Teſtimony, ſay they, We do not only give you this Teſtimony that he is guilty of this Fact, but we do give you an Account of him, that he is very likely to do ſuch a thing; for he is an ill Man in himſelf. As on the other ſide, no man can give a better Teſtimony to himſelf in Matters that are dark and obſcure, than the Teſtimony of his Converſation, that he is upright in his Converſation, and therefore cannot be thought guilty of ſo baſe an Action: So, they think they give a good Evidence againſt him, that he is an ill man in himſelf; and therefore becauſe he is an ill man, he may be guilty of ſuch a thing. And to prove that, they call up theſe Witneſſes.

Firſt of all, one *Bridges* comes and gives you an Account, that diſcourſing with him concerning the Papiſts, he damn'd the Plot, and ſaid that all were Raſcals that were not Papiſts; and if in caſe that the Lords that were in the *Tower* ſhould happen to ſuffer, it would be a bloody Day, and it would make bloodier Work in *England* than ever was known: Which ſhews he is a bloody ill man. The Priſoner ask'd him, If he were not a Papiſt? It's likely he was a Papiſt before, or he would not have truſted him ſo. And this is one Circumſtance to prove that he is an ill man, that he hath given out ſuch and ſuch Expreſſions.

There is another, one *Reynolds*, who comes and gives you an Account of his having ſome Diſcourſe with him afterwards about this Buſineſs of Mr. *Arnold*, that the Priſoner talked ſlightly of it, and ſaid that he might do it himſelf.

This, Gentlemen, I take in general to be the Subſtance of what has been offer'd for the King. If there be any thing elſe that doth not occur to my Memory, if it doth to yours, you will do well to conſider of it.

Say the Counſel for the Defendant, and that every man of the Long Robe ought to ſay, that if the Perſon, which is the Priſoner at the Bar, were guilty of ſuch a barbarous thing as this, no man would offer to open his Mouth. And therefore they offer Evidence for their Client as they are inſtructed to offer to you, and you are to try whether their Client be guilty.

Say they, You firſt call one *Phillips* to give an Account, and as to what *Phillips* ſays about the Buſineſs in *Covent-Garden*, about *Damn him, and Rot him*, they bring one that was there all the time, and ſays he, *I was by all the time, and I heard no ſuch Words.* So far was he from making any particular Reflections upon Mr. *Arnold*, that he cried it was a very horrible, a very barbarous thing. Nay, ſays he, to give Credit to this Teſtimony of his, I never uſe to keep company with them that uſe ſuch Words, as, *Damn him, and Rot him*, as he ſays.

The next Witneſs, is Mr. *Herbert Jones*, he comes and tells you, I went with him from *London*, I went with him to *Glouceſter*, I ſtaid at an Inn call'd the *Old-Bear*, and ſtaid and din'd with him there. I went after that to the *New-Bear*, we went thither and drank Cyder together; and this was very publick: for ſeveral Perſons that liv'd in the Town came to us and enquired after the Buſineſs of *Arnold*; and if in caſe we had been under any ſuch Jealouſie as that was, we would not have ſtaid ſo long, as, ſays he, we did. Say they on the other ſide, we do not ſay that you did not ſtay in *Glouceſter*; but, ſay they, by way of Objection againſt the Priſoner at the Bar, we ſay that you your ſelf, on the Fifth of *May*, ſaid, in Anſwer to the Perſon that came to ask you, Why you had not brought the Hair, that he might go a Fiſhing? You ſaid, we durſt not ſtay, for fear of Purſuit upon the Account of Mr. *Arnold*. This you your ſelf ſaid, and by ſaying ſo, you have contracted that Guilt in point of Circumſtance, which is objected by us againſt you. This is the Anſwer given to that that Mr. *Jones* ſays.

The next Perſon that comes to give you an Account, is one *John Jones*, who is the Apprentice: Says he, you bring a Witneſs againſt me that I ſaid ſuch a thing at *Uske*, at *Darcy*'s the Sword-Cutler's, and you ſay the Apprentice was by: And he gives you this Evidence: Says he, I was by at ſuch a time as the man ſpeaks of, and being by at that time, I do very well remember, that there was a Diſcourſe concerning

ing ſome great Conflict that Mr. *Giles* had been in, and that *Giles*'s Wife was by, and ſo was the other Perſon that gave the Evidence, that ſuch a Diſcourſe there was of fighting with the Devil; but now he inverts the ſaying of t'other man, and ſays that he ſhould ſay, *He never met with* Arnold *the Devil.* The one anſwers, when the thing was asked him, Whether he had been fighting with the Devil? *No, not with the Devil, but with* Arnold. The other ſwears, *He did not meet with the Devil* Arnold. He tells you likewiſe, his Wife did not pull him by the Cloaths, and bid him hold his Tongue.

The next Witneſs is *Howel*; and he gives you an Account that he came with him to Town: He gives you an Account how he ſtaid with him, and came along with him till 9 a Clock at Night; for he does not pretend to give you an Account after 9.

Then comes *Crook*: And *Crook*, that is the maid Servant, ſhe ſays, I cannot poſitively tell you when he came in, but I will poſitively ſay, that I made his Bed about 10, and before 11 I asked him about his Candle; he bid me lock the Door and he would put out the Candle himſelf, and ſhe went away and left the Candle. And that is very material; for the Time this Fact was committed was between 10 and 11; this is what the maid ſays: Now there is this Anſwer to what ſhe ſwears. She firſt of all forgot that ever *Richmond*, that ſpeaks concerning the Breeches and other Circumſtances, that ever he was there at all; but you hear he has refreſhed her memory with a Love-Story, that he was in the Room, and ſhe does agree in theſe very Circumſtances he ſpeaks of; ſo that that gives Credit to the Teſtimony of *Richmond*, and puts a Diſparagement upon her Teſtimony, ſince ſhe could be ſo exceeding forgetful, as not to remember ſuch a Circumſtance.

The next is an old Woman: And ſhe ſwears point blank ſhe was with him moſt part of the Day; and that ſhe was with him at Dinner, and was with him till 9 of the Clock at Night, and then went to Bed. And tho' ſhe ſeemed to differ and blunder in ſome part of her Teſtimony, becauſe ſhe knew nothing of his going into *Long-lane*, and other places; however ſhe gives an Account about the time of 9 a Clock, that ſhe left him in the Kitchin, and then ſhe went to Bed.

The next Witneſs is *James*: And *James* doth poſitively ſwear, That he was drinking with him in the Kitchin till paſt 12 a Clock at Night; but that cannot be true, if the Wench that made the Bed ſwear true; for ſhe ſwears ſhe made the Bed before 10, and he went to Bed before 11; ſo that he could not be a-bed before 11 if he ſwears true; aud he could not be in the Kitchin at 12 a Clock, if ſhe ſwears true.

Gentlemen, *Richmond*'s man he gives you no further an Account than what runs ſquare to his maſter's Teſtimony; That he left him at 9 a Clock at Night, and he heard him call at his maſter's Chamber about 12, and ſo they punctually agree. But he gives no manner of Account where he was between 9 and 12, between which Hours this Fact was done.

Next, Gentlemen, there have been ſome more Witneſſes called for the Priſoner at the Bar, who give you an Account where he was before ſuch time as he came to his Lodging. Now it is not denied on either ſide, but that he might be till within Night at that Houſe they ſpeak of; but the Account that is deſired to be given of this matter, is to know where he was between 9 a Clock and 12, when this Fact was committed.

Theſe, Gentlemen, according as it occurs to me, are the ſubſtantial parts of the Evidence, both on the one ſide and the other. The matter therefore reſolves it ſelf within this narrow compaſs; If upon what you have heard from Mr. *Arnold*, attended with the reſt of the Circumſtances that you have heard ſworn by the Witneſſes, you do believe the Priſoner at the Bar is guilty; for he might be at his Lodging at 9 a Clock, and he might be at his Lodging at 12 or 1, and yet he might do this Fact: For it is certain it was not a ſudden matter, for it was a thing done preparedly; and therefore you muſt not expect that men that are guilty of ſuch barbarous Deſigns as this, will lay their Deſigns open. To be ſure, whoever it was did this Fact upon Mr. *Arnold*, they would do it ſo as to make themſelves appear as innocent as could be. It is not a matter to be relied on, that becauſe this man was innocent in St. *Martins Lane*, therefore he did not do this thing in *Bell Yard*.

There is another Circumſtance againſt the Priſoner at the Bar; That he ſhould imagine, notwithſtanding all this, that Mr. *Arnold* had wounded himſelf: But when he found that that was not very probable, that a man could wound himſelf ſo, by reaſon of ſeveral places that he received his Wounds in; he would have it, that tho' he did not do it himſelf, yet ſome of his Friends might. Indeed if he be guilty, ſome of his Relations might do it, but certainly he was no Friend that did it. It is againſt Nature for any man to believe, that any Perſon ſhould put himſelf to ſo much trouble; if he had a mind to diſpatch himſelf, he might have done it with much more eaſe, and not have put himſelf to that trouble; for men, when they have a mind to do the Buſineſs, they do not uſe to take ſuch a deal of pains to ſtab themſelves here and there.

Thus, Gentlemen, the Evidence being very long, and the Circumſtances very many, things may occur to you that do not at preſent to me. Yet I muſt tell you again, in a matter of publick Example, the Proof ought to be very great, to convict a man of ſuch an Offence; but you muſt not expect it ſhould be ſo clear, as in a matter of Right between man and man, and of things that are done in the Face of the Sun. It was done in the Dark: The Devil that ſet 'em a-work, does fill them with cunning enough to keep this Attempt as concealed as may be: And therefore Circumſtances of this Nature muſt be wonderfully conſidered; an Account of which Mr. *Arnold* himſelf gives you, and he does believe in his Conſcience the Priſoner at the Bar to be the Man.

The Jury withdrew, and having debated together about half an hour, returned, and brought the Priſoner in Guilty. Which done, the Court Adjourned till the Saturday *following, the 17th of* July: *At which time the Court being ſate,* John Giles *was brought to the Bar; to whom the Right Worſhipful Sir* George Jefferies *delivered himſelf to this Effect:*

Mr. *Recorder.* You the Priſoner at the Bar, you have been indicted for a very vile Offence; an Offence in its Nature that deſerves a greater

Puniſhment than the Law can inflict upon any ſuch Offences. There is a Jury has Convicted you of this Crime, againſt whom, had you had any Objection, you might have made your Challenge. And now you ſtand convicted here, it is only the Duty of the Court to pronounce that Judgment againſt you, which they think may be reaſonable to inflict upon ſuch an Offender. For I muſt needs ſay, it was one of the baſeſt and moſt barbarous Actions that mankind could poſſibly be guilty of: An Action of ſo much filth and baſeneſs, that the Law could not foreſee any man could be guilty of, and therefore hath not made Proviſion for a Puniſhment proportionable to it. But inaſmuch as we underſtand by Mr. *Arnold* you have a Charge of Children, therefore the Court takes ſome conſideration: Not that they think to extend any mercy to you for your own ſake, but a regard they think they are bound to have for thoſe that have not offended. But we ought to have a care to let the World know, we do not intend only a Puniſhment to the Offender, but by that to terrifie all other People from being guilty of ſuch extraordinary Villanies. And becauſe they will have regard to your Poſterity, therefore they do not think fit to put ſo great a Fine upon you as this Fact does deſerve. But on the other ſide, they have thought fit you ſhould be made an Example of, and that you ſhould ſuffer as great a Corporal Puniſhment as the Law will allow. And therefore in the Name of the Court I do pronounce this to be your Sentence:

That you be put in the Pillory towards Lincolns-Inn Fields, *as near the Place where this barbarous Fact was committed as may be: And there you are to ſtand from the Hour of Twelve till One, one Day, at Noon-day. And on another Day, from the Hour of Twelve till One, over-againſt* Grays-Inn *in* Holbourn. *And another Day, between the ſame Hours, juſt by the* May-Pole *in the* Strand. *Theſe three ſeveral Days you are to ſtand in the Pillory, and to have a Paper put upon your Hat, whereby it ſhall be ſignified, the Offence of which you ſtand Convicted. And next, to deter all others from committing the like, the Court does think fit likewiſe to Award, That you ſhould pay to the King the Sum of Five Hundred Pounds; and that you be committed in Execution, till ſuch time as you pay that Money. And becauſe it is both to be a Puniſhment to you, and a Terror to all other ſuch Villains, you are to find Sureties for your Good Behaviour during Life.*

Sentence being pronounced, and the Priſoner removed from the Bar, *Richard Cavenaugh* was brought to the Bar, and prayed to be diſcharged: But was by Mr. *Arnold* charged with threatning one *Philip Staneright*, one of the King's Witneſſes: For which reaſon, and for that alſo a new Evidence was come in againſt the ſaid *Cavenaugh*, with ſome farther Charge relating to Mr. *Arnold*'s Buſineſs, the Court thought fit, for want of Bail, to continue him a Priſoner.

Then Mr. *Herbert* appeared, and prayed to be diſcharged from his Recognizance to appear at the *Old-Bailey*: But being accuſed by a Woman for calling her Whore, Jade, and very ill names, and holding up his Staff at her, and threatning to beat her for being a Witneſs againſt his Friend *Giles*; as alſo for taking away her Horſe as ſhe was going to the Mill, and the reaſon was, becauſe ſhe was to be a Witneſs in *London* againſt *Giles*. But ſhe being a married Woman, and none appearing that would be bound to proſecute him for it, he was not bound over to anſwer it, till another Complaint came in againſt him, which was immediately made by Mr. *Ballard* and another Gentleman; who charged Mr. *Herbert*, That in *Whitſon* Week laſt, upon a Diſcourſe for chuſing Knights of the Shire for *Monmouth*, and the ſaying of one in the Company, That it was thought Mr. *Arnold* would ſtand for it; Mr. *Herbert* ſhould make anſwer, I will circumciſe the other ſide of his Cheek firſt, or, he muſt have the other ſide of his Cheek circumciſed firſt. Upon which the Court ordered he ſhould not be diſcharged, but remain bound upon the former Recognizance to appear there next Seſſions. And the Recorder gave him ſeveral ſharp Reprehenſions for his malicious and unmanly Words and Proceedings. This being the ſecond of the King's Witneſſes, and a Woman, that he had barbarouſly treated; ſtill paſſionately giving the Reaſon, that they were Witneſſes againſt his Friend *John Giles*, as it was proved on Oath before the Court by ſeveral Witneſſes.

Then Sir *Thomas Allen* acquainted the Court, that a Gentleman had informed him the day before, that Mr. *Herbert* told him, That Mr. *Arnold* wounded himſelf and cut his own Throat; which the Court looked upon as an high effect of a malicious Ingratitude; Mr. *Arnold* having beſought his Majeſty, when Mr. *Herbert* was in *Newgate*, to have his Releaſe. Mr. *Arnold* replied, That Mr. *Herbert* had been more ungrateful to his Majeſty, who had graciouſly pardoned him greater Offences, and lately; for he had ſpoken worſe of his Majeſty's Perſon and Government than he had done of him, as it had been proved before his Majeſty, and of which he believed his Majeſty was well ſatisfied. The Court told Mr. *Herbert* he was a ſhame to all *Engliſhmen*; and bound him by Recognizance to appear and anſwer this Offence at the *King*'s *Bench* Bar the firſt Day of the next Term.

THE

THE TRYAL OF *ELIZABETH CELLIER*,

At the *King*'s-*Bench* Bar, on *Friday June* the 11*th*, 1680.

INDICTMENT.

THE Jurors for our Lord the King do preſent, that *Elizabeth Cellier*, Wife of *Peter Cellier*, late of the Pariſh of St. *Clement Danes* in the County of *Middleſex*, Gent. ſtands Indicted, for that ſhe as a falſe Traytoreſs againſt our moſt Illuſtrious and Excellent Prince, King *Charles* II. her natural Lord, not having God before her Eyes, not weighing the Duty of her Allegiance, but by the Inſtigation of the Devil moved and ſeduced, and the Cordial Love and true due natural Obedience which all faithful Subjects of our ſaid Lord the King towards him ſhould bear, and of right are bound to bear; utterly withdrawing, and deviſing, and with all her Might intending the Peace and common Tranquility of this Kingdom to diſturb, and to bring and put our ſaid Lord the King to Death and final Deſtruction; and the true Worſhip of God in this Realm by the Law Eſtabliſhed and Uſed, to Alter to the Superſtition of the Church of *Rome*, to move and ſtir up War againſt the King in this Kingdom, and to ſubvert the Government of this Realm, the Firſt Day of *November*, in the Thirty firſt Year of the ſaid King's Reign, at the Pariſh of St. *Clement Danes* aforeſaid, with divers other falſe Traitors unknown, traiterouſly did compaſs, imagine, and intend the Killing, Death and final Deſtruction of our ſaid Lord the King, and to change, alter, and utterly to ſubvert the ancient Government of this Realm, and to depoſe, and wholly to deprive him the ſaid King of his Crown and Government of this Kingdom, and to extirpate the true Religion within this Realm eſtabliſhed; and to fulfil and accompliſh the ſame moſt wicked Treaſons and traiterous Imaginations and Purpoſes, the ſame *Elizabeth Cellier*, and other falſe Traitors unknown, the ſaid Firſt Day of *November*, in the Thirty firſt Year aforeſaid, with Force and Arms, *&c.* at the Pariſh of St. *Clements Danes* aforeſaid, adviſedly deviliſhly, maliciouſly, and traiterouſly aſſembled, united, and gathered themſelves together, and then, and there, deviliſhly, adviſedly, maliciouſly, cunningly, and traiterouſly conſulted and agreed to bring the ſaid Lord the King to Death and final Deſtruction, and to depoſe and deprive him of his Crown and Government, and ſo introduce and eſtabliſh the *Romiſh* Religion in this Kingdom, and the ſooner to fulfil and effect the ſame moſt wicked Treaſons and traiterous Imaginations and Purpoſes, the ſaid *Elizabeth Cellier*, and other unknown Traitors then and there did contribute, pay, and expend divers great Sums of Money to ſeveral unknown Perſons, to procure them traiterouſly to kill the ſaid King, and introduce the *Romiſh* Religion into this Realm, and for the better concealing of the Treaſons aforeſaid, the ſaid *Elizabeth Cellier* then and there did pay and expend to divers other Perſons unknown, divers other Sums of Money, falſly to impoſe the ſaid Treaſons upon ſome other Perſons unknown, againſt the Duty of her Allegiance, and againſt the Peace of our Lord the King, his Crown, and Dignity, and againſt the Form of the Statute in ſuch Caſe made and provided, *&c.*

John Gadbury Sworn.

L. C. J. Mr. *Gadbury*, What do you know concerning this Plot? Sir *William Scroggs.*

Mr. *Gadbury*. I know nothing of it, neither one way, nor another.

L. C. J. Do you know of any Contrivance of Mrs. *Cellier*'s to kill the King?

Mr. *Gadbury*. No, rather the contrary.

L. C. J. Do you know of any Attempts to change the Government?

Mr. *Gadbury*. I will tell your Lordſhip what I do know, if theſe Gentlemen will not be too nimble for me. I have ſuffer'd a great deal of Prejudice of late in relation to a Plot, as if I had known of a Plot; but God is my Witneſs, I know of none, unleſs it were a Plot to bring Sir *Robert Peyton* over to the King's Intereſt. That Plot I had ſome Concern in, and had ſome Knowledge of Mrs. *Cellier*'s Concern in it; but ſhe was ſo far from doing any thing againſt the King's Intereſt, that ſhe was willing to bring over with him the Three Gentlemen turn'd out of Commiſſion when Sir *Robert* was. So that how ſhe could be acting for the King, and againſt the King at the ſame time, I do not underſtand.

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L. C. J. Mr. *Gadbury*, you are a Man of Learning, pray will you give your Teſtimony of the things that you know in relation to Mrs. *Cellier*.

Mr. *Gadbury*. Mrs. *Cellier* was not committed upon my Accuſation, therefore, I hoped ſhe might have been tryed without my Teſtimony. But when I was in danger of my Life, when I lay in the *Gate-houſe*, Mrs. *Cellier* was reported to be a Third Witneſs againſt me, and then I raked up every Triſle; but if I had thought it Treaſon, I would have diſcover'd it before. And as to that particular Buſineſs concerning Mr. *Smith*, that *Smith* ſome time ſince did come to me, being my old Acquaintance, to ask my Advice in his Affairs, and he had then an Affair of ſo great moment, that it was neceſſary to ask my Advice in it, which was to go to the Lords in the *Tower*. I asked him what to do? Saith he, I can ſay enough againſt Dr. *Otes* to ſerve them, and take off his Evidence, and asked me if he ſhould do it. By no means, Mr. *Smith*, ſaid I. Mrs. *Cellier* afterwards told me, this *Smith*, and one *Phillips* were willing to tell ſome Stories or other of Mr. *Otes* and Mr. *Bedloe*, and I told her this very Story; ſaith ſhe, you being acquainted with him, it is poſſible you may do ſome good upon him, and ſaith ſhe, I had as lieve as Ten Guineas that you could do it.

L. C. J. That is, when that you adviſed Mr. *Smith* not to meddle with any thing againſt Dr. *Otes*.

Mr. *Gadbury*. She ſaid, ſhe did not care if ſhe had been at the Charge of Ten Guineas, if he would be honeſt and diſcover the Truth. And, my Lord, ſhe did ſay ſhe had heard Mr. *Dangerfield* talk of a *Nonconformiſts* Plot that would off the *Popiſh* Plot.

L. C. J. Did ſhe ſay, that ſhe had heard *Dangerfield* ſay there was a *Nonconformiſts* Plot, and that he was to have a Commiſſion among them? And did ſhe ſay, that ſhe had heard him ſay, that he hoped under the Colour of that the Popiſh Plot would go on? Or did ſhe ſay it of her own accord, that ſhe hoped that would carry on the Popiſh Plot?

Mr. *Gadbury*. My Lord, I cannot remember Particulars.

L. C. J. There is a great deal of difference between *Dangerfield*'s ſaying it, and her ſaying it.

Mr. *Gadbury*. I have no reaſon to ſpare her: But I am unwilling to ſpeak any thing that is contrary to Truth though ſhe hath done me the greateſt Injury in the World.

L. C. J. How came you to talk of a Nonconformiſts Plot?

Mr. *Gadbury*. It was only common Diſcourſe as it was at Coffee-Houſes.

Mr. Juſt. *Raymond*. Had you heard of it before ſhe ſpake of it, that you ſay it was common?

Mr. *Gadbury*. No, not till ſhe ſpake of it.

L. C. J. Did Mrs. *Cellier* tell you of any Popiſh Prieſts or Jeſuits coming hither from beyond the Seas?

Mr. *Gadbury*. Upon the going over of one *Clay*, I think ſhe did ſay ſhe heard there were ſome more coming over.

L. C. J. What to do?

Mr. *Gadbury*. God knows what.

L. C. J. Did ſhe ſpeak of any Plot or Contrivance to kill the King?

Mr. *Gadbury*. No, ſhe was always an Enemy to Plots, or elſe I would not have kept her company.

L. C. J. Did ſhe ſay there were, or that ſhe heard there were ſeveral Prieſts and Jeſuits coming over?

Mr. *Gadbury*. My Lord, I think ſhe ſaid ſhe heard it. And I have ſaid ſeveral times to her, the Popiſh Plotters would be deſtroyed: But ſhe anſwered, ſhe was afraid the Nation would be deſtroyed firſt.

L. C. J. Did ſhe ſay ſhe was afraid of it, or that the Nation would be deſtroyed firſt? I ask you once more, we muſt try People according to their Oaths. By the Oath you have taken, when you ſaid you thought the Popiſh Plotters would be deſtroyed, what Anſwer did ſhe make?

Mr. *Gadbury*. She ſaid ſhe was afraid the Nation would be ſo; becauſe ſhe ſaid, abundance of the beſt of the Nation went into other Nations, to weaken our Nation, and ſpend their Money, and therefore ſhe was afraid the Nation would be deſtroyed before them.

L. C. J. What Diſcourſe had you with Mrs. *Cellier* paſſing through *Weſtminſter-Abby*?

Mr. *Gadbury*. My Lord, my Memory hath been exceedingly bruiſed; but I remember, my Lord, as I was going through the *Abby* in a rainy Afternoon, ſhe ſaid, this *Abby* was formerly filled with *Benedictine-Monks*, or ſomething to that purpoſe, and, ſaith ſhe, what if it ſhould be ſo again?

L. C. J. Are you a Proteſtant or a Papiſt?

Mr. *Gadbury*. A Proteſtant, my Lord.

L. C. J. He talks as like a Papiſt as can be, was it, what if it ſhould be filled?

Mr. *Gadbury*. She ſaid, what if it ſhould be again.

L. C. J. What did you ſay to that?

Mr. *Gadbury*. I only ſmiled to hear a Woman's Diſcourſe, my Lord.

L. C. J. You make all the Company laugh; What did ſhe ſay of the *Temple*?

Mr. *Gadbury*. That the *Temple* had been filled with *Fryars* too.

L. C. J. And what then? Did ſhe talk of filling it again?

Mr. *Gadbury*. Saith ſhe, this Place was filled with *Benedictine-Monks*, and the *Temple* with *Fryars*.

L. C. J. This may do well enough: But what did ſhe ſay elſe concerning the *Temple*?

Mr. *Gadbury*. Nothing, my Lord.

Mr. Serjeant Maynard *ſaid ſomething to him here, which was not heard, but Mr.* Gadbury *replied.*

Mr. *Gadbury*. Mr. *Serjeant*, I was none of the Tribe of Forty One.

Here Mr. Gadbury *was going to read in his Paper; but the Court told him that would not be allowed; but he might refreſh his Memory with it.*

L. C. J. Now tell me what ſhe ſaid: Mr. *Gadbury*, keep it in your Hand.

Mr. *Gadbury*. My Lord, ſhe put it by way of Interrogation to feel my Pulſe.

L. C. J. What did ſhe ſay elſe?

Mr. *Gadbury*. There was nothing but tranſient Diſcourſe, my Lord.

L. C. J. We muſt ask you what the Truth is, and you have looked upon your Paper. Now, conſider what you ſay, and conſider that you

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are upon a ſolemn Occaſion, and are to teſtifie it in the Preſence of God Almighty. I would have you tell plainly what it is, and neither to make it more, nor ſtifle it.

Mr. *Gadbury*. It was only tranſient Diſcourſe.

L. C. J. Say what it was. Was it, *This Place was once filled with* Benedictine Monks?

Mr. *Gadbury*. She ſaid that the *Abby* had been filled with *Benedictine Monks*, as the *Temple* had with *Fryars*.

Mr. Juſt. *Jones*. Look upon your Paper.

L. C. J. You have looked upon the Paper, and pray tell us what ſhe ſaid. Did ſhe ſay, ſhe hoped to ſee this Place filled with *Benedictines*?

Mr. *Gadbury*. My Lord, I do not remember that Word *Hope*.

L. C. J. How long have you been acquainted with Mrs. *Cellier*?

Mr. *Gadbury*. Ten or a dozen years.

L. C. J. Did ſhe never ask you any Queſtions about the Life of the King?

Mr. *Gadbury*. My Lord, when the King was very ill at *Windſor*, and all People were fearful that he would die, ſhe did move the Queſtion to me.

L. C. J. What Queſtion?

Mr. *Gadbury*. To know, Whether I thought his Majeſty would live or die? But it was her fear that he would die.

L. C. J. Had you ſeen the King?

Mr. *Gadbury*. No, my Lord.

L. C. J. How then did ſhe expect you ſhould give her an Anſwer; from your Art?

Mr. *Gadbury*. From my Art, my Lord.

L. C. J. Did ſhe deſire you to conſult your Art, how long the King would live?

Mr. *Gadbury*. She did as I ſaid.

L. C. J. What did you ſay to that?

Mr. *Gadbury*. I would not tell her, becauſe he was my Sovereign.

L. C. J. What Anſwer did you make?

Mr. *Gadbury*. I told her I would not meddle with it.

L. C. J. She would have had you conſult your Art or Scheme, or whatever it is, to know whether the King would live or die?

Mr. *Gadbury*. It was ſomething of that.

L. C. J. And you ſaid you would not meddle nor make with it?

Mr. *Gadbury*. Yes, my Lord.

L. C. J. She deſired you to make a Scheme?

Mr. *Gadbury*. No, my Lord, I can't ſay ſhe mentioned a Scheme, but ſhe asked the Queſtion.

Mr. Juſt. *Raymond*. What did ſhe ask elſe?

Mr. *Gadbury*. Only that Queſtion.

L. C. J. How often do you believe ſhe ſpake of it?

Mr. *Gadbury*. Never, my Lord, but when he was ill. I will not baffle any thing that may conduce to the Safety of the King and Kingdom.

L. C. J. Indeed it is very conducible to the Safety of the King and Kingdom, if any go about to deſtroy him, and with evil intentions to ask how long he will live, and you ought in Duty to God and your Sovereign to declare it. Did ſhe ever make any enquiries about the King's Death more than what you have ſaid?

Mr. *Gadbury*. No more, my Lord, and then ſhe was fearful he would die.

L. C. J. Did ſhe ſay ſhe would go to ſome body elſe?

Mr. *Gadbury*. My Lord, when ſhe perceived me ſhy, ſaith ſhe, I ſee you are afraid of me, I will go to ſome other Aſtrologer.

L. C. J. For what?

Mr. *Gadbury*. To ſatisfie her Curioſity, as a great many do.

L. C. J. What Curioſities did ſhe ask beſides this?

Mr. *Gadbury*. She would ask me ſometimes about the Condition of Bodies, Whether they would be proſperous in the World, and ſeveral other Queſtions.

L. C. J. Were you nice in theſe Curioſities?

Mr. *Gadbury*. Truly, my Lord, I was ſhy of meddling with any thing, when I heard there was a talk about Plots.

L. C. J. Was you nice to give her ſatisfaction according to her hopes concerning theſe things you call Curioſities, queſtioning whether one ſhould be well wed, how many Children ſhe ſhould have, *&c.* were you ſcrupulous in that?

Mr. *Gadbury*. I think I might not be nice in that very particular.

L. C. J. How came it then that ſhe would go to another Aſtrologer?

Mr. *Gadbury*. She asked me ſomething about Mr. *Dangerfield*.

L. C. J. For what?

Mr. *Gadbury*. How to get him out of Priſon.

L. C. J. Pray how came ſhe to ſay ſhe would go to another Aſtrologer? You were not ſhy to give her an Anſwer to theſe Queſtions?

Mr. *Gadbury*. It was ſomething about Mr. *Dangerfield*, my Lord, ſhe asked me ſomething about ſome Deeds or Papers which he was to ſearch for or ſeize, which concerned Mr. *Bedloe*.

L. C. J. She had better have gone to one of the Clerks than to a Conjurer for them. But why would ſhe go to another Aſtrologer?

Mr. *Gadbury*. Becauſe I was ſhy.

L. C. J. You were not ſhy in theſe things about *Bedloe*. Did ſhe not ſay, when you refuſed to meddle with the Death of the King, that ſhe would go to another Aſtrologer?

Mr. *Gadbury*. Yes, my Lord.

L. C. J. Did you any thing for her at that time?

Mr. *Gadbury*. My Lord, I did calculate a Scheme, which ſince I found to be for Mr. *Dangerfield*, but I knew not for whom it was when I did it.

L. C. J. How! Can you apply one Scheme to any body?

Mr. *Gadbury*. My Lord, when Mrs. *Cellier* came to me, ſhe gave me the time of a Perſon's Nativity, and I ſet the Figure of the Heavens to that Sign, to know whether he were a Perſon fit to be truſted, her Husband being a *French* Merchant, to get in money.

L. C. J. For ought you know *Dangerfield* was a Woman, and the Queſtion was, Whether *Dangerfield* was with Child, and he happens to be a man — How did it fall out?

Mr. *Gadbury*. I have forgotten, my Lord.

L. C. J. When did you know it was for *Dangerfield*?

Mr. *Gadbury*. My Lord, never before I came before the King and Council, neither did I know his Name before, for he went by the Name of *Willoughby* before.

L. C. J. What other Diſcourſe had you with her?

her? Did ſhe not at any time talk of Mr. *Dugdale*?

Mr. *Gadbury*. She did ſay, ſhe had heard of ſome People that were to diſcourſe with Mr. *Dugdale*; ſhe had heard ſuch a thing, but I don't know whether ſhe knew any thing of it or no.

L. C. J. What Diſcourſe had you about that?

Mr. *Gadbury*. She told me there was a Woman to go down to *Windſor* to beg Mr. *Dugdale*'s Pardon; for he was penitent for what he had ſaid in ſome Tryal or other.

L. C. J. Call another Witneſs.

Mr. *At. Gen.* Mr. *Dangerfield*, pray give the Court an Account of what you know of Mrs. *Cellier*, the Priſoner at the Bar.

Mrs. *Cellier*. My Lord, I except againſt that Witneſs.

L. C. J. Why ſo? You muſt ſhew ſome reaſon, and then we will do you Juſtice in God's Name.

Mrs. *Cellier*. If I can prove he was whip'd and tranſported, pilloried, perjured, *&c.* he is no Witneſs. The laſt time I was upon my Tryal, he threatned ſome of my Witneſſes, that if they would not ſwear as he would have them, he would kill them.

L. C. J. If you can ſhew any Record whereby he is convicted of any thing that can by Law take away his Teſtimony, do it.

Mrs. *Cellier*. He has been Indicted for Burglary.

L. C. J. (*to Mr. Dangerfield*) Was you indicted for Burglary?

Mr. *Dangerfield*. I will take it at their Proof.

Ralph Briſcoe, *a Witneſs for the Defendant, Sworn.*

L. C. J. Do you know *Dangerfield*?

Briſcoe. I remember one *Thomas Dangerfield*: I ſaw him burnt in the Hand at the *Old Bailey*.

L. C. J. Is this the ſame man?

Briſcoe. I do believe it is the ſame man; but I have not ſeen him theſe ſeveral years.

L. C. J. Let every body have their Right in God's Name. Have you any more?

Mrs. *Cellier*. My Lord, I can prove him perjured.

L. C. J. Have you any Records to ſhew he was perjured? Is he convinced?

Mrs. *Cellier*. No.

L. C. J. Then you can't do it.

Mrs. *Cellier*. My Lord, I can prove him guilty of Forgery.

L. C. J. If you don't produce the Record, you do nothing.

Mr. *Recorder*. That which ſhe calls Forgery is not that which the Law calls Forgery; it is counterfeiting Guineas.

L. C. J. Can you ſhew he forged any Deeds. If you can prove that he hath committed Forgery, and be not convicted, it is no Error.

L. C. J. Have you your Pardon? She hath proved the Conviction of Felony, prove your Pardon.

Mrs. *Cellier*. I have the Copies of ſeveral Records here in Court, which will be ſworn to.

To which Mr. Dangerfield *pleaded his Majeſty's moſt gracious Pardon. To which Mrs.* Cellier *replied, That ſhe had a Copy of the ſaid Pardon in Court, but it did not extend to ſome of the Crimes for which he ſtood convicted; and then produced a Record, wherein it did appear he was Outlaw'd upon a Felony. Upon which the Court commanded Mr.* Dangerfield *to go and fetch his Pardon; in the interim examining ſeveral of the King's Witneſſes.*

Thomas Williamſon *Sworn.*

L. C. J. Did you ever ſee *Dangerfield* and Mrs. *Cellier* in Company?

Williamſon. No, my Lord, but I have been employ'd for Mrs. *Cellier* in ſeveral Buſineſſes of Charity to get Priſoners out. When Mr. *Dangerfield* was in *Newgate*, ſhe employ'd me to get him out.

L. C. J. Why was ſhe ſo kind to *Dangerfield*?

Williamſon. My Lord, I don't know that; but ſhe bid me get him out whoſoever ſtaid behind.

Mr. Juſt. *Raymond*. Why ſhould ſhe get him out? Did ſhe tell you what ſhe would do with him when ſhe had him out?

Williamſon. No, my Lord.

Mr. *Recorder*. We bring him for a Witneſs, that ſhe had a great kindneſs for *Dangerfield*.

Margaret Jenkens *Sworn.*

L. C. J. What Diſcourſe have you heard between *Dangerfield* and *Cellier*?

Jenkens. I never ſaw them together but twice. It is a year ſince I came from them.

L. C. J. When you ſaw them at Dinner or Supper together, what other Company was there?

Jenkens. Her Husband was with her one time.

L. C. J. What did they talk about?

Jenkens. They were talking about the Priſoners that were condemned.

L. C. J. Where was it? At her Houſe?

Jenkens. No, at my Lady *Powis*'s Houſe.

L. C. J. How came you there?

Jenkens. I carried Notes backwards and forwards.

L. C. J. Did you never hear no Diſcourſe about the Plot?

Jenkens. No.

Suſan Edwards *Sworn.*

Mr. *Recorder*. What intimacy have you known between *Dangerfield* and Mrs. *Cellier*?

L. C. J. Did you ever ſee them together?

Edwards. Yes, very often, my Lord. She ſaid, That the *Popiſh Plot* would turn to a *Presbyterian Plot*.

L. C. J. Who did ſhe ſay that to? To *Dangerfield*?

Edwards. No, my Lord, but I have heard him ſay thoſe words, and that he would make it his intereſt it ſhould be ſo.

L. C. J. What did you ſay to him, when he ſaid he muſt turn Rogue, and diſcover all their Plots?

Edwards. I ſaid, he would be no greater Rogue than he was before.

L. C. J. You were pretty nimble with him.

Edwards. He thought he ſhould be hanged.

L. C. J. For what?

Edwards. If he did not turn Rogue he thought he ſhould be hanged.

(Edwards *to Mrs.* Cellier) You were very often together in your Chamber.

Mrs. *Cellier*. Who gave you your Cloaths?

Edwards. Her Husband was gone to Church one

one morning, and he was with her in her Chamber.

L. C. J. I can't see why you should prove this matter too far.

Mr. *Recorder*. *Susan* is a civil young Woman.

Edwards. She said she would do my business for me, and I go in danger of my life.

Bennet Dowdal *Sworn*.

L. C. J. What do you know of any intimacy between *Dangerfield* and Mrs. *Cellier*?

Dowdal. I have seen them together.

L. C. J. What did they talk about?

Dowdal. Mrs. *Cellier* proposed a match between Mrs. *Mary Ayrey* and I, and they used to talk of that when I was with them.

L. C. J. Did they talk of the Plot at any time?

Dowdal. No.

L. C. J. Did you ever hear them talk of the King?

Dowdal. No.

L. C. J. Have you any more?

Mr. *Recorder*. Not till Mr. *Dangerfield* comes.

L. C. J. (*to Mrs.* Cellier) Have you any Record to shew he was put in the Pillory?

Mrs. *Cellier*. Yes, my Lord.

Upon which the Copy of a Record from Salisbury *was read, of his standing on the Pillory for uttering counterfeit Guineas*: *As also the Copy of a Record of an Outlawry for Felony.*

L. C. J. What say you to this Outlawry?

Mr. *Recorder*. It is not the same Person.

L. C. J. We ought to be very careful in these Concerns, else we may do a Work this day may make all the Kingdom rue it. It is a sad thing that People of a vicious profligate Life, both before they came to *Newgate*, and all along in their life-time, should be suffered to be Witnesses to take away the Life of a Worm. I question whether he will come again, or no, he hath been gone a great while. Such are fit to be employ'd to find out, but hard to be believed when they find out.

L. C. J. Captain *Richardson*, is this the man that broke *Chelmsford Gaol*?

Capt. *Richardson*. My Lord, I can say nothing to that, but he was brought by an *Habeas Corpus* from thence to me.

L. C. J. Was he burnt in the Hand for Felony?

Capt. *Richardson*. Yes, my Lord, I believe he was.

L. C. J. He made me believe as tho' he would flie, I believe he is. We will not hood-wink our selves against such a Fellow as this, that is guilty of so notorious Crimes. A man of modesty after he hath been in the Pillory, would not look a man in the Face. It appears that after he hath been burnt in the Hand, he hath been Outlaw'd for Felony, and so it doth appear by Record.

After about half an hour's stay, Mr. Dangerfield *returned and brought his Pardon; which was read, and the Word Felony omitted, and instead of* Utlagaria qualiacunque pro Feloniis quibuscunque, *there was only inserted,* Omnia Maleficia & Utlagaria qualiacunque; *which Omission had made the Pardon Defective, it being my Lord Chief Justice his Opinion, that the Word* Utlagaria *did only reach to* Outlawries *between Party and Party; by which his Evidence was wholly laid aside.*

L. C. J. (*to Mr.* Dangerfield) Such Fellows as you are, Sirrah, shall know we are not afraid of you.

He produces us here a Pardon by the Name of *Thomas Dangerfield* of *Waltham*, and says, his Father and Kinsman are both of that Name and Place. Will you have him Sworn, Whether his Father or Cousin *Thomas* were ever convicted of Felony? It is notorious enough what a Fellow this is, he was in *Chelmsford Goal*. I will shake all such Fellows before I have done with them. Have you any more to say? Are there any *Waltham* men here?

Mr. *Dangerfield*. My Lord, this is enough to discourage a man from ever entring into an honest Principle.

L. C. J. What? Do you with all the mischief that Hell hath in you think to brave it in a Court of Justice? I wonder at your impudence, that you dare look a Court of Justice in the Face, after having been made appear so notorious a Villain.

Mr. Just. *Jones*. Indeed, if he be the same man, he is not fit for a Witness.

L. C. J. And that he is the same man is very notorious. Come, Mrs. *Cellier*, what have you more to say?

Mrs. *Cellier*. Enough, my Lord.

L. C. J. You have said enough already. Come Gentlemen of the Jury, this is a plain Case; here is but one Witness in a Case of Treason, and that not direct; therefore lay your Heads together.

Which being done, they returned her Not Guilty: Upon which the Clerk of the Crown bid her down on her Knees, which she did, and cried, God bless the King and the Duke of York.

L. C. J. Where is *Dangerfield*? Is he gone? Call him.

Who being come, the Court asked if he had Bail for his good Behaviour?

Mr. *Dangerfield*. No, my Lord, but with the leave of the Court I will fetch some.

L. C. J. Let a Tipstaff go with him, and return before the Court rises.

Mr. *Dangerfield*. My Lord, that cannot be, for I can't return so soon.

L. C. J. Then let him be committed.

Which was accordingly done.

THE TRYAL OF HENRY CARR,

In *Hillary-Term*, 1679.

AN Information was brought in the *Crown Office*, againſt *Henry Carr*, which ſets forth, that a certain Plot of a traiterous Conſpiracy, was late had within this Kingdom of *England*, amongſt divers falſe Traitors of this Kingdom of *England*, to put to death, and murder our Lord King *Charles* II. and the Government of this Kingdom of *England*, and the ſincere Religion of God within this Kingdom of *England*, well and piouſly Eſtabliſhed, to deſtroy and ſubvert, and the *Romiſh* Religion, within this Kingdom of *England* to introduce; and that alſo divers Traitors for High Treaſon aforeſaid, were lawfully convicted and attainted, and other Perſons, for High Treaſon aforeſaid, were by due Courſe of Law tried and acquitted. Nevertheleſs, one *Henry Carr* of the Pariſh of St. *Pulchre's*, *London*, Gent. knowing well the Premiſes, but minding, and maliciouſly intending the Government of the Kingdom of *England*, and the Adminiſtration of Juſtice in the ſame Kingdom to ſcandalize, and to bring the ſame in Contempt.

The Firſt Day of *Auguſt*, in the Thirty firſt Year of our now Lord the King, at the Pariſh of St. *Pulchre's*, *London*, a certain falſe, ſcandalous and malicious Book, Entitled, *The Weekly-Packet of Advice from* Rome, *or the Hiſtory of Popery*; maliciouſly and unlawfully hath Printed, and cauſed to be Publiſhed: In which Book is contained among other things, as followeth. There is lately found out by an experienc'd Phyſician, an incomparable Medicament, call'd *The Wonder-working Plaiſter*, truly Catholick in Operation, ſomewhat of kin to the *Jeſuit's Powder*, but more effectual. The Vertues of it are ſtrange and various. It will make Juſtice Deaf as well as Blind, takes out Spots out of deepeſt Treaſons, more cleverly than Caſtle-Soap does common Stains. It alters a man's Conſtitution in two or three Days, more than the Virtuoſo's Transfuſion of Blood in ſeven Years. Is a great *Alexipharmick*, and helps Poiſons, and thoſe that uſe them. It miraculouſly exalts and purifies the Eye-ſight, and makes People behold nothing but Innocence in the blackeſt Malefactors. It is a mighty Cordial for a declining Cauſe, ſtifles a Plot as certainly as the Itch is deſtroyed by Butter and Brimſtone. In a word, it makes Fools Wiſe Men, and Wiſe Men Fools, and both of them Knaves. The Colour of this precious Balm is bright and dazling, and being apply'd privately to the Fiſt in decent manner, and a competent Doſe, infallibly performs all the ſaid Cures, and many others not fit here to be mention'd.

To the great Contempt of our Lord the King, and his Laws, to the great Scandal of the Government of our now Lord the King, and the Laws of this Kingdom of *England*, and the Adminiſtration of Juſtice in the ſame Kingdom; to the evil Example of all others in ſuch a Caſe offending, and againſt the Peace of our Lord the King, his Crown and Dignity.

To which Information appeared in the Court of *King's-Bench*, *Henry Carr*, by his Attorny, *Benedict Brown*, the Eleventh of *February*, and having heard the Information aforeſaid, ſaid that he was not Guilty.

Iſſue being joyn'd, it was try'd by Writ of *Niſi prius*, at the *Guild-Hall*, before the Lord Chief Juſtice *Scroggs*, upon the Second of *July*, 1680. where a Jury being ſummon'd, whoſe Names are as followeth,

Benjamin Thorogood.	*Jeremiah Gregory.*
Richard Blackbourn.	*Nicholas Bondy.*
Godfrey Richards.	*George Day.*
Leonard Bates.	*Nicholas Dawes.*
Philip Harman.	*Richard Blaney.*
Francis Breerwood.	*Henry Averie.*
Thomas Kemble.	*Joſeph Hall.*
William Longman.	*William Bridges.*
John Debman.	*Thomas Lee.*
Lewis Wilſon.	*Richard White.*
Henry Laſhoe.	*Randal Dod.*
Thomas Salter.	*Richard Bowater.*

Of all which only Four appear'd and were Sworn, *viz.*

Nicholas Bondy.	*Henry Averie.*
Leonard Bates.	*Randal Dod.*

Where-

Whereupon a *Talis* was prayed and granted, and then were ſworn and added to the principal Pannel, according to the Form of the Statute,

Nicholas Caplin.	*James Wood.*
Richard Cawtham.	*Thomas Gilby.*
Arthur Young.	*John Odenſel.*
William Yap.	*Emanuel Coniers.*

After which the Court proceeded, and the Recorder began to open the Offence, as follows.

Sir *George Jefferies.* Mr. *Recorder.* This Perſon among others, intending to ſcandalize the Government, hath cauſed a Book to be publiſhed, which I have here in my Hand, called, *The Weekly Packet of Advice from* Rome; there are ſome Papers beſides what are bound up together, that are continued on, which, my Lord, would not be amiſs for us that are of the King's Counſel to take notice of, not only for the Jury's Satisfaction, but likewiſe for the Satisfaction of this great Auditory, ſome whereof I know come to pick Advantage, and to know whether or no Raſcals may have Liberty to print what they pleaſe. Now all the Judges of *England* having been met together, to know whether any Perſon whatſoever may expoſe to the publick Knowledge any manner of Intelligence, or any Matter whatſoever that concerns the Publick: They give it in as their Reſolution, that no Perſon whatſoever could expoſe to the publick Knowledge any thing that concern'd the Affairs of the Publick without Licence from the King, or from ſuch Perſons as he thought fit to entruſt with that Affair. But ſuch is the Age that we live in, that a man that hath Wit enough to libel any man in the Government, thinks he hath Licence enough to expoſe that man to publick Knowledge alſo. And they do it under ſpecious Pretences, becauſe they think that any man may be expoſed to the publick Cenſure, that they can either call a Papiſt, or but popiſhly affected, and that man is either the one or the other, that is not agreeable to every Raſcally Humour that ſome People affect. I acknowledge, my Lord, that any man that will in a legal manner endeavour to ſuppreſs Popery, ought to be encouraged in his Endeavour, to the utmoſt, but if in caſe any man will be tranſported with Zeal, becauſe he is of a Party, and under pretence of endeavouring to ſuppreſs Popery, ſhould ſupport a Party, that man ought to be detected. The Author of this Packet of *Advice from*] Rome, or the Publiſher of it, Mr. *Carr*, that is now the Defendant, he thinks he can ſcratch the Itch of the Age, and that he may libel any man concern'd in the Government, if he can but call him a Papiſt or popiſhly affected; let a man be never ſo honeſt, let a man be never ſo much for the Support of that Religion that every honeſt man ought to ſupport, that is, the Proteſtant Religion as it is Eſtabliſh'd by Law, without going to *Rome* or *Amſterdam* for Aſſiſtance. I will not mention the Perſons that are concern'd in it, but I will apply my ſelf wholly to this Matter, that it is the Opinion of all the Judges of *England*, that it is the Law of the Land, that no Perſon ſhould offer to expoſe to publick Knowledge any thing that concerns the Government without the King's immediate Licence. Now we are to try whether this Perſon expoſed this thing to publick Knowledge, and that is Matter, Gentlemen, that you are to try. The other is the Buſineſs of the Court, we are to ſay whether, if we prove the Fact, this man is guilty of Puniſhment, and no doubt the Juſtice of the Nation will puniſh him. But when I ſee ſo many ſwarm about me, I am willing to hear what Proof there is.

Sir *Francis Winnington.* I am of Counſel for the Defendant, I only offer it to your Lordſhip, that the Information may be proved.

L. C. J. Here are two things we are to keep to, the Matter of Proof according to the Information, and accordingly are we to proceed as in common Juſtice we find the Caſe to be. I muſt ſay that for the Priſoner, he has behav'd himſelf with as much Modeſty as in Duty and Honeſty he ought, but I find that Sir *Francis Winnington* puts you upon proving.

Sir *Francis Withins.* My Lord, we will prove it.

L. C. J. Let them that are not of the Jury go forth, the Jury is no more to be corrupted than the Judge. Sir *William Scroggs.*

Sir *Francis Withins.* We muſt be allowed the firſt part, that there was a Plot.

L. C. J. The Jury may take that upon their Oaths, they know there was a Plot, the certaineſt of any thing of Fact that ever came before me.

Mr. *Stevens*, Printer.

L. C. J. Did Mr. *Carr* own he writ this Packet, had you any from him?

Printer. I had ſeveral from him.

L. C. J. Of whom elſe had you any?

Mr. *Recorder.* Beſides *Carr*.

L. C. J. You are upon your Oath, from whom ever had you any beſides?

Printer. I do not remember that I had any from any body elſe.

L. C. J. You printed them, did you?

Printer. Yes, my Lord, I did.

L. C. J. And you know of none from any elſe, but by him or his Orders.

Printer. No, my Lord.

Sir *Francis Winnington.* Shew him the Paper. Can you ſwear upon your Oath, that Mr. *Carr* did ſend or deliver to you that very Paper?

Printer. I can't tell that any body elſe did ſend it.

L. C. J. We muſt do here, as we do in all Caſes, He ſaith, I had divers of theſe Papers from him, I printed them, and I know of none that ever was but by him or his Order.

Sir *Fr. Winnington.* He ſaith ſo, but, my Lord, the Information is to ſuch a particular Book, Entitled *A Packet of Advice from* Rome.

L. C. J. He ſays this in Anſwer to it, I can't charge my ſelf with this particular, to ſay poſitively I had it from him: But this I can ſay, we had ſeveral from him, and I know of none elſe, but all were by him or his Order.

Sir *Fr. Winnington.* Will your Lordſhip give me leave to ask him one Queſtion; Can you ſwear that any that came from him contained the very Matter in that Book? Was it the Matter or Words?

Mr. *Recorder.* Do you believe it?

Sir *Fr. Winnington.* Good Mr. *Recorder* let me alone. Can you ſay it is the very Matter contain'd in that Paper?

Printer. I can't ſay that.

L. C. J. It is not an eaſie matter for a Man to remember the Matter of a Paper that is writ on all ſides. He ſwears that they had ſeveral, and that they had none, tho' he printed them, from any but him or his Order. This Queſtion Sir *Francis Winnington* asks, Had you this particular Paper from him, he cannot ſwear it was the ſame he had from him, but he does ſwear all the Weekly Intelligences were from him or his Order; he does not ſwear for the Matter of this Book, which no Man will do: But he does ſwear that theſe Papers were always by him or his Orders, and that ſeveral were received from him.

Mr. *Williams.* I ask you upon your Oath, he brought it to you in Writing, did he not?

Printer. They came in Writing.

Mr. *Williams.* Have you any of theſe Papers to ſhew?

Printer. We did not regard them when they were printed.

L. C. J. His Cauſe ſhall be try'd very juſtly, and very indifferently.

Mr. *Williams.* Had you ever a Paper from *Carr*'s Hand or no?

Printer. We had few from his own Hand.

Mr. *Williams.* Had you any?

Printer. I can't remember.

L. C. J. Had you any? You are upon your Oath.

Printer. My Lord, I can't remember.

L. C. J. Had you one, or two?

Printer. Indeed, my Lord, I can't remember. I can't ſay upon my Oath he ever brought one.

L. C. J. How then came you to ſay, you had ſeveral from him?

Printer. Ay, my Lord, from him, that is, by him or his Order.

L. C. J. Are you ſure it was by his Order?

Printer. I did conceive ſo, my Lord.

L. C. J. Had he any Money?

Printer. From me?

L. C. J. Had he any Money from any body for printing any of theſe Papers, as you can remember?

Printer. I do ſuppoſe ſo, I have heard he had.

L. C. J. Did you give him any?

Printer. No, my Lord, I was not concern'd. The Publiſher, my Lord, was between him and me.

L. C. J. Who is that?

Printer. That is one *Curtis.*

L. C. J. Did *Curtis* pay him any Money?

Printer. I never ſaw him pay him any, my Lord.

L. C. J. Hath he owned at any time he had any Money?

Printer. My Lord, I never had any Occaſion for that Queſtion.

L. C. J. Have you talk'd with *Carr*?

Printer. Yes, my Lord.

L. C. J. Now I ſhall have you: For I do believe you are an honeſt Man. Did *Carr* ever own himſelf to you to be the Author of this Book, or any of theſe Papers?

Printer. My Lord, as I ſaid in the other Caſe, ſo I ſay in this, I had no Occaſion to diſpute it, I took it for granted.

L. C. J. Have you ever heard him own it?

Printer. I have heard him deny it.

L. C. J. How did you come to take it for granted that he was the Author, when he did once deny, but never own'd it? Anſwer me that Queſtion, and thou ſhalt be a brave man.

Printer. My Lord, there was never Occaſion for that Diſcourſe.

L. C. J. Look you, Sir, you muſt anſwer me in a Way agreeable to common Reaſon and Underſtanding. Why did you ſay juſt now you took it for granted that he was the Author, and yet you ſay he hath deny'd it, and never owned it? Why ſhould you then believe he was the Author?

Printer. I don't ſay, my Lord, he never own'd it.

L. C. J. What tricks we have in this World?

Mr. *Recorder.* I would ask the Gentleman, I will not quarrel with him at all, if he thinks not in his own Conſcience he has reaſon to quarrel with himſelf. Did he ever own it to you?

Printer. I don't remember he ever own'd it to me in ſo many Words.

L. C. J. Did he treat with you in theſe Circumſtances as if he were the Author?

Printer. Yes, my Lord, I grant that.

Mr. *Recorder.* But do you ſwear it is ſo? We don't care for your granting: I ask you upon your Oath, did you ever diſcourſe him as the Author of theſe Papers?

Printer. I ſuppoſed him to be the Author.

L. C. J. Did he deny it, or baulk when you diſcours'd him of this Matter?

Printer. My Lord, I muſt needs ſay as I ſaid before, it was taken for granted.

Mr. *Williams.* You had it in Writing, Where are thoſe Writings?

Printer. We ſeldom regard thoſe Writings.

L. C. J. It is hard to find the Author, it is not hard to find the Printer: But one Author found is better than twenty Printers found.

Mr. *Williams.* My Lord, I will ask this man a Queſtion. Upon your Oath, Who brought you that Writing?

Printer. What Writing?

Mr. *Williams.* That by which it was Printed: Who brought you that Paper?

Printer. I don't remember particularly I had any of Mr. *Carr* himſelf.

Mr. *Williams.* Can you name the Perſon that brought this Paper, or any One Perſon that brought any one Paper?

Printer. There was a little Boy.

Mr. *Williams.* Whoſe Boy?

Printer. Mr. *Carr*'s Boy.

Mr. *Recorder.* Now it is out.

Mr. *Williams.* Name the Boy.

Printer. I do not know his Name.

Mr. *Williams.* Can you name another, can you name any body elſe?

Printer. Truly, Sir, I don't remember any body elſe.

Mr. *Williams.* Now I will ask you one thing: Had you any Directions for the Printing this Paper?

L. C. J. To what purpoſe was this written Paper brought to you?

Printer. To be printed, my Lord.

Mr. *Williams.* Who gave Directions?

Printer. It was the Publiſher that chiefly directed me.

Mr. *Wil-*

Mr. *Williams.* Who was that?

Printer. I have named him.

Mr. *Williams.* Name him again.

Printer. Curtis.

Mr. *Williams.* Did *Carr* never direct you to Print this Paper?

Printer. He did not deal immediately with me.

Mr. *Recorder.* When the little Boy came, who did you take him to come from? From Mr. *Carr,* or Mr. *Curtis*?

Printer. From Mr. *Carr.*

L. C. J. He ſays he was *Carr*'s Boy, and that he came from him: This I ſpeak to the Jury; and I promiſe you this, if my Life and Fortune were at ſtake, I would be Try'd by this Jury at the Bar, and would do in this, as in all Caſes. Mr. *Carr* is looked upon as the Author of this Book; that it either came from him, or by his Order, his Boy (he can remember no body elſe) did bring it. This is now remaining only: Are you ſure Mr. *Carr* ſent him? Saith he, We talked with Mr. *Carr* ſeveral times.

Sir *Fr. Winnington.* Thus it is, my Lord, in the Information, *Malicioſe & illicite imprimi cauſavit & publicavit.* Now I would only ask him a Queſtion, my Lord; Whether or no did Mr. *Carr* own to you, that he ſent the Boy to have it Printed?

Printer. No, Sir, I think not.

L. C. J. That is the ſame Queſtion asked before. Did Mr. *Carr* ever own it as his or no? Upon your Oath, Did *Carr* own this Pacquet to be his, when you diſcourſed with him about it?

Printer. My Lord, I humbly crave your leave to explain my ſelf. I mean by the Diſcourſe I had, common Converſation, as the drinking a Glaſs of Wine; but I know not that ever we diſcourſed upon this thing.

L. C. J. I mean ſo: When you talked about this matter, Did you take it, by his Diſcourſe, for granted, that he was the man that publiſhed it?

Printer. I took it for granted, becauſe I had it from him.

L. C. J. What ſay you to this? Have you blamed *Carr* for writing too ſharply in this Book againſt the Government?

Printer. My Lord, I do confeſs I have.

L. C. J. What Anſwer hath he made, when you blamed him for writing too ſharply, as you thought? Did he deny that he did it?

Printer. I don't remember that.

L. C. J. What ſort of Anſwer did he make to excuſe it? That he thought it not too ſharp; or did he ſay, I care not.

Printer. My Lord, I can't particularly ſay what Anſwer he made.

L. C. J. When you blamed him, by the Oath you have taken, upon that Blame of yours, did he deny he wrote it?

Printer. No, my Lord, I do not remember he did.

Mr. *Williams.* Did *Carr* at any time deny he was the Author or Publiſher of it?

Printer. He hath at ſome times.

Mr. *Williams.* What did he deny?

Printer. That he was the Author.

Mr. *Williams.* Of what Book?

Printer. Of the Pacquet.

L. C. J. Did he deny he was the Author of this particular Book for this Week, or deny it in general? Did he deny in general, that he was the Author of that Book that is called, *The Pacquet of Advice*?

Printer. I have heard him ſay ſometimes, that he was not the Author.

Mr. *Recorder.* And ſometimes what?

Printer. I have heard him ſay ſome time or other that he was not the Author.

Mr. *Recorder.* And what elſe?

The Printer's Servant.

Mr. *Williams.* Are you acquainted with *Carr*?

Man. I never had any Converſe with him.

Mr. *Williams.* Do you know any thing of the *Pacquet of Advice*?

Man. I know we have had Pacquets from him: I fetched ſome from him.

Mr. *Williams.* What, from his Hands?

Man. Yes.

Mr. *Williams.* What, from his own Hands?

Man. Yes, in pieces, no whole Sheets.

Printer. This is my Servant, I am not always there.

Sir *Fr. Winnington.* My Lord, I would ask this man a Queſtion. This Printed Paper, that is put in the Information, Did he ever deliver that to you?

Man. I can't ſpeak particularly to any one.

Mr. *Recorder.* But generally to all?

L. C. J. Have you done?

Mr. *Williams.* I ask you a Queſtion?

L. C. J. If you could, Mr. *Williams,* ſhew me any Author beſides Mr. *Carr,* I would ſay ſomething.

Mr. *Williams.* Who brought you this Paper?

Man. Which Paper?

Mr. *Williams.* I don't ſpeak of this Paper particularly. Did Any bring any beſides *Carr*?

Man. Yes, his Boy.

Mr. *Williams.* Did any body elſe bring any from any place?

Man. No body elſe that I know of.

Mr. *Williams.* The Pacquet he brought you, had it been Printed before? I ask you upon your Oath, was it Printed before he brought it?

L. C. J. Did he bring Papers to Print that were never Printed?

Man. They were never Printed, that I know of.

Mr. *Williams.* Did he bring any to Print?

Man. I can't ſay he brought any.

Mr. *Williams.* Did Mr. *Carr* bring any?

Man. No, the Boy.

Mr. *Williams.* Who directed you to Print them? Did *Carr* direct you?

Man. I can't tell, I am a Servant in the Houſe.

L. C. J. I will aſſure you a *Non eſt Factum* can't paſs at this rate.

Mr. Juſt. *Jones.* Who did you take to be the man that ſent you all the Pacquets?

Man. I very ſeldom took any, becauſe I was not always in ſight.

L. C. J. Who did you underſtand?

Man. I underſtood they came from Mr. *Carr.*

L. C. J. Have you any more? Read the Words in the Information.

Clerk. Friday the 1ſt of Auguſt, 1679. 'There is lately found out by an experienced Phyſician, an incomparable Medicament, called, *The Wonder-working Plaiſter.* Truly *Catholick in Operation*; ſomewhat of Kin to the *Jeſuits Powder,* but more effectual. The Vertues of it are ſtrange and various. It makes Juſtice deaf, as well as blind, and takes out Spots of the deepeſt Treaſon more cleverly than *Caſtle Soap* does common Stains. It alters

alters a man's Conſtitution in 2 or 3 days, more than the *Virtuoſi's Tranſfuſion of Blood* in 7 years. 'Tis a great *Alexipharmick*, and helps Poiſons, and thoſe that uſe them. It miraculouſly exalts and purifies the *Eye ſight*, and makes People behold nothing but Innocency in the blackeſt malefactors. 'Tis a mighty *Cordial* for a declining Cauſe; it ſtifles a *Plot* as certainly as the *Itch* is deſtroyed by *Butter and Brimſtone*. In a word, it makes *Fools Wiſe Men*, and *Wiſe Men Fools*, and both of them *Knaves*. The *Colour* of this *precious Balm* is bright and dazling, and being applied privately to the Fiſt, in decent manner, and a competent Doſe, infallibly performs all the ſaid Cures, and many others, not fit here to be mentioned. *Probatum eſt.*

Sir *Fr. Winnington.* I am Counſel for the Defendant. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am Counſel in this Cauſe: And the Queſtion is, Whether or no we muſt take the Information as it lies? And truly, for the firſt part of it, whether there was a Plot or no, I do not intend to make Exceptions: for I believe there was one, and do intend to take it as in the Information. Gentlemen, We are to proceed now to this other Queſtion; which is, my Lord, Whether or no this *Defendant*, that is, *Carr*, did *falſly and maliciouſly*, and with *deſign to ſcandalize the Government*, cauſe to be printed and publiſhed this falſe Libel that is in the Information. Now truly, my Lord, we that are for the Defendant, ſay we are not guilty. My Lord, we very well know how penal a thing it is, for a man to be the Author of a Libel that relates to the Scandal of the Government. And, my Lord, whether this Defendant be guilty of this, or no, we muſt ſubmit that to your Lordſhip's and the Jury's Conſideration. They have produced 2 Witneſſes, that is to ſay, the Printer, and his Man. Now, my Lord, there hath been going out for ſome time, *A Weekly Pacquet of Advice from Rome*; and I did ask the Witneſſes (for the Information points at one Paragraph, and puts the Paragraph *in hæc verba*) I did ask him, whether or no he did ſend, or, whether the matter that he ſent, is that contained in this Information. That he could not Swear: But muſt be left in point of Evidence, it being, we allow, a very penal matter. The ſecond Witneſs, and the firſt Witneſs likewiſe, ſay, there was a Boy, but whether that Boy came by his Maſter's direction, he does not know. I ask'd him, if ever his maſter ſent the Boy; he does not know, he ſays, that he ſent him. But the laſt Witneſs ſays, divers were had from the Hands of *Carr*; but whether it was the thing that is now complained of, there is the Queſtion, and that is in the dark: For, by your Lordſhip's leave, I do not underſtand that ever this man was complained of to any publick Magiſtrate for writing this Book; for it was thought he was a *Satyriſt* againſt *Popery*, and thought to be very well lik'd on till this Fault was found with it; and it may be very juſtly, whether or no we be guilty of this, is uncertain: For we know, in the Age we live in, there are too many ſhams put upon men; and who knows, but that the Papiſts, that might have an ill will to this Mr. *Carr*, that hath been no Friend to them, might ſhuffle in this Paragraph, by that means to have Juſtice come upon him. I would not contrive againſt common Evidence, where a man is guilty to the Publick; but we know there are abundance of Artifices in this Age to abuſe men. For this purpoſe I hope your Lordſhip and the Jury will expect that you ſhould have poſitive Evidence againſt him. Now granting your Lordſhip ſhould have conjectural Evidence, that he did cauſe it to be printed and publiſhed, that this man did write it, is, I ſay, very uncertain, for there is no poſitive Evidence. What a man may have in his private Thoughts of it, is not enough: But, whether *ſecundum allegata & probata*, it ſhall be alledged and proved, that this man was the Author of it. Now, my Lord, I ſay, I muſt ſubmit it to your Lordſhip, I ſay, that as to the cauſing it to be Printed, or the cauſing it to be Publiſhed, or that this individual Paragraph was writ by him in order to its being Printed or Publiſhed, my Lord, I ſay, there is but remote and conjectural Evidence; and an angry *Papiſt* might contrive this way to have an innocent *Proteſtant* found guilty.

People. Hem——

L. C. J. You ſee what a Caſe we are in, Gentlemen, you ſee what a ſort of People we are got among. Go on Sir *Francis.*

Sir *Fr. Winnington.* With your Lordſhip's leave I have one thing to put to your Lordſhip. The Information ſays, *falſe, illicite & malicioſe.* I know there are ſome things that do imply malice in themſelves. Truly, my Lord, I am upon a tender Point, and know not how to expreſs my ſelf. I ſay, ſuppoſing it ſhould fall out, that this man writ this Book, and he might have ſome little Extravagancies in his Head in writing; Whether this man did it maliciouſly to ſcandalize the Government, as the Information ſays, is a Queſtion. Truly, my Lord, there is many an indiſcreet Act a man may be guilty of, that cannot be called a malicious Act; and that is the ſecond thing: There muſt be Evidence that this man did it maliciouſly, or that he did it with a deſign to ſcandalize the Government. If you be of Opinion, that it is otherwiſe, that is in your Lordſhip's Breaſt; we are of the Negative, and we ſay, we can't prove a Negative. But if you find him innocent, I ſuppoſe there will be no cauſe to complain of him afterwards, for he had no malice in his Heart.

Mr. *Williams.* My Lord, it can never be ſuppoſed that a good man, and a good Subject, ſhould do an ill Action. If he be a very good Subject, if he be upon a ſquare, in every reſpect, a Perſon that loves his King, and loves the Government in Church and in State; if he be ſuch a Perſon, he cannot be thought guilty: My Lord, we will prove him to be ſuch a man, and I hope the Gentlemen will believe us.

Call Mr. Sutton, Mr. Ayliffe, *and* Mr. Ambler.

Mr. *Williams.* Mr. *Sutton,* Do you know Mr. *Carr?*

Mr. *Sutton.* I know him very well.

Mr. *Williams.* How long ſince have you known him?

Mr. *Sutton.* Two or three years.

Mr. *Williams.* Does he go to Church or Meetings?

Mr. *Sutton.* He hath been with me at Church often.

Mr. *Recorder.* Does he receive the Sacrament according to the manner of the *Church of England?*

Mr. *Sutton.*

Mr. *Sutton.* I was never with him at the Sacrament.

Mr. *Williams.* Is he one of them you call Diſſenters?

L. C. J. Did he ever diſcourſe with you concerning this *Book?*

Mr. *Sutton.* My Lord, I have often ſpoken to him.

L. C. J. Has he diſowned he was the Author?

Mr. *Sutton.* He has ſometimes.

L. C. J. How do you believe it was upon that Diſcourſe?

Mr. *Sutton.* I do not think he is able to write ſuch a *Book.*

L. C. J. That is not the Queſtion, anſwer me what I ask.

Mr. *Sutton.* It did ſeem ſomething like his *writing* methought.

L. C. J. Did it ſeem by his Anſwer to your Diſcourſe with him?

Mr. *Recorder.* Pray tell us, Did you look upon him to be the Author?

L. C. J. By the Diſcourſe you had with him, How did it appear upon that Diſcourſe? Pray tell us plainly and clearly, how do you think, by the Diſcourſe you had with him concerning this Pamphlet, whether he was the Author or no?

Mr. *Sutton.* My Lord, about a year, or a year and an half ſince, I did ask him whether this *Book* were Licenced? He told me it was Licenſed by Mr. *L'Eſtrange*; but he did not tell me he was the Author.

L. C. J. How did it ſeem by his Diſcourſe?

Mr. *Sutton.* I did apprehend he might write it.

Sir *Fr. Winnington.* My Lord, but the Queſtion is, whether he writ this *Paragraph.*

Mr. Ambler.

Mr. *Williams.* Mr. *Ambler*, pray do you acquaint my Lord, do you know Mr. *Carr?*

Mr. *Ambler.* Yes, Sir.

L. C. J. How long have you known him?

Mr. *Ambler.* Three years.

Sir *Fr. Winnington.* Of what Converſation is he, and how affected to the Government?

Mr. *Ambler.* He went to Church with me.

Sir *Fr. Winnington.* Do you look upon him as a man well affected to the Government? Do you think he would maliciouſly write any thing to ſcandalize the Government?

Mr. Juſt. *Jones.* How do we know how Mr. *Ambler* underſtands the Government?

Mr. *Recorder.* Mr. *Ambler.* Had you any diſcourſe with him about the *Pacquet of Advice?*

Mr. *Ambler.* Never in my Life.

Mr. *Recorder.* Did you ever hear of the *Book?*

Mr. *Ambler.* Yes, Sir.

Mr. *Recorder.* Upon your Oath, Did you look upon him to be the Author?

Mr. *Ambler.* The common report was, that Mr. *Carr* was.

Mr. Ayliffe.

Mr. *Williams.* Mr. *Ayliffe*, Do you know Mr. *Carr?*

Mr. *Ayliffe.* Yes, Sir.

Mr. *Williams.* Is he a conformable man to the Government in *Church* and *State?* Does he go to hear *Common-Prayer?*

Mr. *Ayliffe.* I have ſeen him at Church, and at Divine Service.

Mr. *Recorder.* Did he behave himſelf reverently there?

Mr. *Ayliffe.* Yes, Sir.

L. C. J. Do you think he writ this?

Mr. *Ayliffe.* My Lord, I never asked him.

Sir *Fr. Winnington.* My Lord, it ſeems he was accounted *the Author of the Books*; but whether of this particular one in the Information, we conceive not proved.

Mr. *Recorder.* If we ſhould not do right, we diſclaim that Service we owe to the Crown, and that reſpect we owe to the Government, as honeſt men, and as true *Proteſtants*, and as much againſt *Papiſts* as any men whatſoever. I ſhall endeavour to give the World Satisfaction, that this man is guilty of this Offence. My Lord, for any man to come and pretend that we muſt prove, that a man is malicious; or becauſe that a man writes againſt the *Papiſts*, he muſt never therefore be convicted of malice, ſurely is a ſtrange Argument: And I wonder to hear any man that pretends to Reaſon, men of Senſe, and Conſcience, and Underſtanding, ſo out of their common Senſe and Underſtanding, as to make that go as an Argument. Gentlemen, the things themſelves beſpeak their malice. For ſo we in our common Diſcourſe, when we bring our common Actions (of which you have heard a number) if in caſe any man call a man *Thief*, we ſay he does falſly, and maliciouſly, and ſcandalouſly call a man *Thief:* If we prove he called him *Thief*, the very thing does intimate he does it falſly, ſcandalouſly, and maliciouſly; therefore the thing it ſelf is a ſufficient indication of the *Malice* and *Depravity* of it. There's no man but may know in plain *Engliſh* what's the meaning of theſe Words; it is as plain as can be in the World: We muſt debauch our Underſtandings, and be as great *Doltheads*, as they would make all men that will be of their Party, if we don't plainly ſee into the meaning of theſe words, That *Juſtice is to be bribed with Money.* In the next place, Gentlemen, we do not come and ſay, that the *Information* lies againſt theſe very particular Words; that is a miſtake of the *Information:* But the *Information* is, That he did cauſe to be Printed and Publiſhed a *Book*, in which among others, there were ſuch Words as theſe; tho' if they had been the very Words themſelves, the very Words have been proved. Now, *There is no better Proof under the Heavens, than the Proof we have offered.* The Printer himſelf, he comes here and ſays, That *Carr* did acknowledge himſelf the Author, and he did generally publiſh the *Book*; I appeal if you do not believe it. This they would now come and excuſe; for they are glad to make a Raſcal of any of their Party, if they can but ſave a man that is Guilty. But things come out with much difficulty and much ſtraitneſs; and I muſt ſay, if ever any thing were an inſtance of *Popery*, then that man is one of the Jeſuited'ſt Fellows that ever was; for he does *cant ſo like them*, that a man can't tell how to govern himſelf. Who was it that ſhould write theſe things? Truly, he had diſcourſed with him about the matter. Who ſent the Boy? Do you know? Truly I can't tell: And wonderful great *Snuffling* and *Canting* before he comes to the Buſineſs. Beſides, what can there be more plain than the *Proof-pieces* before the Publiſhing? T'other man ſays, That he was the man that fetched Pieces

ces from *Carr*'s own Hand, and that he always looked upon it that all did come from *Carr*.

Now every man that knows any thing of Printing, knows this, that after it hath firſt taken the Preſs, it is always carried back again to the Author, to ſee whether it be done according to his Mind; and after that, it comes to the publick View. And that this man, *Carr* is the Author, Mr. *Sutton* and the reſt of his Witneſſes, if they ſpeak according to Conſcience, they themſelves looked upon this very man to be the Author. Their own Witneſſes looked upon it ſo. It was not only the private Opinion of theſe Men, but the general Report of all. So that, my Lord, had it not been neceſſary to the Support of the Government, I ſhould have ſcarce troubled my ſelf to give your Lordſhip and the Jury this Trouble. But I muſt ſay, and I do believe, that there is no man whatſoever, that ſtands to have Vices of this Nature convicted and puniſhed, but deſires the Proteſtant Religion may be ſupported to the utmoſt, and that Popery may be ſuppreſs'd. But I ſay, who ever it is, that after this Evidence, who is bound by his Oath to go according to Evidence, ſhall acquit this man, he muſt be a man of a humming Conſcience indeed.

Sir *Fr. Winnington.* I ſhall hint one thing to your Lordſhip in this Caſe: That it is an unlikely thing that a Papiſt ſhould ſet out this Packet at this time. For then my Lord, how came it to paſs, that Mr. *Carr* had none came out that Week; for his is *a Weekly Intelligence.* If Mr. *Carr*'s had came out, and this likewiſe, there had been ſome Pretence for this: But ſince there came out but one, that the Papiſts ſet out this is unlikely. They have not pretended to bring in any body elſe as the Author; but their own Witneſſes ſay, and they themſelves ſay, he was looked upon as the Author. Thoſe things that are done againſt the Government, are never done in the Face of the Government.

L. C. J. Really, Gentlemen, I thought not that this had been a Cauſe of that Moment, that now I find it. For their very Diſturbance hath altered it from Mr. *Carr's*, to a publick Concern. The Noiſe which they make, this way that theſe People uſe, that with their Shouts and Noiſe attend the Cauſe, hath quite ſpoiled it. As in the Caſe of *Harris.* But thoſe People that did then attend him, leave following him in a Goal, for Five hundred Pounds, which may be Five Shillings a piece had diſcharged him of, if they had been as free of their Purſes as they are of their Noiſes and Acclamations: So that in Truth, they are only violent againſt the Government whilſt they can make Shouts and Noiſes, but if it comes once to deliver a man from a penal Sum, they will let him rot in Goal. For ſo *Harris* ſent to me, that his Party had all forſaken him, and no man would give him any thing. And this is for thoſe *Hummers*, thoſe brave Fellows that ſeem to eſpouſe a Cauſe, and yet leave their Party in diſtreſs: But let them go away with this, that they prove themſelves hereby Enemies to the Government, and falſe to that Intereſt, and Men that they ſeem to eſpouſe; that come only here to affront a Court of Juſtice with their Shouts and Noiſes, and will not relieve their Party: For this is the Complaint of *Harris*, and the Diſparagement of all men that come to eſpouſe it. This Cauſe, the Truth on't is, I did not look upon to be of this Nature and Moment, when it was open'd. For though there are in this very Paper upon which the Information is grounded, Words malicious and reflective enough; yet, they were not ſo apparently appropriated, that a man might obſerve an extraordinary Deſign in them. This I thought, but really, the Caſe is altered, even by thoſe Men. For, I'll tell you, *Harris is poor, and his keeping in Priſon, is principally occaſioned, from the Manner of the Reception of his Puniſhment*, which he calls, *His Pardon.* And therefore, theſe Fellows, theſe Hummers, let them all know, whenever they come to eſpouſe a Cauſe of publick Concern againſt the Government, they ſpoil it; and when they are taken, then they ruin one another. And this is like to be ſo, for none will help them with a Groat. And this is the Misfortune of that unfortunate Man *Harris*, that he hath no place of Mercy left him from the King, becauſe, he was attended with ſuch a Rabble, as theſe People are, that have made a Noiſe here, and yet, will give him no Help nor Aſſiſtance when he wants it. And, let them know, it hath turned this man's Cauſe into a publick Cauſe, becauſe, here are People that do eſpouſe it, and the Government is hereby concerned much more, than by any one Action that this *Carr* could have done. I have ſaid ſo much more of this, that I might ſhew you to what a ſad Cauſe this is brought, from what at firſt it was. For, if it had paſſed without ſuch a Noiſe, as you ſee how they expreſs themſelves, I ſhould not have thought much Matter in it; and though you had convicted him, I ſhould have thought a better Sentence might have ſerved the turn: But, they have undone *Carr*, if you find him guilty, and ſo, it's like to prove, when ever there is popular Attendance upon publick Cauſes that concern the Government.

The preſent Caſe, it ſtands thus. Mr. *Carr*, here is an Information brought againſt him for publiſhing a printed Pamphlet, call'd, *The Packet of Advice from* Rome, and in it there are recited ſome Particulars, which were obſerved to you before, which was not well done; but yet, not ſo inſolently done, as ſome perhaps do conceit. The Queſtion is, whether he was the Author or Publiſher of this. You hear, he is thought the Author, but ſay his Counſel, it is not plain, and that is true. But, it ſeems by their own Witneſſes, to any man's Underſtanding, that they look'd upon him as the Author. But then, is he the Author and Publiſher of this particular Book? I had rather, Mr. *Carr*, with all his Faults about him, and his Hummers, ſhould go away with Applauſe, and have him found not Guilty, than do him Wrong in one Circumſtance: For, I come to try Cauſes according to the Truth of Fact. I come not to plead on one ſide nor another. Nor to condemn men that are innocent; nor to acquit them if they be guilty. Now, it remains for you to conſider, what Proofs you have, as to this particular Book, againſt which the Information lies. And that's the Printer himſelf, who is one of the beſt ſorts of Evidence that can be had: For, you very well know, that Evidences of Fact are to be expected according to the Nature of the thing. That is, Forgery is not to be prov'd ſo plainly, as to expect Witneſſes, as you do at the Sealing of a Bond; for, Men

do

do not call Witneſſes when they forge a thing. Therefore, in things of that Nature, we are fain to retreat to ſuch probable and conjectural Evidence as the Matter will bear. I believe ſome of you have been of Juries at the *Old-Baily*, and that even for Mens Lives, you have very often not a direct Proof of the Fact, of the Act, or of the actual Killing; but yet, you have ſuch Evidence by Preſumption, as ſeems reaſonable to Conſcience. If, there be a known Caſe in Mens Lives, certainly, that ſhould govern in Offences, and eſpecially, when Offences are of a nature that reflects upon the Government. As for thoſe Words, *Illicite*, *malicioſe*, unlawful; for that I muſt recite what Mr. *Recorder* told you of at firſt, what all the Judges of *England* have declared under their Hands. The Words I remember, are theſe, when by the King's Command, we were to give in our Opinion, what was to be done in Point of the Regulation of the Preſs. We did all ſubſcribe, that to Print, or Publiſh any News Books or Pamphlets of News whatſoever, is illegal; that, it is a manifeſt Intent to the Breach of the Peace, and they may be proceeded againſt by Law for an illegal thing. Suppoſe now, that this thing is not ſcandalous, what then? If there had been no Reflection in this Book at all, yet it is *illicite*, and the Author ought to be convicted for it. And that is for a publick Notice to all all People, and eſpecially Printers and Bookſellers, that they ought to print no Book, or Pamphlet of News whatſoever, without Authority. So as he is to be convicted for it as a thing *illicite* done, not having Authority. And I will aſſure you, if you find any of thoſe Papers, I ſhall be more merciful in the Conſideration of their Puniſhment, if it be inoffenſive. But, if ſo be they will undertake to print News fooliſhly, they ought to be puniſhed, and ſhall be puniſhed, if they do it without Authority, though there is nothing reflecting on the Government, as an unlawful thing. The Reaſon is plain. So fond are Men in theſe days, that when they will deny their Children a penny for Bread, they will lay it out for a Pamphlet. And it did ſo ſwarm, and the Temptations were ſo great, that no man could keep two pence in his Pocket becauſe of the News. But ſtill, they never repented of laying out their Money, till they found there was nothing againſt the Government. This is not worth a Farthing, there is nothing of Treaſon in it, we will not give a Farthing for it. Therefore this Book, if it be made by him to be publiſh'd, it is unlawful, whether it be malicious or not. Now for the Matter, the ſubject Matter. What, doth *Carr* think he hath too much Wit to fool us that are to try the Malice? It was ſillily writ, if he did not believe we underſtood it, and that were very intolerable in us; I hope, I ſpeak plain That is, the ſort of Books that he writ, it muſt be with an Intent People ſhould know what Reflections he made, and ſhall all Mankind know, and ſhall they that try the Cauſe not know it? If you find him guilty, and ſay what he is guilty of, we will judge whether the thing imports Malice or no. Sir *Francis Winnington* hath told you, there are ſome things, that do neceſſarily imply Malice in them. If this thing doth not imply it, then the Judges will go according to Sentence, if it doth, ſo that it concerns not you one Farthing, whether malicious, or not malicious, that's plain. Now, there remains only one thing, that is, whether or no he was the Publiſher of this Book? For that we have this Evidence. The Printer tells you, he was the Perſon that they looked upon to be the Author of this Book, that he ſent this Book to be printed by his Boy. The Printer ſaith, that he often diſcours'd with him, and he took it for granted. His Boy brought it. To what purpoſe? To be printed. The Printer's Servant ſays, they looked upon him as the Author, and I have fetched Sheet by Sheet, ſeveral Sheets from his own Hand. I will do right in the Caſe, be it what it will, let him eſcape or not. Say his Counſel, Had you this particular Paper from him? I urge this as clearly, as their own Counſel have objected. For that you muſt conſider, whether he is the Author of the Book. You muſt take Evidence in this Caſe, as you do all the Year long; that is, in other Caſes, where you know there is an abſolute Certainty, that the thing is ſo: For humane Frailty muſt be allowed; that is, you may be miſtaken. For, you do not ſwear, nor are you bound to ſwear here, that he was the Publiſher of this Book; but, if you find him guilty, you only ſwear, you believe it ſo. God help Juries, if ſo be, in matter of Fact, they ſhould promiſe otherwiſe. They can't ſwear it. Now, the Queſtion is, whether you have Evidence enough here to ſwear he was the Publiſher: For this is the main thing, to prove that he is ſo. Now the Printer tells you that he knew the man; that he had frequent Converſe with him about it, and that he took it for granted. Now conſider, when a man talks at this rate, he does not ſay he was, but that he took it for granted, he does not as much as ſay he is. They will own he writ ſeveral Sheets of this Book; then, why not all this Book? Now, we come to the more principle Matter of Fact, according to Reaſon, and the probable Evidence of things. That this Perſon is taken to be the Author, and that it was his Boy that brought theſe Papers to be Printed. If you can't ſay he ſent him, you can give no Verdict while you live, if you expect that. The Printer ſays, he hath been often diſcourſing with him, that his Boy brought them, and that he knew no other Perſon in the World that had any Pretenſions to be the Author, and if he were the Author, no doubt, but he is the Publiſher. Whether or no any body elſe had an hand in this, we don't know. If you are ſatisfied in your Conſciences, that you believe he is not the Author, you muſt acquit him. If you are ſatisfied it is not he, you muſt find him not guilty. So that as you are honeſt Men and wiſe, as I believe you are; if you believe he was not the Publiſher of this Pamphlet, that he did not ſend his Boy to have it Printed, but that he came of his own Head, you muſt find him not guilty.

The Jury went from the Bar, and nigh an hour after returned, and brought him in Guilty.

L. C. J. You have done like honeſt Men.

Mr. *Recorder.* They have done like honeſt Men.

THE TRYALS OF THOMAS THWING *and* MARY PRESSICKS.

The 24*th of July,* 1680.

Cl. of Assize. THOMAS THWING, late of *Heworth*, in the County of *York*, Clerk, and *Mary Pressicks*, Wife of *Thomas Pressicks*, late of the Parish of *Barwick* in *Elmett*, Gent. stand indicted; for that they, as false Traytors against the most illustrious, and most excellent Prince, King *Charles* the Second, that now is, their Natural Lord; God before their Eyes not having, nor their due Allegiance weighing, but by the instigation of the Devil being seduced and moved, the cordial Love, and true and natural Obedience, which true and faithful Subjects of our said Sovereign Lord the King towards his said Majesty ought to bear, altogether withdrawing, and imagining, and with all their strengths intending the Peace and common Tranquility of his Kingdom of *England* to disturb, and his said Majesty that now is, to Death and final Destruction to bring and put, and the true Worship of God in this Kingdom of *England* established and used, to alter to the Superstition of the Church of *Rome*, and War against his said Majesty in this Kingdom of *England* to move and raise, and the Government of this Kingdom of *England* to subvert, the 30*th* day of *May*, in the 31*st* year of his Majesty's Reign that now is, at the Parish of *Barwick* in *Elmett* aforesaid, in the County aforesaid, with divers other false Traytors to the Jurors unknown, did traiterously compass, imagine, and intend, and every of them did compass, imagine and intend the Death and final Destruction of his said Majesty, and the ancient Government of this Realm of *England* to change, alter, and utterly subvert, and his said Majesty of the Crown and Rule of this Kingdom to depose and wholly to deprive, and the true Protestant Religion to extirpate: And to effect and accomplish their said wicked Treasons and traiterous imaginations and purposes aforesaid, the said *Thomas Thwing* and *Mary Pressicks*, and other false Traytors to the Jurors unknown, the said 30*th* day of *May* in the 31*st* year abovesaid, with Force and Arms at the Parish of *Barwick* in *Elmett* aforesaid, advisedly, deviliſhly, maliciously and traiterously did assemble and gather themselves together, and then and there did deviliſhly, advisedly, maliciously, subtilly, and traiterously consult and agree, and every of them did then and there traiterously consult and agree to bring to Death and final Destruction our said Sovereign Lord the King, and to depose and deprive him of his Crown and Rule aforesaid, and the Religion of the Church of *Rome* into this Kingdom to introduce and establish: And the sooner to fulfil and effect the said wicked Treasons, and traiterous imaginations and purposes aforesaid, the said *Thomas Thwing* and *Mary Pressicks*, and other false Traytors to the Jurors unknown, did then and there pay and expend, and every of them did then and there pay and expend divers sums of money of divers other Traitors to the Jurors unknown, to carry on the Treasons aforesaid; and then and there the said *Thomas Thwing* and *Mary Pressicks* did subscribe, and either of them did subscribe a certain Note in writing for the payment of divers sums of money for making a Contribution for compleating their traiterous purposes aforesaid, against the Duty of their Allegiance, and against the King's Peace, his Crown and Dignity, and also against the Statute in that Case made and provided.

To this Indictment having pleaded Not Guilty, and put themselves upon their Countrey for Tryal.

Upon the 29th *of* July *Sir* Thomas Daniel, *High Sheriff of the County, having returned many Gentlemen for Jurors; the Tryal proceeded thus: After the Jury called,* Thomas Thwing *and* Mary Pressicks *being brought to the Bar.*

Cl. of Assize. Thomas Thwing, hold up thy Hand. *Mary Pressicks*, hold up thy Hand.

[*Which being done.*]

Cl. of Assize. This understand ye, That these Gentlemen that are now to be Sworn, are Returned by the Sheriff of this County, to pass between our Sovereign Lord the King and you for your Lives: Therefore if you will Challenge any of them, you are to Challenge them as they come to be Sworn, and before they be Sworn.

Cl. of

Cl. of Aſſize. Sir *David Fowles*, Bar.
Thwing. I Challenge him.

And ſo as they were called Challenged theſe 25 *Gentlemen following*, viz.

John Eaſtoft, Eſq;	*Hugh Savil*, G.
William Bethel, Eſq;	*Nivian Collins*, G.
Townes Drifeild, Eſq;	*Thomas Green*, G.
Will. Osbaldeſton, Eſq;	*Nathaniel Elliotſon*, G.
Marm. Trueman, Gent.	*Nathaniel Harriſon*, G.
Robert Bell, G.	*John Tomlinſon*, G.
Tho. Fletcher, G.	*Thomas Riccaby*, G.
Tho. Wood, G.	*John Ullithorne*, G.
Tho. Faireſide, G.	*Thomas Hincks*, G.
Roger Fretwel, G.	*William Maſtin*, G.
Simon Warrener, G.	*George Ellis*, G.
Edward Carvil, G.	*Thomas Whaley*, G.
John Coates, G.	

In the calling of the Jury, after ſeveral Challenges made, and ſome of the Jury Sworn, Thwing *ſpoke thus:*

Thwing. My Lord, I ſhall willingly ſtand to the other Jury.

Mr. Juſt. *Dolben.* What Jury?

Thwing. My Lady *Tempeſt*'s Jury.

Mr. Juſt. *Dolben.* Oh, your Servant; you either are very fooliſh, or take me to be ſo.

The Jury being Sworn.

Cl. of Aſſize. Cryer, Count theſe.

Sir *Geo. Cook*, Bar.		*Henry Pinckney*, Gent.
Tho. Worſley, Eſq;		*John Blacſton*, G.
Will. Caley, Eſq;	Jur'	*William Hardcaſtle*, G.
Roger Lee, Gent.		*Nicholas Stone*, G.
John Dixon, G.		*George Weſtorby*, G.
George Wray, G.		*Charles Tucker*, G.

Cryer. Twelve good men and true, ſtand together and hear your Evidence.

Cl. of Aſſize. Thomas Thwing, hold up thy Hand. [*which he did.*] *Mary Preſſicks*, hold up thy Hand, [*which ſhe did.*] Gentlemen, you of the Jury that are Sworn, look upon the Priſoners and hearken to their Charge: You ſhall underſtand that they ſtand Indicted by the Names of *Thomas Thwing, &c.* and *Mary Preſſicks, &c. Prout in the Indictment.* Upon this Indictment they have been Arraign'd, and thereunto pleaded Not Guilty, and for their Tryal have put themſelves upon their Countrey, which Countrey you are, *&c.*

Then Proclamation was made for Evidence, and the Indictment being opened, and the Treaſons therein aggravated by the King's Counſel; *Mr. Baron* Atkyns *came into the Court to aſſiſt in the Tryal.*

The Witneſſes were called; Robert Bolron *was firſt Sworn.*

Bolron. My Lord, in the Year 1674. I came to live with Sir *Thomas Gaſcoyne*, and was Steward of his Coal-pits; and in 1675 I turned Prieſt; and about *January*, 1676. Mr. *Thwing*, Father *Ruſhton*, and ſeveral others came to my Houſe at *Shippon*, and did there examine me how I ſtood affected to the *Roman Catholick* Religion, and whether I was reſolved to venture my Life and Eſtate in it, if there were any occaſion; to which I agreed, and was reſolved to obey my Ghoſtly Father in all things.

Mr. Juſtice Dolben *taking notice of a Gentleman near the Priſoners, demanded*, What is that Gentleman? We are all beſet; he was one of the Jury yeſterday. *He being removed*, Bolron *proceeded.*

Bolron. Father *Ruſhton* my Confeſſor gave me the Oath of Secrecy; and in the year 1677, Sir *Thomas Gaſcoyne*, Sir *Miles Stapleton*, Mr. *Thwing*, the Priſoner, and ſeveral other Perſons, met at *Barnbow hall*, Sir *Thomas Gaſcoyne*'s Houſe; and there they agreed, That in hopes the Plot of killing the King would take effect, they would erect a Nunnery at *Dolebank*; but the real intention was to have it at *Heworth*, within a mile of *York*, after the King was killed, and to avoid ſuſpicion, my Lady *Tempeſt* told them, ſhe would let them have *Broughton* for the preſent.

It was there agreed, that the King ſhould be killed: And Mr. *Thwing* ſaid, that if they miſſed this opportunity, they ſhould never have the like again, and the effecting of it would be very beneficial to the Church of *Rome.*

Note, That upon Sir T. Gaſcoyne's *Tryal it appeared in his Almanack, that he had made this Memorial there with his own hand* (viz.) *The* 15*th of* Apr. 1676. *Memorand. acquaint Mr.* T. Thwing *with the whole Deſign.*

Mr. Bar. *Atkyns.* Repeat it in the ſame Words.

Bolron. He ſaid, If we miſs this opportunity of killing the King, we ſhall never have the like again; and Mr. *Thwing* was to be the Confeſſor of the Nunnery for the preſent.

Mr. Bar. *Atkyns.* Where were theſe Words ſpoken?

Mr. *Bolron.* In the old Dining Room.

Mr. Juſt. *Dolben.* Who were preſent?

Mr. *Bolron.* Sir *Miles Stapleton*, Sir *Thomas Gaſcoyne*, my Lady *Tempeſt*, Mr. *Thwing*, Mr. *Ruſhton* and ſome others.

Mr. Juſt. *Dolben.* Was it agreed that the King ſhould be killed?

Mr. *Bolron.* It was, my Lord.

Mr. Bar. *Atkyns.* Conſider ſeriouſly, you ſpeak in the preſence of God, and of a great Aſſembly; and that a Perſon's Life is at ſtake: Tell it again, what were the Words?

Mr. *Bolron.* It was agreed that the King ſhould be killed, and that it was for the good of the Catholick Religion; and I paid 10 *l.* to Mr. *Ruſhton*, in Mr. *Thwing*'s preſence, towards killing the King, and ſaw a Liſt in Mr. *Ruſhton*'s and Mr. *Thwing*'s Hands, of the Names of ſeveral that engaged for promoting the *Roman Catholick* Religion; which was to be by killing the King.

Mr. Bar. *Atkyns.* Was it a Liſt of thoſe that were to kill the King?

Mr. *Bolron.* The Liſt I ſaw was of money raiſed to kill the King.

Mr. Bar. *Atkyns.* What was the Title of that Liſt?

Mr. *Bolron.* A Liſt of the Names of the Actors and Contributors, engaged in the Deſign of promoting the *Roman Catholick* Religion, and alſo of eſtabliſhing a Nunnery; which was raiſing money for the killing of the King. And beſides the 10 *l.* I paid towards it, I paid 5 *l.* to have my Soul pray'd for. *Thwing* told me afterwards at my Houſe, that in *Yorkſhire*, *Lancaſhire* and *Darbyſhire*,

ſhire, 30000 *l.* was raiſed for the killing of the King; and that the Liſt was ſent beyond Sea.

Mr. Juſt. *Dolben*. What can you ſay againſt the Woman?

Mr. *Bolron*. Mrs. *Preſſicks* told me, That in 1678, preſently after the Plot was diſcovered, ſhe being in *London*, did hear a Woman cry after her, *Stop the Papiſt, ſtop the Plotter*; but ſhe got away, and afterwards durſt not appear publickly in *London*. I had Diſcourſe with her at my Houſe about the Plot; and ſhe told me, That Father *Harcourt* was her Confeſſor, and firſt engaged her in it; and that *Pickering* told her, that he was to have killed the King, and ſhe ſaid ſhe was ſorry he did not do it; and that *Otes* and *Bedloe* were two Rogues, and the Plot had not been diſcovered but for them, who were the cauſe of ſo much miſchief: And ſhe further told me, that the Gun wherewith he was to have killed the King, was found with *Pickering*, and ſhe did believe that was the cauſe of his loſing his Life: And ſhe ſaid, The King was an Aſs and not fit to govern; that what money the Parliament gave him he ſpent upon Whores and Concubines.

Mr. Juſt. *Dolben*. Well, is this all you have againſt her?

Mr. *Bolron*. Yes, my Lord.

Mr. Juſt. *Dolben*. He hath done; you may croſs-examine him if you will.

Thwing. Who was at your Houſe when I was there?

Mr. *Bolron*. Father *Ruſhton*.

Thwing. How often was I there?

Mr. *Bolron*. Several times, I know not how often.

Thwing. When was it you accuſed me firſt of the Plot?

Mr. *Bolron*. When I went to the Council I accuſed him.

Thwing. He did not accuſe me of the Plot in ſeveral months.

Sir *Tho. Stringer*. Come, Mr. *Mowbray*, tell your knowledge.

Mr. Mowbray *was Sworn.*

Mr. *Mowbray*. My Lord, what I have to ſay is only againſt Mr. *Thwing*. At an Aſſembly of divers Prieſts at *Barmbow-hall*, amongſt the reſt, there were Father *Ruſhton* and Mr. *Thwing*; and there they determined to kill the King.

Mr. Bar. *Atkyns*. When was this?

Mr. *Mowbray*. This was near *Michaelmas*, 1676, and they declared it was not only lawful, but meritorious to do it: They alſo declared, That *London* and *York* were to be fired; and that Force was to be made uſe of againſt the King, and all other Hereticks that ſhould oppoſe the advancement of their Religion: And Mr. *Thwing* and *Ruſhton* declared, the King was an Heretick and Excommunicated by the Pope, and hadn't kept his Promiſe with the Jeſuits to bring in their Religion, and therefore deſerved to be killed, and it was not only lawful but meritorious ſo to do.

Mr. *Belwood, of Counſel for the King*. Was there not a Liſt?

Mr. *Mowbray*. Yes, a Liſt of thoſe engaged in the Deſign of killing the King, and of promoting the Catholick Religion: And it was declared the King ſhould be killed, becauſe he hadn't kept his Promiſe made to the Jeſuits when he was beyond Sea.

Mr. Juſt. *Dolben*. Did the Priſoner declare it?

Mr. *Mowbray*. Mr. *Thwing* declared it, and *Ruſhton* and he managed it.

Thwing. Who was there?

Mr. *Mowbray*. It was at Father *Ruſhton*'s Chamber that I ſaw you, and there was another *Thwing* there, and alſo *Addiſon* a Prieſt.

Thwing. I went once or twice a year to Sir *Thomas Gaſcoyne*'s, and thought it my Duty to wait on him, and that I might without offence do it, he being my Unkle.

Mr. Juſt. *Dolben*. No, the Offence is Plotting.

Sir *Tho. Stringer*. Mr. *Thwing*, do you know *Ruſhton*?

Thwing. Yes, but I had no great Acquaintance with him.

Sir *Tho. Stringer*. Mr. *Mowbray*, how came you to be intruſted in ſo great a Buſineſs?

Mr. *Mowbray*. I aſſiſted Father *Ruſhton* at the Altar at Maſs; and ſo came into great Favour with him, and was permitted to be in his Chamber when the Prieſts were in private with him.

Sir *Tho. Stringer*. Mr. *Mowbray*, did you take an Oath of Secrecy?

Mr. *Mowbray*. Yes, I took it from Father *Ruſhton*.

Thwing. How long ſince did you change your Religion?

Mr. *Mowbray*. Preſently after the Plot broke out.

Thwing. Who were you examined before firſt of all?

Mr. *Mowbray*. Before Mr. *Lowther*, and Mr. *Tindal*.

Mr. Juſt. *Dolben*. Did you at the firſt accuſe him?

Mr. *Mowbray*. I only charged Sir *Thomas Gaſcoyne*, Eſq; *Gaſcoyne*, my Lady *Tempeſt*, Sir *Miles Stapleton*, and Father *Ruſhton* in my firſt; and in my ſecond Depoſition I accuſed Mr. *Thwing*, and that was before Juſtice *Warcup*.

Mr. Bar. *Atkyns*. Did *Thwing* abſcond at the firſt?

Mr. *Mowbray*. He was apprehended at the ſame time Sir *T. Gaſcoyne* was apprehended, and at his Houſe.

Mr. Juſt. *Dolben*. Well, what ſay you to *Mary Preſſicks*?

Mr. *Mowbray*. My Lord, I have nothing to ſay againſt her.

Mr. Juſt. *Dolben*. Mr. *Thwing*, you have heard the Evidence, what do you ſay for your ſelf?

Thwing. I ſhall produce Witneſſes I was never with him at *Barmbow*: Firſt I ſhall ſhew he never mentioned me when he firſt mentioned the Plot; and he never ſaid any thing againſt me, when he accuſed Sir *T. Gaſcoyne* before Mr. *Lowther* and Mr. *Tindal*.

But Mr. Bonithen, *of Counſel for the King, offering other Witneſſes for the King againſt Mrs.* Preſſicks, *they were called*, viz. *Mrs.* Bolron *ſen. Mrs.* Bolron *jun. and* John Hutchinſon.

Mrs. Bolron *ſen. Sworn.*

Mr. Juſt. *Dolben*. What do you know of *Preſſicks*, the Priſoner at the Bar?

Mrs.

Mrs. *Bolron ſen.* My Lord, ſhe ſaid ſhe knew of the Plot, and that *Pickering* was to have killed the King.

Mr. *Bonithon.* Do you mean ſhoot the King?

Mrs. *Bolron ſen.* Yes, I do.

Mr. Juſt. *Dolben.* Where did ſhe tell you this?

Mrs. *Bolron ſen.* At *Shippon*, my Lord.

Mr. Juſt. *Dolben.* At his Houſe? [*pointing to Mr.* Bolron.

Mrs. *Bolron ſen.* Yes, and ſhe ſaid that ſhe was very ſorry that *Pickering* did not do it, and that he had done it if it had not been for *Otes* and *Bedloe.*

Mr. Juſt. *Dolben.* Was this the very ſame time that Mr. *Bolron* ſpeaks of?

Mrs. *Bolron ſen.* Yes, my Lord; and ſhe ſaid, There would never be quiet in *England* until the *Roman Catholicks* had got the upper hand, and there was not a Proteſtant left in *England*: And ſhe ſaid, The King ſpent his money amongſt his Concubines, and his other Women, ſo that he was not worthy to be King, and ſhe hoped an Army of Catholicks would be raiſed to ſet up Popery.

Mr. Juſt. *Dolben.* That is indeed the Principle of the Papiſts, and according to it; within 40 years paſt they murdered 200000 innocent Proteſtants in *Ireland.* Did ſhe ſay it often?

Mrs. *Bolron ſen.* Yes, ſeveral times, more than once or twice.

Mrs. Bolron *jun. was then Sworn, and examined.*

Mrs. *Bolron jun.* I heard her ſay, There was a Conſpiracy carrying on about altering the Government, and eſtabliſhing the *Roman Catholick* Religion.

Mr. Juſt. *Dolben.* Where heard you this?

Mrs. *Bolron jun.* In my Husband's Houſe.

Mr. Bar. *Atkyns.* And what were her hopes in the Conſpiracy?

Mrs. *Bolron jun.* My Lord, I cannot tell.

Mrs. *Preſſicks.* I ask Mr. *Bolron* when we had this Diſcourſe?

Mr. *Bolron.* At ſeveral times; about *Candlemas*, 1678. and at *Eaſter* and *Whitſontide*, and ſeveral times after the Plot was diſcovered, we diſcourſed it ſeveral times at the Porch at my Houſe.

Mr. Juſt. *Dolben.* Who was preſent?

Mr. *Bolron.* My Grandmother.

Mr. Juſt. *Dolben.* Where was it, old Woman, that you heard theſe words?

Mrs. *Bolron ſen.* At *Shippon*, in the Hall-porch, my Lord.

Mrs. *Preſſicks.* Had we any Diſcourſe about Sir *Thomas*?

Mrs. *Bolron ſen.* None.

John Hutchinſon *was then Sworn.*

Mr. Juſt. *Dolben.* Do you know any thing concerning Mrs. *Preſſicks*?

Hutchinſon. May it pleaſe you, my Lord, I came to Mr. *Bolron*'s Houſe, and Mrs. *Preſſicks* asked me what News in our Countrey, and what became of the Papiſts? I told her ſome had given Bond, and ſome were gone to Priſon: Then ſhe ſaid, We ſhall never be at peace until we're all of the *Roman Catholick* Religion; for the King is an Heretick, and ſpends more money upon his Whores than upon his Queen, and we ſhall never be at quiet until the D. of *York* is King.

Mr. Juſt. *Dolben.* What ſay you to this? You have ſeen him?

Mrs. *Preſſicks.* I never ſaw him but twice there.

Mr. Juſt. *Dolben.* Where was ſhe when ſhe ſaid this?

Hutchinſon. She firſt talked with me in the Kitchin, and at the Hall-door, as ſhe was juſt going into the Parlour; ſhe told me, That we ſhould never be at quiet until the Duke of *York* was made King.

Mr. Juſt. *Dolben.* Mr. *Bolron*, when came ſhe to your Houſe?

Mr. *Bolron.* She came to our Houſe about *Chriſtmas*, and ſtaid about ſix months there.

Mr. Juſt. *Dolben.* Six months in your Houſe! Then you are well enough acquainted with her.

Mr. *Bolron.* Yes, my Lord.

Mr. Juſt. *Dolben.* Did you charge Mr. *Thwing* before the Juſtice?

Mr. *Bolron.* My Lord, I gave Juſtice *Tindal* only a ſhort Note, That Sir *Th. Gaſcoyne* promiſed me 1000 *l.* to kill the King: But what I had to ſay againſt *Thwing*, I gave to the King and Council.

Thwing. My Lord, this is Malice to Sir *Th. Gaſcoyne*'s Family, to which I am related, it is out of Revenge.

Mr. Juſt. *Dolben.* It was a Family-Quarrel then?

Thwing. Yes, my Lord, this I can prove by ſeveral Witneſſes.

Mr. Juſt. *Dolben.* Call your Witneſſes then.

Thwing. Nathaniel Wilſon.

Mr. Juſt. *Dolben.* Mr. *Babington*, why don't you appear, we know well enough that you are Sollicitor in the Cauſe; call your Witneſſes.

Then Nathaniel Wilſon *was examined.*

Mr. Juſt. *Dolben.* Come, what is it you have to ſay?

Wilſon. I went to *Bolron* to look on a Cow that he had gifted for his Couſin *Bargues*, and deſir'd to have the Cow away, but he would not let me have her without paying for her Gift; ſo I tender'd him his money, and we went to talk in the Houſe, and *Bolron* ſent for a Groat's worth of Ale, and asked me, if I could tell any thing of Father *Ruſhton*, and I told him I could not; and he bid me keep his Secrets, and he would give me more than I could Addle (*that is*, Earn) in 7 years: And he ſaid, unleſs he could ſhed the Blood of ſome of them, he ſhould get nothing.

Mr. Juſt. *Dolben.* When was this?

Wilſon. This was about next *Michaelmas* a Twelvemonth.

Mr. Juſt. *Dolben.* This is quite other than you told yeſterday.

[Wilſon *was a Witneſs the day before for the Lady* Tempeſt.]

Wilſon. I had not time.

Thwing. I deſire to know, Whether *Bolron* named me to Mr. *Lowther* as a Plotter?

Then Mr. Lowther *was called.*

Mr. *Lowther.* I do not remember that Mr. *Bolron* named Mr. *Thwing* to me when he was before me.

Mr.

Mr. Juſt. *Dolben.* When did he come to make the Diſcovery to you? Give an Account of it.

Mr. *Lowther.* I think it was the 24*th* or 25*th* of *June*, 1679. that he came to me; and he told me he had ſome Secrets to impart to me: And he began to tell me a ſtory of the Jeſuits and Prieſts, what they deſigned againſt the Government, becauſe the King did not keep his Word with them when he was beyond Sea: And then I called for my man and a Bible to take his Examination, and ſaid, Pray Friend be very careful what you do, for here your own Concern is at ſtake, as well as the Lives and Fortunes of the Gentlemen you ſpeak againſt; and upon that he began to be very fearful and timorous, and looked pale: Whereupon I asked him, What that Fear was for? It is, ſaid he, becauſe I have concealed it ſo long; and if that were upon you, it may be you would be as fearful as I am. Then I was going to take his Information, and he ſaid, I have done it before to Mr. *Tindal*: Why came you to me then, ſaid I? He ſaid, Mr. *Tindal* deſired it: Well, ſaid I, Mr. *Tindal* and I are to meet to morrow, and we will do it joyntly.

Mr. Juſt. *Dolben.* Did he ſay he told you all he knew?

Mr. *Lowther.* He did not name *Thwing*, but ſaid he ſhould recollect more, and would go to *London* and give it in to the King and Council: And then I ſaid, Why may not we take it here, as well as trouble them at *London*?

Mr. Juſt. *Dolben.* It may be he thought it better to do it there.

Mrs. *Preſſicks.* He did not accuſe me before Mr. *Lowther.*

Mr. *Bolron.* Yes, my Lord, I did, and had a Warrant to take her.

Mr. *Lowther.* She was taken the ſame Day Sir *Th. Gaſcoyne* was taken.

Mr. Juſt. *Dolben.* We will be juſt between you.

Then the Priſoners called Obadiah Moor.

Mr. Juſt. *Dolben.* Come, tell your knowledge in this Buſineſs.

Moor. I ſay, that Mr. *Bolron* ſaid, That Sir *Th. Gaſcoyne* was not concerned in the Plot, nor none of his Family; and that he believed there was no Plot.

Mr. Juſt. *Dolben.* When was this?

Moor. This was about *Candlemas* was Twelvemonths.

Mr. Juſt. *Dolben.* He was then a Papiſt: But did he not tell you otherwiſe afterwards?

Moor. In *Auguſt* after he told me he had but equivocated with me in what he ſaid before, and that there was a real Plot; and if he had ſwore a thouſand Lies he could have been forgiven them.

Then Stephen Thompſon *was called and examined.*

Thompſon. Mr. *Bolron* was Servant to Sir *Tho. Gaſcoyne*, and being in his Debt Sir *Thomas* did Arreſt him, and he agreed with Sir *Thomas* to give him 60*l.* and got me to be bound with him: And when the Plot came out, I thought *Bolron* being his Servant, might know whether Sir *Thomas* had any Hand in it; and if ſo, that we were in no danger of being ſued; and I inquired of *Bolron*, and he ſaid, *Sir* Thomas *was as Sackleſs of it as the Child that was unborn*: And on *Holy Thurſday* I went to him, and got him out on the backſide to Sir *Thomas*'s, and all along he told me, if he ſued him he would do him a greater miſchief: And I pleaded earneſtly with Sir *Thomas* not to ſue the Bond, and he ſaid he would have his money, but would ſtay a Fortnight, and I prevailed with him to give 3 Weeks time, that *Bolron* might go to ſell his Houſe at *Newcaſtle*, and in that time he went to *London* and accuſed him of Treaſon: And as to Mrs. *Preſſicks*, I ask'd his Grandmother what ſhe could ſay againſt her, and ſhe ſaid, Alas, alas, I can ſay nothing to it, but *Bolron* ſaid ſhe muſt ſay ſo and ſo.

Mr. Juſt. *Dolben.* What mean you Friend by *ſo* and *ſo*.

Thompſon. It was about Sir *Edmundbury Godfrey*, and that the King was an Whoremaſter, and ſuch things.

Then Zachary Thorpe *was called and examined.*

Thorpe. I met with Mr. *Bolron* in *Long Acre* before the laſt Aſſizes, and asked him concerning Sir *Th. Gaſcoyne*, my Countreyman, and he ſaid he was cleared, but God damn the Jury they were Rogues: Then he asked me if I had read *Harris*'s Intelligence of that Day, and I told him, yes: And he then asked me if I had ſeen his Wife's Name in it? He then told me, that he was going down to the Aſſizes at *York*, againſt my Lady *Tempeſt*, and ſaid, God damn me I will ruin 'em, if one thing will not do it, another ſhall.

Mr. Juſt. *Dolben.* What are you? God damn me comes very nimbly out of your mouth.

Thorpe. I live at the *White Hart* in *Charterhouſe Lane*, with the Gentleman of the Houſe, I married his Daughter.

Mr. Juſt. *Dolben.* And draw Pots of Ale, that's your Trade: How comes *Bolron* to talk thus to you, is he ſo mad a Fellow to talk thus to every one, this is not likely that he ſhould thus accuſe himſelf to you: Your Father in Law is a poor Alehouſekeeper?

Mr. Bar. *Atkyns.* Are not you a Papiſt?

Thorpe. No, my Lord, a Proteſtant of the Church of *England.*

Mr. Juſt. *Dolben.* Have you never been in *Newgate?* Your Lane is full of ſuch People, and your Houſe ſuſpected.

Thorpe. No, my Lord.

Mr. Juſt. *Dolben.* Come, have you done?

Thorpe. Bolron came to my Lodgings at the *Plough* on *Holborn Hill*, before the laſt Aſſizes, and told me, if I would ſwear that *Peter Shipton* knew no harm by *Bolron*, he would do any thing for me.

Mr. Juſt. *Dolben.* This is a Fable, for *Bolron* bound *Shipton* over at the Seſſions before the laſt Aſſizes.

Bolron. Yes, my Lord, it was for ſcandalous Words againſt his Majeſty.

Thorpe. He asked me what *Shipton* was, I anſwered, he is an honeſt man for ought that I know: I have taken his own Bond, ſaid *Bolron*, but I will have him from Court to Court, I will teach him to meddle with me.

Mr. Juſt. *Dolben.* How came he to ſpeak to thee?

Thorpe. I know not why, but it was his Diſcourſe to me.

Mr. Bar. *Atkyns.* What Acquaintance was there between you?

Thorpe. I have ſeen him ſeveral times in *Yorkſhire.*

Mr.

Mr. Juſt. *Dolben.* You live in *Charter-houſe-lane*, how came you together in *Long-Acre*?

Thorpe. I met him accidentally in the Street.

Mr. Juſt. *Dolben.* It is a wonderful thing, that he ſhould meet one in the Street with whom he had very ſmall Acquaintance, and diſcover ſuch things to him, as he did to you.

Then William Hardwick *was examined.*

Hardwick. I was to carry Mrs. *Preſſick*'s before Juſtice *Lowther*, and *Bolron*'s Wife ſaid ſhe was ſorry for it, for ſhe believed her to be an honeſt Woman, and had been a good Neighbour amongſt them.

Mr. Bar. *Atkyns.* Who was ſorry?

Hardwick. Mrs. *Bolron.*

Mr. Bar. *Atkyns.* What did *Bolron* himſelf ſay?

Hardwick. He ſaid nothing to me, he was in another Room with his Grandmother.

Mr. Juſtice Dolben *taking notice of* Thwing's *ſpeaking to Mr.* Hobart, *demanded what he ſaid.*

Hobart. My Lord, he ask'd me, whether *Bolron* did not ſay that Sir *Tho. Gaſcoigne* offer'd him a 1000 *l.* I only ſay that he ſwore at Sir *Thomas Gaſcoyne*'s Tryal.

Mr. Juſt. *Dolben.* How doth it appear, what he ſwore there?

Bolron. I acquainted Mr. *Lowther*, and Mr. *Tindal* with it.

Mary Walker was called.

Mr. Juſt. *Dolben. Mary Walker*, what do you ſay?

Mary Walker. Robert Bolron came after Mr. *Thwing* was taken Priſoner, to my Miſtreſſes.

Mr. Juſt. *Dolben.* Who is your Miſtreſs?

Mary Walker. Mrs. *Laſſell*'s; and he ask'd me, if I knew Mr. *Thwing* to be a Prieſt, and I told him, No, my Lord; he told me that if I would ſwear that he was a Prieſt, he would give me 10 *l.* for he would be reveng'd of him for Sir *T. Gaſcoyne*'s Cauſe; for he was near of kin to him, and he proffered me 10 *l.* again.

Bolron. Where were you, you were not here Yeſterday?

Mary Walker. I was in the Court yeſterday.

Mr. Juſt. *Dolben.* Where ſpoke he this?

Mary Walker. At Mrs. *Laſſel*'s.

Sir *Tho. Stringer.* My Lord, he was then ſearching for Prieſts at that Houſe, and it is improbable that he ſhould endeavour at that time to ſuborn *Thwing*'s Siſter's Servant.

Mr. Bar. *Atkyns.* Is Mrs. *Laſſell*'s of kin to Mr. *Thwing*?

Walker. Yes, my Lord.

Mr. Juſt. *Dolben.* Who can believe he would come to *Thwing*'s Siſter's Houſe, to ſuborn her Servant to be a Witneſs againſt Mr. *Thwing*?

Walker. Yes, my Lord, I have Witneſs of it, both a Man and a Woman.

Mr. Juſt. *Dolben.* Where are they?

Walker. In Town.

Mr. Juſt. *Dolben.* That makes it more improbable that he would offer you 10 *l.* in the Preſence of two Witneſſes to ſwear that Mr. *Thwing* was a Prieſt.

Sir *Tho. Stringer.* Let us ask her a Queſtion. Whether are you a Papiſt or no?

Walker. Yes, I am a Catholick.

Sir *Tho. Stringer.* Since it muſt be probable, that he would ask you ſuch a thing, and knew you to be a Papiſt; Is *Thwing* a Prieſt or no?

Walker. No marry is he not.

Sir *Tho. Stringer.* Have you not heard him ſay Maſs?

Walker. No, if I were to dye.

Mr. Juſt. *Dolben.* Indeed you are an excellent Witneſs.

Mr. Legget *one of the King's Meſſengers produced as a Witneſs by the Priſoners, was next examined.*

Mr. *Legget.* In *Auguſt* laſt, Mr. *Bolron* told me he would call his Grandmother in and examine her before me, and he then ask'd her, if ſhe did not ſay, that ſhe knew ſuch and ſuch things, and ſhe ſaid, ſhe could not tell, but if ſhe did, 'twas true.

Mr. Bar. *Atkyns.* What was it he ask'd her?

Legget. About *Harcourt*, and I know not what, I took little Notice of it, it ſeem'd to be a thing ſo idle, that I went away: And meeting me afterwards, ſaid, You thought my Grandmother knew nothing, but at the Bar, when Sir *Thomas Gaſcoyne* was tried, they ſaid they never heard one ſwear a thing more plainly.

Mr. Juſt. *Dolben. Legget*, did not you deſire Money yeſterday of the Clerk of the Aſſizes as a Witneſs for the King?

Legget. Yes, my Lord.

Mr. Juſt. *Dolben.* Did you ſo? You are a fine Fellow.

Then one William Bacchus *was examin'd.*

Bacchus. All that I can ſay, is, that I ſerved a Warrant upon Mrs. *Bolron* to go before Eſq; *Lowther*, and *Bolron*'s Wife and Grandmother ſaid, they could ſay nothing againſt Sir *Tho. Gaſcoyne*, nor any of the Family.

Mr. Juſt. *Dolben.* Well, they ſay nothing againſt them now, but what did ſhe ſay againſt Mrs. *Preſſicks*?

Bacchus. She ſaid that *Mary Preſſicks* ſhould ſay that the King was an Whorematter, and maintained his Whores better than he did the Queen.

Cuthbert Hamſworth was then call'd.

Hamſworth *being produced as a Witneſs for Sir* Tho. Gaſcoyne *owned that he had been a Papiſt.*

Hamſworth. My Lord, *Robert Bolron* did ſwear Revenge againſt my Lady *Tempeſt* for proſecuting a Suit againſt him.

Mr. Juſt. *Dolben.* What is that to the matter in hand: Do you know that he ſwore Revenge againſt *Thwing* and *Preſſicks*?

Hamſworth. No, my Lord.

Mr. Bar. *Atkyns* (*to the Priſoners.*) What have you more to ſay?

Thwing. My Lord, he ſaith, I was at *Barnbow-Hall*, 1677. I have Witneſſes to prove otherwiſe.

Mr. Bar. *Atkyns.* Call them then.

George Twiſley Groom to Sir *Tho. Gaſcoyne.*

Twiſley. Mr. *Thwing* was never at our Houſe above a Night or two in the Year.

Mr.

Mr. Juſt. *Dolben.* Whoſe Houſe is yours?

Twiſley. Sir *Tho. Gaſcoyne*'s

Mr. Juſt *Dolben.* He was there but a Night or two at a time.

Twiſley. No, and pleaſe your Lordſhip.

Mr. Juſt. *Dolben* But was he there in 1677?

Twiſley. About a Year or two ſince, I ſaw him there.

Mr. Juſt. *Dolben* But how often in a Twelve-month's time?

Twiſley. Not above once or twice.

Mr. Bar. *Atkyns.* Did you never go out of your Maſter's Houſe in 1677?

Twiſley. I have, my Lord, but I was there both Night and Morning.

Mr. Bar. *Atkyns.* How do you know but he might be there in the time that you were not there?

Bolron. And pleaſe your Lordſhip, this man was but the Groom.

Twiſley. I was the Groom, my Lord, and took the Horſes.

Mr. Juſt. *Dolben.* But were you never abſent?

Twiſley. No, my Lord, and he wasn't there above once or twice in the Year.

Thwing. Ask him what Company was then there?

Twiſley. No Company at all, my Lord, when he was there.

Mr. Juſt. *Dolben.* Was not he there about *Eaſter*?

Twiſley. No, not that I know of.

Mr. Juſt. *Dolben.* What time of the Year was he there?

Twiſley. About *Michaelmas*, not *Eaſter.*

Mr. Bar. *Atkyns.* How came you to take ſuch particular Notice at what time men come, did you take an Account of all the Gentlemen that came to Sir *Thomas*'s Houſe, how often there, and when they came?

Twiſley. There were none that ſtayed any time when they came thither.

Mr. Bar. *Atkyns.* What time of the Year was he there?

Twiſley. It was a Month before *Michaelmas.*

Mr. Juſt. *Dolben.* You bring Witneſſes to ſtretch things even to Impoſſibilities.

Bolron. He was drunk, my Lord, at *Leeds* the ſame Night the Conſult was.

Sir *Tho. Stringer.* Will you ſpeak Truth before Almighty God?

Twiſley. Yes.

Sir *Tho. Stringer.* Pray then are you a Papiſt?

Twiſley. No.

Sir *Tho. Stringer.* Were you never a Papiſt?

Twiſley. Yes.

Sir *Tho. Stringer.* Have you heard Maſs at Sir *Tho. Gaſcoyne*'s when you were a Papiſt?

Twiſley. No.

Sir *Tho. Stringer.* That's very ſtrange, that you lived there and never heard Maſs, and yet were a Papiſt.

Twiſley. Yes, I heard Maſs in his Houſe, but not by this man.

Sir *Tho. Stringer.* How long have been turned Proteſtant?

Twiſley. About two Years.

Thwing. Thomas Areton, did you ever ſee me at *Barnbow-Hall?*

Areton. I have nothing for nor againſt him, I never ſaw him before in my life.

Thwing. Mr. *Mowbray* hath declared he never knew any thing of the Plot.

Mr. Juſt. *Dolben.* To whom did he declare it?

Thwing. There is Witneſs of it, my Lord.

Mr. Juſt. *Dolben.* Call them.

Thwing. He accuſed not me of the Plot.

Mr. Juſt. *Dolben.* He was no Proteſtant then.

Thwing. I never knew any thing of the Plot till I came from *London.*

Mr. Juſt. *Dolben.* Well, if you have any more Witneſſes, call them.

Thwing. Mr. *Cooper.*

Joſeph Cooper. I have nothing to ſay in this Buſineſs about this Gentleman, it is concerning Sir *Tho. Gaſcoyne.*

Thwing. Yes, he declared before theſe Witneſſes he knew nothing of the Plot.

Cooper. We were coming from *Atherton* Fair, and my Father began to diſcourſe with Mr. *Mowbray*, and ask'd him, if he knew any thing of the Plot that Sir *Thomas* was called to *London* for, he ſaid, he knew nothing of the Plot, and he thought Sir *Thomas* was guilty of no ſuch thing, for if he had, he ſhould have known it as ſoon as *Bolron*, and he was a Rogue and a Knave, for ſaying any ſuch thing.

Mr. Juſt. *Dolben.* When was this?

Cooper. It was about this time Twelve-month.

Mr. Juſt. *Dolben.* Were you upon the Road then?

Cooper. Yes.

Sir *Tho. Stringer.* Had *Mowbray* then made any Diſcovery of the Plot?

Cooper. Yes, that was the Reaſon we ask'd him about it.

Mr. Juſt. *Dolben.* Yeſterday (upon Lady *Tempeſt*'s Tryal) you ſaid, that *Mowbray* had not then made any Diſcovery.

Cooper. Yes, my Lord, I mean *Bolron.*

Mr. Juſt. *Dolben.* Really methinks you that are Prieſts ſhould be more dexterous, my Lady *Tempeſt* managed her Buſineſs much better, and had her Witneſſes in more readineſs.

Thwing. My Lord, I call upon the Witneſſes and they will not come in, I cannot help it.

Edward Cooper ſenior, was then call'd.

Edward Cooper. I know nothing; I met Mr. *Mowbray* coming from *Atherton* Fair, and he ſaid he thought Sir *Thomas* was not guilty of the Plot.

Thwing. Mr. *Mowbray* declared for 8 or 10 months together in 77 he knew nothing of the Plot; call Mr. *Hobart.*

Hobart. I know nothing of it.

Thwing. I am innocent, I know nothing as I hope for Salvation.

Then Iſabel Heyward, *a Girl that lived with* Bolron *as a Servant, was called.*

Iſabel Heyward. My Maſter and Miſtreſs fell out about going to *London*, and ſhe ſaid, ſhe would not go, and he ſaid he would make her go, and ſhe ſaid, if he did ſhe would ſwear that what he had ſworn againſt Mrs *Preſſicks*, was out of Malice.

Alice Dawſon was next Examined.

Alice Dawſon. The Day after *New-years* Day was Twelve-month, Mrs. *Bolron* ſaid ſhe was ſorry for nothing, but that her Husband had meddled with Mrs. *Preſſicks.*

Then

Then Mrs. Preſſicks *called for* John Pepper.

Mr. Juſt. *Dolben.* What do you ſay to him, Miſtreſs?

Preſſicks. I ask about my going to *Parlington* at *Whitſuntide.*

Mr. Juſt. *Dolben.* No, it was at *Candlemas*, and they ſaid it was Cold Weather to ſit in the Hall-Porch.

Preſſicks. It was alſo ſaid at *Whitſuntide.*

John Pepper. About *Whitſun-Munday* (my Lord) I went to *Barnbow*, and met there with Mr. *Preſſicks*, and Mrs. *Preſſicks*; and he deſired me to tarry and carry his Wife to Mrs. *Harriſon's* at *Parlington*, and ſhe and I went down to *Shipton*, and carry'd her from *Bolron's* on *Whitſun-Monday* and ſtay'd till *Thurſday.*

Mr. Juſt. *Dolben.* And what is all this to the purpoſe, ſhe was however as it was ſworn againſt her at *Shippon* at *Whitſuntide.*

Pepper. This is all I can ſay, my Lord.

Zachary Thorpe *was again called by* Thwing.

Thorpe. Bolron ſaid he was going to ſwear againſt my Lady *Tempeſt*, and if one thing would not do another ſhould, and would have had me to give Evidence againſt *Shipton.*

Mrs. Baynes (*Mother to Mr.* Bolron) *called.*

Mr. Bar. *Atkyns.* What do you ſay, Mrs. *Baynes*?

Mrs. *Baynes.* Indeed, my Lord, I know nothing of this, I know not *Thorpe*, *Shipton* I know, and he told me that if he had not fallen into my Lord of *Shrewsbury's* Service, he and *Thorpe* would have turned Highway-men.

Mr. Babington *called by* Preſſicks.

Mr. Juſt. *Dolben.* Can you ſay any thing for Mrs. *Preſſicks*?

Babington. I can ſay nothing, but what I ſaid yeſterday concerning Sir *Tho. Gaſcoyne.*

Mr. Juſt. *Dolben.* Can you ſay any thing for *Preſſicks*?

Babington. No, my Lord, I can ſay nothing for Mrs. *Preſſicks*; yes, thus much I muſt ſay, that when I came to have the Writings ſealed by *Bolron*, his Wife refuſed to ſeal them without delivering up of the Bonds. I told her, it would be an additional Security to Sir *Tho. Gaſcoyne*; he ſaid he did believe, that Mr. *Preſſicks* and his Wife were his Enemies, and that they did inſtigate Sir *Thomas* to ſue him.

Mr. Juſt. *Dolben* (*to* Thwing.) Come, what have you more to ſay?

Thwing. I have no Witneſſes to call, but I hope it will be conſidered what kind of Witneſſes theſe are, what Lives they have led, they bring me in amongſt the reſt, we are all of a Family; I hope, my Lord, you will conſider that thoſe ill men that will, may take away an honeſt man's Life unjuſtly.

Mr. Juſt. *Dolben.* I hear no body ſpeak againſt their Lives, and this I muſt tell you, till men be convicted of ſome Crime that may diſable them, you cannot take away their Teſtimony.

Thwing. My Lord, Witneſſes ſhould be men of Credit and Reputation.

Mr. Juſt. *Dolben.* The Jury is to conſider of that.

Look you, Gentlemen, theſe two Priſoners ſtand indicted of High Treaſon, and it is for ſpiring the Death of the King, and other heinous Crimes; as deſigning the Subverting the Government, and bringing in the Popiſh Religion.

Now the Witneſſes that have been produc'd againſt Mr. *Thwing*, are *Bolron* and *Mowbray*; and againſt *Preſſicks*, Mr. *Bolron*, Mrs. *Bolron ſen.* and *jun.* and one *Hutchinſon*, and the Evidence againſt *Thwing*, is one thing, and againſt the Woman quite another; there is no Evidence againſt her but what they heard her ſay others were to do, there is no Evidence of any Action of hers, or that ſhe was preſent at any Conſultation, nor acting any thing there, but that ſhe ſaid ſo and ſo. Now Mr. *Bolron* and his Grandmother do both ſay that ſhe ſaid, *Pickering* was to have killed the King, and that ſhe was ſorry that he did not do it. That the Gun with which he ſhould have done it, was found, and ſhe was afraid that was the Cauſe of his Death, and they all ſay ſhe ſaid, that it would be never well with *England*, till the Catholicks had got the upper Hand, and the Duke of *York* were King. Now I muſt tell you, that my Opinion is, that a bare ſaying of this doth not amount to High Treaſon, unleſs you do believe from theſe words, that ſhe knew otherwiſe than by Hearſay, that *Pickering* was to have kill'd the King, and that ſhe was Privy and Conſenting to the Deſign of killing the King, then ſhe is guilty of Treaſon, but if ſhe only knew it by Hearſay, the bare Knowledge and concealing of it will make her guilty of Miſpriſon of Treaſon; but knowing of it barely by Report doth not make her guilty of High Treaſon. My Brother will tell you his Opinion herein. Now for Mr. *Thwing*, the Evidence againſt him is very home, for they both ſwear againſt him, one to one Meeting, and the other to another, that he was preſent at their Conſultation to kill the King, ſubvert the Government, and to bring in the Popiſh Religion; that he did agree at the meeting to the killing of the King, they do both ſwear, and this they ſay was at Sir *Thomas Gaſcoyne's*, and that at the ſeveral Meetings there was a Liſt produced, but *Bolron* ſaith, that the Liſt when he was preſent was a Liſt of thoſe that were engaged towards the carrying on of the Nunnery; that which the other ſpeaks of, was a Liſt of thoſe that were engaged about the killing the King, about the whole Deſign which was to be effected by killing the King, this he ſwears, that *Thwing* did produce this Liſt; and *Mowbray* ſaith, that three or four Prieſts were preſent at that time, and that *Thwing* ſaid, the King was an Heretick, and excommunicated by the Pope, and that it was not only lawful but meritorious to kill him. So that admitting this Evidence be true, it is a full Evidence of High Treaſon againſt him; here is an imagining the Death of the King, and here is an Overt-Act, here is a ſetting Hands to it; ſo that if this be true, *Thwing* is guilty of High Treaſon. Now againſt this they have produced many Witneſſes, and none of them doth go about to prove this impoſſible, but only improbable, but one that is a Groom of Sir *Thomas Gaſcoyne's*, who ſaith, he was but once or twice that Year there,

and not at *Eaſter*, but about *Michaelmas*, is that enough to anſwer the Teſtimony of theſe two Men, Gentlemen? For a Groom to take upon him, to ſay two Years after, who was at his Maſter's Houſe, and how often, and what time of the Year, is to me a very ſtrange thing; unleſs it were one that never uſed to come there: But this man, he ſaith, did uſe to come there, but that I muſt leave to you. The reſt of the Witneſſes were the ſame that were examined yeſterday. Firſt, they inſiſt concerning Mr. *Lowther*, they ſay, that when Mr. *Bolron* firſt went to Mr. *Lowther*, he ſaid nothing of Mr. *Thwing*, but it appears, he ſaid then, that afterwards he might remember more; then the man was under a great Conſternation, and told him, the great and dangerous Conſequences of having ſo long concealed it, was the occaſion of that diſorder upon him, but he ſaid, he ſhould remember more afterwards, and ſo he did: The reſt of the Witneſſes do all go to this purpoſe, That either *Bolron* or *Mowbray* ſhould tell them at one time or other, they did know nothing of the Plot, nor againſt Sir *Th. Gaſcoyne*; and ſome of them ſay, That it is out of malice to Sir *Thomas*'s Family; for ſo *Thwing* would have it, he being his Nephew, that the malice ſhould reach to Mr. *Thwing*, that they would have it; and ſomething to the ſame purpoſe they do offer againſt Mr. *Mowbray*. Now here is one *Walker*, that ſwears, That *Bolron* asked her if ſhe knew *Thwing* to be a Prieſt, and offered her 10 *l.* to ſwear him a Prieſt; ſhe is a Servant of one Mrs. *Laſſels*, Mr. *Thwing*'s Siſter, he came to Mrs. *Laſſels* to ſearch for Prieſts; it is ſomething ſtrange, that he ſhould offer to perſuade her to ſwear againſt *Thwing*, who was Servant to his own Siſter, and at the time when he came to ſearch for Prieſts; the Truth of it is, the thing doth depend purely upon the Credit of Witneſſes. The King's Witneſſes are upon their Oaths; but, on the other hand, the others are not on their Oaths; but Credit is to be given to what they ſay; if you conſider their Evidence, and do find a clearneſs in their Teſtimony, which you muſt weigh, for certainly he that ſolemnly, in the Preſence of God, will ſay a falſe thing, will alſo dare to ſwear it; how far their Principles will carry them I know not, I can ſee nothing but *Bolron* and *Mowbray* are good Witneſſes; I do not ſee but what they ſay is coherent, and that they ſpeak the Truth; and if you believe what they ſay to be true, then *Thwing* is Guilty of High Treaſon: But if you do not believe what they ſay is true, but out of malice, you muſt acquit him. They do object, the other Juries did not believe *Bolron* and *Mowbray*; the Caſe with the Priſoners at the Bar is not the ſame with theirs; but you are to give your Verdict according to the Evidence that you have heard, and according to your Conſciences.

Mr. Bar. *Atkyns*. Gentlemen of the Jury, I ſhall be very ſhort. The Crimes that are laid in this Indictment, and charged upon theſe Perſons, are, the deſigning to take away the King's Life, ſubverting the Government, and introducing Popery; you obſerve the Nature of the Evidence which hath been given againſt the Priſoners. And firſt, I ſhall ſpeak but one word concerning *Mary Preſſicks*: I do fully agree with what my Brother hath ſaid; you do take notice, that the Evidence that hath been given againſt her, hath been what came out of her own mouth; the Witneſſes are Mr. *Bolron* and his Grandmother, and likewiſe one *Hutchinſon*: Mr. *Bolron* ſaith ſhe did tell him, that *Harcourt* was her Confeſſor, and that he had engaged her in the Plot; ſhe likewiſe told him, that *Pickering* was to kill the King, that the Gun was found with him, and was the cauſe of his Death; this is ſome Evidence of High Treaſon, I muſt leave it to you of what weight it is, and how far by this you will conclude her privy to the Plot; it is true, were ſhe an Actor in it, it is plain ſhe is guilty of High Treaſon. As to what *Hutchinſon* ſaid, that ſhe told him, We ſhould never be at peace till we were all of the *Roman Catholick* Religion, and the Duke of *York* was made King, that will not amount to High Treaſon: This I take to be the Sum of the Evidence againſt her. Then as to Mr. *Thwing*, there are two Witneſſes that have ſworn againſt him, that is Mr. *Bolron* and Mr. *Mowbray*: *Bolron* tells you, that in 1677, there came to him ſeveral Prieſts, to his Houſe at *Shipton*; and amongſt the reſt *Thwing* the Priſoner, who asked him, how he ſtood affected to the *Roman Catholick* Religion? And he then expreſs'd his Zeal for it, and they thought him a Perſon fit to impart their Secrets to: Then he ſaith, that in 1677, there was a meeting at *Barnbow-Hall*, which is Sir *Th. Gaſcoyne*'s Houſe, and at that meeting there were Sir *Th. Gaſcoyne*. Eſq; *Gaſcoyne*, Sir *Miles Stapleton*, and amongſt the reſt this Priſoner *Thwing*; and that there was a Conſult held at that time, and Deſign of killing the King; and that this Perſon did agree to it, and declared, that if they ſhould miſs that Opportunity they ſhould never have ſuch another; and that it was for the good of the *Roman Catholick* Religion. The next was *Mowbray*; and he ſaith to the ſame effect: That in 1676, *Thwing* and others declared they did deſign to kill the King, for he was an Heretick, and Excommunicated, and had not kept his Word with the Jeſuits, and therefore they thought it not only lawful, but a meritorious Act: And this is what both *Bolron* and *Mowbray* do teſtifie, this they ſwear poſitively againſt the Priſoner; if you believe what they have ſworn to be true, I muſt declare that it will amount to High Treaſon. You are likewiſe to conſider the Evidence he hath produced for himſelf: The Law, 'tis true, does not allow us to give them an Oath, yet if they be Perſons of Credit and Honeſty, it is Evidence which you are to conſider of. The Priſoner hath call'd ſeveral Witneſſes: The firſt was *Nath. Wilſon*; I ſhall not repeat what he ſaith, being of no import. *Thwing* ſaith, Mr. *Bolron* was before Mr. *Lowther* and Mr. *Tindal*, two Juſtices of Peace, who did take his Oath; and then he ſaid he did not accuſe him of the Plot at that time, and by that would infer, that he would have ſaid what he had againſt him, as well then as now, if he had had any thing whereof to accuſe him: But *Bolron* anſwers, He did declare to theſe two Gentlemen, he was not able at that time to recollect his whole knowledge, but gave it in afterwards to the King and Council. The next are *Moor* and *Thorpe*: The Effect of their Evidence is to ſtrike at the Reputation of *Bolron*, that it was an Act of malice and revenge: For they ſay, that *Bolron* told them, That Sir *Thomas* was innocent, and knew nothing of the Plot. *Thorpe* ſaith, he met with *Bolron* in *Long Acre*, and that he told him,

him, That tho' Sir *Thomas* were quitted he would ruin ſome of them. I ſay, theſe things, if true, are ſome Evidence of a malicious Proſecution: But it ſeems ſomething improbable, that *Bolron* ſhould ſo openly make a diſcovery of himſelf, when it appears he was not greatly acquainted with them, eſpecially with *Thorpe*. There are ſeveral other Witneſſes that ſpeak much to the ſame purpoſe. Gentlemen, in matters of Fact, which depend upon the Teſtimony of Witneſſes, the Credit of the Witneſſes is greatly to be conſidered; if you believe what *Bolron* and *Mowbray* have both poſitively Sworn, the Treaſon is plain; you muſt take all the parts of your Evidence together, you muſt weigh all the Circumſtances, you muſt, as I ſaid before, conſider the Credit of the Witneſſes of the one ſide and of the other, and by theſe ſteps you will be the better guided in the giving of your Verdict. I muſt leave it to you, and I pray God direct you therein.

The Jury having withdrawn, after ſome Conſultation together, brought in their Verdict, that Thomas Thwing *was Guilty, and* Mary Preſſicks *Not Guilty.*

Auguſt *the* 2*d*, 1680. Thomas Thwing *being brought to the Bar, the Clerk ſpoke thus:*

Clerk. Thomas Thwing, Hold up thy Hand: Thou haſt been Indicted, That thou as a falſe Traytor didſt conſpire the Death of the King, *&c.* and thereof haſt been found Guilty: What canſt thou ſay wherefore Judgment of Death ſhould not be pronounced againſt thee?

Thwing. My Lord, as I am now upon my Life, I know nothing of theſe things, in the leaſt, that theſe men have ſworn againſt me: And on the other ſide, I ſay, that before Sir *Th. Gaſcoyne* had his Tryal, theſe men ſaid nothing againſt me, ſo I hope your Lordſhip will take it into conſideration.

Mr. Juſt. *Dolben.* For your Innocency, the Gentlemen of the Jury are Judges of that, and they have found you Guilty, ſo that it is not in my power either to acquit or condemn you; I am only to paſs Sentence according to that Conviction. If you have any thing to ſay wherefore Judgment ſhould not be pronounced, I am ready to hear you.

Thwing. All that I can ſay is to declare my Innocency, and that theſe men are of no Credit and Reputation. It is very hard I ſhould be Guilty, and none of the reſt that were Arraigned for the ſame Crimes.

Mr. Juſt. *Dolben.* No, it is not impoſſible; it is poſſible you may be guilty and the reſt innocent.

Thwing. For my part I told your Lordſhip, that I wa but once or twice in a year at Sir *Th. Gaſcoyne*'s, being my Unkle, and I do proteſt I know nothing of the Conſult theſe men do charge me with.

Mr. Juſt. *Dolben.* You ſay one thing, they ſwear another, and for ought I know they are honeſt men; they are lawful men, and not convicted in the main; for I do believe there were many great and dangerous Conſults held at Sir *Th. Gaſcoyne*'s by ſeveral Perſons, and that there have been many horrid and treaſonable things acted there. You have been indicted for High Treaſon, the higheſt Treaſon that ever any Subject was guilty of, for attempting to kill the King, for reſolving ſo to do upon deliberate Advice and Conſultation; and this for no other end or purpoſe, but that you might have your Religion ſet up, for that was your Deſign, to change this Religion here, and to ſettle *Popery* in *England*; and the better to bring that to paſs, you thought to take away the King's Life, knowing you could not otherwiſe accompliſh it. You are, I am ſatisfied, a Prieſt of the *Romiſh* Church; therefore all that I can ſay to you in reference to your future State you will not value, for you account me an Heretick as you do the King, and I am content to be ſo eſteemed in ſo good Company, therefore I ſhall wave it. As you are a Gentleman I will give ſome Reſpect to you, and will not paſs Sentence on you among the reſt of the Priſoners that are found Guilty of Felony and Murder, but will do it by your ſelf.

The Law doth command the Court, and the Court doth award, *That you be carried from hence to the Place from whence you came, that is the Priſon, and from thence you are to be drawn to the place of Execution: You are there to be hanged by the Neck, you are to be cut down before you are dead, and your Intrails are to be taken out of your Body, and thrown into the Fire before your Face, and your Head is to be parted from your Body, and your Body ſeparated into four Quarters, And your Head and your Quarters are to be diſpoſed according to the King's Pleaſure. And the Lord have mercy on your Soul.*

Thwing. *Innocens ego ſum.*

A Reprieve being obtained for him, he remained Condemned in the Caſtle of York *till the* 23*d of* October, *when, according to the Sentence, he was drawn, hanged and quartered at* York.

THE

TRYAL

OF

ELIZABETH CELLIER.

Cl. of *Cr.* MR S. *Cellier*, look to your Challenges, for the Jury that is to be Sworn is to paſs upon you.

Cellier. Am I for my Life?

Cl. of Cr. No, but look to your Challenges.

Ld Mayor. But if you Challenge, you muſt give a Reaſon for it, Mrs. *Cellier.*

Cl. of Cr. Swear *John Ainger.*

[*Which was done.*]

Cl. of Cr. Swear *Richard Boys.*

Cellier. I Challenge him.

Ld Mayor. Mrs. *Cellier*, you muſt ſhew a Cauſe for your Challenge.

Cellier. I did not know that, my Lord.

Mr. Baron *Weſton.* You can Challenge none in this Caſe without a Cauſe.

Cellier. My Lord, I did not know that: Then I agree he ſhall be Sworn.

[*Which was done.*]

Then the reſt of the Jury without any more Challenges, were Sworn; and they were all as follows:

John Ainger, *Richard Boys*, *John Stephens*, *Thomas Phelps*, *Gilbert Urwin*, *Edward Allanſon*, *Richard Liveing*, *John Coggs*, *Henry Hodgſden*, *John Barnard*, *Edward Low*, *James Southern.* — Jur'

Then Proclamation was made in common Form for Information; and the Clerk Charged the Jury thus:

Cl. of Cr. You Gentlemen that are Sworn, *Elizabeth Cellier* ſtands Indicted by the Name of *Elizabeth Cellier*, Wife of *Peter Cellier*, of the Pariſh of St. *Clement Danes*, in the County of *Middleſex*, Gent. For that ſhe being of the Popiſh Religion, not having the Fear of God before her Eyes, but being moved and ſeduced by the inſtigation of the Devil, falſly and maliciouſly endeavouring and intending our Sovereign Lord King *Charles* the Second that now is, and the Government of this Kingdom of *England*, as alſo the true Proteſtant Religion, within this Kingdom of *England* by Law Eſtabliſhed, to bring to hatred and contempt; and alſo to bring ſcandal and infamy upon divers Perſons produced as Witneſſes, that gave Evidence on the part and behalf of our Sovereign Lord the King, againſt her the ſaid *Elizabeth Cellier*, and other Perſons indicted of High Treaſon the Firſt of *September*, in the Thirty Second Year of our Sovereign Lord King *Charles* the Second that now is, at the Pariſh of St. *Clement Danes*, in the County of *Middleſex* aforeſaid, falſly, maliciouſly and ſeditiouſly did write and publiſh, and did cauſe to be writ, imprinted and publiſhed, a ſcandalous Libel, Intituled, *Malice Defeated: Or, a brief Relation of the Accuſation and Deliverance of* Elizabeth Cellier: *Wherein her Proceedings, both before and during her Confinement, are particularly related, and the Myſtery of the* Meal-Tub *fully diſcovered: Together with an Abſtract of her Arraignment and Tryal; Written by her ſelf for the ſatisfaction of all Lovers of undiſguiſed Truth.* In which ſaid Libel are contained theſe falſe, feigned, ſcandalous Words and Figures following, to wit: 'I hope 'it will not ſeem ſtrange to any honeſt and 'loyal Perſon of what way or Religion ſoever, 'that I being born and bred up under Proteſtant Parents, ſhould now openly profeſs my 'ſelf of another Church (meaning the Church 'of *Rome*) for my Education being in thoſe 'Times, when my own Parents and Relations, 'for their conſtant and faithful Affection to the

'King

'King and Royal Family, were perſecuted, the 'King himſelf murdered, the Biſhops and Church 'deſtroyed, the whole loyal Party, merely 'for being ſo, oppreſſed and ruined; and all, 'as was pretended by the Authors of theſe Vil-'lanies, for their being Papiſts and Idolaters, 'the conſtant Character given by them to the 'King and his Friends to make them odious, 'they aſſuming to themſelves only the Name of 'Proteſtants, making that the Glorious Title 'by which they pretended Right to all things: 'Theſe ſorts of Proceedings, as I grew in Un-'derſtanding, produced in me more and more 'Horror of the Party that committed them, 'and put me on inquiry into that Religion to 'which they pretended the greateſt Antipathy; 'wherein, I thank God, my innate Loyalty 'not only confirmed, but incouraged me. 'And let Calumny ſay what it will, I never 'heard from any Papiſts, as they call them, 'Prieſt, nor Lay-man, but that they and I, and 'all true Catholicks owe our Lives to the De-'fence of our Lawful King, which our preſent 'Sovereign *Charles* II. is, whom God long 'and happily preſerve ſo. Theſe ſorts of Do-'ctrines agreeing to my publick Morals, and 'no way, as ever I was taught, contradicting 'my private ones, commending at the ſame 'time to me Charity and Devotion; I without 'any Scruple have hitherto followed, glorying 'to my ſelf to be in Communion with thoſe 'who were the humble Inſtruments of his Ma-'jeſty's happy Preſervation from the fatal Bat-'tle at *Worceſter*; and who, though poor, no 'Temptation could invite to betray him to 'thoſe who by a pretended Proteſtant Principle, 'ſought his innocent Blood. Theſe Truths, I 'hope, may ſatisfie an indifferent Perſon in my 'firſt Change, nor can they wonder at my 'continuance therein, notwithſtanding the 'horrid Crimes of Treaſon and Murder laid to 'the Charge of ſome Perſons, conſiderable for 'their Quality and Fortunes in that Party: 'For, when I reflected who were the Witneſ-'ſes, and what unlikely things they depoſed, 'and obſerved that many of the chiefeſt Stick-'lers for the Plot, were thoſe or the Sons of 'thoſe, that acted the principal Parts in the 'laſt Tragedy, which Hiſtory told me too had 'the Prologue of a pretended Popiſh Plot; I 'ſay, theſe things made me doubtful of the 'whole, and the more I ſearched for Truth, 'the more I doubted that the old Enemies of 'the Crown were again at work for its De-'ſtruction. I being fully confirm'd in this, 'thought it my Duty through all ſorts of Ha-'zards, to relieve the poor impriſoned Ca-'tholicks, who in great Numbers were lock'd 'up in Goals, ſtarving for want of Bread: 'And this I did ſome Months before I ever 'ſaw the Counteſs of *Powis*, or any of thoſe 'honourable Perſons that were accuſed, or 'receiving of one penny of their Money di-'rectly or indirectly, till about the latter End 'of *January* (78.)' And in another Part of the ſaid Libel are contained theſe falſe feigned and ſcandalous Words and Figures following; to wit, 'About this time I went daily to the 'Priſons to perform thoſe Offices of Charity I 'was obliged to, and on *Thurſday*, *January* the '9*th* (78.) I dined in *Newgate* in the Room 'call'd the *Caſtle*, on th: Maſter's ſide Debtors, 'and about Four in the Afternoon I came 'down into the *Lodge* with Five Women, of 'of which Three were Proteſtants, and we 'all heard terrible Groans and Squeeks, which 'came out of the Dungeon call'd the *Con-demn'd Hole*. I ask'd *Harris* the Turn-Key what 'doleful Cry it was. He ſaid it was a Woman 'in Labour. I bid him put us into the Room 'to her; and we would help her. But he drove 'us away very rudely, both out of the Lodge 'and from the Door. We went behind the 'Gate and there liſtned, and ſoon found that it 'was the Voice of a ſtrong Man in Torture, 'and heard as we thought between his Groans 'the winding up of ſome Engine. Theſe 'Cries ſtopp'd the Paſſengers under the 'Gate, and we ſix went to the Turner's Shop 'without the Gate, and ſtood there amazed 'with the Horror and Dread of what we heard, 'when one of the Officers of the Priſon came 'out in great Haſte, ſeeming to run from the 'Noiſe. One of us catch'd hold of him, ſay-'ing, Oh! What are they doing in the Priſon? '*Officer*. I dare not tell you, Miſtreſs. 'Tis a 'Man upon the Rack: I'll lay my Life on't. '*Officer*. It is ſomething like it. *Cellier*. Who is 'it, *Prance*? *Officer*. Pray, Madam do not ask 'me, for I dare not tell you. But it is that I 'am not able to hear any longer. Pray let me 'go. With that he ran away towards *Holbourn* 'as faſt as he could. We heard theſe Groans 'perfectly to the end of the *Old Baily*. They 'continued till near ſeven of the Clock, and 'then a Perſon in the Habit of a Miniſter, of 'middle Stature, Grey-hair'd, accompanied with 'two other Men, went into the Lodge. The 'Priſoners were lock'd up, and the outward 'Door of the Lodge alſo, at which I ſet a Per-'ſon to ſtand, and obſerve what ſhe could, and 'a Priſoner loaded with Irons was brought into 'the Lodge, and examined a long time. And 'the Priſoners, that came down as low as 'they could, heard the Perſon examined, with 'great Vehemency ſay often, I know nothing 'of it, I am innocent, he forced me to bely 'my ſelf, What would you have me ſay? Will 'you murder me becauſe I will not bely my 'ſelf and others? Several other ſuch like Ex-'preſſions they heard ſpoken as by one in great 'Agony. About Four of the Clock next 'Morning, the Priſoners that lay in a Place a-'bove the Hole heard the ſame Cry again two 'Hours, and on *Saturday* Morning again, and 'about Eight a Clock that Morning a Perſon I 'imploy'd to ſpie out the Truth of that Affair, 'did ſee the Turn-keys carrying a Bed into the 'Hole. She asked who it was for; they told 'her it was for *Prance* who was gone mad, and 'had tore his Bed in pieces. That Night the 'Examiners came again, and after an Hour's 'Conference *Prance* was led away to the *Preſs-Yard*. This, and many things of the like Na-'ture, made me very inquiſitive to know what 'paſs'd in the Priſon. Soon after this *Francis 'Corral* a Coach-man that had been put into '*Newgate* upon Suſpicion of carrying away Sir '*Edmondbury Godfrey*'s Body, and lay there thir-'teen Weeks and three Days in great Miſery, 'got out. I went to ſee him, and found him a 'ſad Spectacle, having the Fleſh worn away, 'and great Holes in both his Legs by the Weight 'of his Irons, and having been chained ſo long

'double,

'double, that he could not ſtand upright, he 'told me much of his hard and cruel Uſage, as 'that he had been ſqueez'd and haſped into a 'thing like a Trough, in a Dungeon under 'Ground; which put him to inexpreſſible Tor-'ment, inſomuch that he ſwooned, and that a 'Perſon in the Habit of a Miniſter ſtood by 'all the while. That a Duke beat him, pull'd 'him by the Hair, and ſet his drawn Sword 'to his Breaſt three times, and ſwore he would 'run him through; and another great Lord laid 'down a Heap of Gold, and told him it was 'Five hundred Pounds, and that he ſhould have 'it all, and be taken into the aforeſaid Duke's 'Houſe, if he would confeſs what they would 'have him; and one *F.* a Vintner, that lives 'at the Sign of the *Half moon* in *Ch-ſi*, by whoſe 'Contrivance he was accus'd, took him aſide, 'and bid him name ſome Perſon, and ſay, 'they imploy'd him to take up the dead Body 'in *Somerſet Yard*, and gave him Money for ſo 'doing; that if he would do this, both *F.* and 'he ſhould have Money enough. He alſo told 'me, that he was kept from *Thurſday* till *Sunday* 'without Victuals or Drink, having his Hands 'every Night chain'd behind him, and being 'all this time lock'd to a Staple which was 'driven into the Floor, with a Chain not a-'bove a Yard long: That in this great Ex-'tremity, he was forced to drink his own 'Water; and that the Jaylor beat his Wife, 'becauſe ſhe brought Victuals, and prayed that 'he might have it, and threw Milk on the 'Ground, and bid her be gone, and not look 'at him.' And in another Part of the ſaid Libel is contained (amongſt other things) theſe falſe, feigned, and ſcandalous Words and Figures following, to wit, 'My Arraignment '(which in Confidence of my own Innocency 'I continually preſs'd for) not but that I knew 'the Danger, as to this Life, of encountring 'the Devil in the worſt of his Inſtruments, 'which are Perjurors encouraged to that de-'gree as that profligated Wretch' (meaning '*Thomas Dangerfield* produced as a Witneſs againſt her for High Treaſon) 'was, and hath been 'ſince his being expos'd to the World in his 'true Colours, both at mine, and another's 'Trial.' And in another part of the ſaid Li-bel are contained theſe falſe, feigned, and ſcandalous Words and Figures following. 'Nor have I ſince received any thing towards 'my Loſſes, or the leaſt Civility from any of 'them, whilſt *Dangerfield* (meaning the ſaid *Tho.* '*Dangerfield*) when made a Priſoner for appa-'rent recorded Rogueries was viſited by, and 'from Perſons of conſiderable Quality, with 'great Sums of Gold and Silver, to encourage 'him in the new Villanies he had undertaken, 'not againſt me alone, but Perſons in whoſe 'Safety, all good Men, as well Proteſtants, as 'others in the Three Kingdoms, are concerned.' And in another part of the ſaid Libel called, 'A Poſtſcript to the Impartial Readers,' are contained theſe falſe, feigned, and ſcandalous Words following, to wit, 'And whenſoever his 'Majeſty pleaſes to make is as ſafe and honou-'rable, as it is apparent it hath been gainful, 'and meritorious to do the contrary; there 'will not want Witneſſes to teſtifie the Truth 'of more than I have written, and Perſons that 'are above being made the Hangman's Hounds 'for Weekly Penſions, or any other Conſidera-'tions whatſoever,' to the evil and dangerous Example of all others in the like Caſe offend-ing, and againſt the Peace of our Sovereign Lord the King, his Crown and Dignity.' Upon this Indictment ſhe hath been Arraigned, and thereunto hath pleaded, Not Guilty, and for her Trial hath put her ſelf upon the Coun-try, which Country you are, ſo your Iſſue is to try whether ſhe be guilty of this Offence, in Manner and Form wherein ſhe ſtands Indicted, or not Guilty. If you find her Guilty, you are to ſay ſo; and if you find her Not Guilty, you are to ſay ſo, and no more, and hear your Evi-dence.

Then Robert Dormer *Eſquire, of* Lincoln's-Inn, *opened the Indictment thus.*

Mr. *Dormer.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury. *Elizabeth Cellier* the Gentlewoman at the Bar, the Wife of *Peter Cellier* of the Pariſh of St. *Clement Danes* in the County of *Middleſex* Gentleman, ſtands indicted of being the Author and Publiſher of a Libel Intituled, *Malice Defeated, or a brief Relation of the Accuſation and Deliverance of* Elizabeth Cellier. You have heard the Indictment read, wherein ſome Clauſes of this Libel are recited in the Words they were written, and in Mrs. *Cellier's* own Words, and in other Words, I will not un-dertake to repeat them to you.

Gentlemen, this is a Libel ſo complicated and general, that within this Book are contained as many Libels of ſeveral Natures, and againſt different Perſons and Orders of Men as there are Paragraphs, his Majeſty, the Proteſtant Religion, our Laws, Government, Magiſtrates, Councellours of State, Courts of Judicature, the King's Evidence, and the Publick Juſtice of this Kingdom are all aſperſed and defamed, by the Virulency and Malice of this Woman's Pen.

She hath charged upon the Principles of our Religion, the Murder of his late Majeſty, and the greateſt Impieties that ever were commit-ted.

She accuſeth all that have done their Duties, or been active in the Diſcovery of the preſent Popiſh Plot, to be Enemies of the Crown, and to be acting over again the Tragedy of our late Civil War.

She chargeth our Laws with Cruelties, as in-human as they are falſe, in permitting Priſo-ners to ſtarve under their Confinement, in ad-mitting of Racks and Tortures to be uſed, and that for the worſt Purpoſes, thereby to extort Perjuries and falſe Evidences againſt the Inno-cent; to which ſhe would make Perſons of the beſt Quality of our Nobility, Magiſtracy, and Clergy, Privies, and Parties.

She libels the King's Evidences under the Characters of the Devil's Inſtruments, and the Hangman's Hounds; and defames his Majeſty's Government, in ſaying, it is not ſafe to ſpeak Truth, but meritorious and gainful to do the contrary.

She will appear to you to be ſo Criminal, that nothing can aggravate her Offences, unleſs the Impudence of the Delinquent, who hath ſet her Name to almoſt every Page of this ſcandalous Libel; and ſince the Indictment hath been de-

pen-

pending, Owned, Publiſhed, and put a value on her ſelf for being the Author of ſo excellent a Book.

To the Indictment ſhe hath pleaded Not Guilty, if the King's Evidence prove the Charge, you are to find her Guilty.

Mr. Bar. *Weſton.* Gentlemen, the Charge is but this: Firſt, She is Charged with the ſetting forth this Book; in the next place, there are ſeveral Clauſes in that Book which ſhe is particularly Charged with. Now that which the Evidence will prove muſt be, firſt, That the Book was Owned by her, and Publiſhed by her; and then, That theſe particulars charged in the Indictment were in the Book; and then you will receive the Directions of the Court of what Nature the Proofs are. Go on to the Evidence, that is your Work, fall to your Proof.

Mr. *Dormer.* My Lord, we will call our Witneſſes. *William Downing*, *John Penny*, and *Robert Stevens*. [*Who appeared and were Sworn*]

Mr. *Dormer*. *Will. Downing*, Do you tell my Lord and the Jury what you know of the Printing of this Libel (*ſhew him the Libel*) and who brought the Sheets to the Preſs?

Mr. *Downing*. My Lord, about the 22*d* or 23*d* of *Auguſt* ———

Mr. Bar. *Weſton.* Begin with *Penny* firſt. Pray what ſay you to that Book?

Mr. *Penny*. My Lord, I was bid to buy a Book of that Gentlewoman, and I did ſo. I asked for her by her Name.

Mr. Bar. *Weſton.* By what Name?

Mr. *Penny*. Mrs. *Cellier*.

Mr. Bar. *Weſton.* Is that the Gentlewoman?

Mr. *Penny*. Yes, that is the Gentlewoman. And ſhe came out to me, and asked what my Errand was? I told her it was to have a Book: That you may have, ſaid ſhe, if you pleaſe. Madam ſaid I, What is the Price? Two Shillings, ſaid ſhe: Cannot I have them cheaper, ſaid I? No, ſaid ſhe, I ſell them to Shopkeepers for 18 *s*. a Dozen, and I muſt not ſell them under here. With that ſhe fetched me a Book, and I gave her 2 *s*. and when ſhe had done, ſhe gave me another little Paper.

Mr. Bar. *Weſton.* That is not in Iſſue, nor your Queſtion now. Did you ask her for the Book ſhe publiſhed and ſet out?

Mr. *Penny*. Yes; and ſhe did acknowledge that was her Book.

Mr. Bar. *Weſton.* What! She did own the Book ſhe ſold to you to be hers?

Mr. *Penny*. This is the Book I have in my Hand, and I marked every ſheet of it; and ſhe told me there was another little ſheet to be added to it; and if any Gentleman pleaſed to ſend it into the Countrey, that might be put up in a Letter to ſend by the Poſt.

Cellier. May I ask him a Queſtion?

Mr. Bar. *Weſton.* Tell me your Queſtion, and I'll ask it.

Cellier. I deſire to know if I ſaid any more, than you may have a Book, or there is a Book. And who asked for a Book?

Mr. Bar. *Weſton.* Did ſhe ſay any more than you may have a Book, or this is the Book that I have publiſhed?

Mr. *Penny*. When I got the Book and paid for it, I turned about again and asked her if it was her own? She told me it was; and more than that, if occaſion were ſhe could have put more in it.

Mr. Bar. *Weſton.* Why Mrs *Cellier*, you did not deny this Book yeſterday; for you may remember when you did ſay, you wanted your Witneſſes, and if you could but have time to bring them, you would prove the Truth of it. We told you you had nothing to prove on this Iſſue of Not Guilty; but that ſome body elſe did publiſh the Book, and you did not. You owned you writ it your ſelf every word with your own Hand.

Cellier. My Lord, if I was a fooliſh vain Woman, and did ſeem to ſpeak ſome vain words about my ſelf which I did not underſtand the conſequence of, I hope a word vainly ſpoke by me, ſhall not be brought againſt me to convict me of a Crime.

Mr. Bar. *Weſton.* Mrs. *Cellier*, you do not ſeem ſo negligent about your ſelf, that we may not believe what you ſay of your ſelf.

Cellier. But vain fooliſh words ſpoke in that nature, I hope ſhall be no Evidence againſt me.

Mr. Bar. *Weſton.* But however it is proved againſt you.

Cellier. Did I ſay I writ it?

Mr. *Penny*. You told me that was your Book.

Cellier. I told you? Pray, my Lord, put one Queſtion to him upon the Oath he hath taken: Did I ſay any more, than it was mine and I ſold it; not that I writ it, or was the Author of it?

Mr. Bar. *Weſton.* Mrs. *Cellier*, This is a Book that is intitled with your Name, and ſold by your ſelf. Now in any one's Judgment, this is both an owning of the Book, and publiſhing of the Book. When you ſold it, you gave it out as your Book, and it hath in the Title Page your Name as the Author of it.

Cellier. My Lord, if I could have produced my Witneſſes, I could have made my Defence; they have been at ſeveral places for them, they have been all about Town, and ſeveral ways, at Sir *Joſeph Sheldon*'s, and a great many other places, and can find none of them.

Mr. Bar. *Weſton.* To what purpoſe ſhould your Witneſſes come?

Cellier. I ſhould with them have made my Defence.

Mr. Bar. *Weſton.* If you would have ſaid to us yeſterday, that you had Witneſſes to prove that any one elſe writ the Book, we would have put off the Tryal. But you ſaid you writ it every word of it your ſelf, and ſo owned the Iſſue: But now you pretend you want Witneſſes; to what purpoſe would you have them come?

Cellier. 'Tis not the Honour of the Bench, my Lord, to give Evidence; and I hope you won't take that advantage of my vain words.

Mr. Bar. *Weſton.* 'Tis the Honour of the Bench to repeat what you ſay: When you ask time to put off your Tryal, and the Court gives you Direction to what purpoſe Witneſſes may be uſed, and you renounce that and take the Fact upon your ſelf.

Cellier. But I hope that is no Evidence.

Mr. Bar. *Weſton.* It was ſpoke openly in the Court, every body heard it.

Cellier. I am ſurprized and have no Witneſſes.

Mr. Bar. *Weſton.* 'Tis eaſie to pretend that you want Witneſſes; but to what purpoſe would you have them?

Cellier.

Cellier. My Lord, I hope you will pleaſe to remember he ſwears, I only ſaid it was mine, not that I was the Author.

Sir *Creſwel Levins.* Mr. *At. Gen.* If you ſold it, that is a Publiſhing in Law, and is within the Indictment.

Cellier. But he did not ſay I writ it.

Mr. Bar. *Weſton.* Pray, Mrs. *Cellier*, don't truſt your ſelf upon that: For he ſaid, after he had it he asked you, Is this your Book? You ſaid, yes, it is my Book, and if I had been aware I could have put a great deal more in it than I have done.

Cellier. But I did not ſay I writ it.

Mr. *Penny.* You ſaid, if it were to be writ again you could put more in it.

Cellier. I ſaid it was my Book, and ſo it was, becauſe it was in my poſſeſſion; but not that I writ it. This is my Fan, but it does not follow that I made it.

Mr. Bar. *Weſton.* But the Queſtion was concerning the Author of the Book.

Cellier. He did ask me no ſuch Queſtion. Did you ask me if I was the Author?

Mr. *Penny.* No, I did not.

Mr. Bar. *Weſton.* But what did you ask her?

Mr. *Penny.* I asked her, whether it were her Book.

Mr. Bar. *Weſton.* And did ſhe own it?

Mr. *Penny.* Yes, ſhe did.

Cellier. So it was mine, in poſſeſſion.

Mr. Bar. *Weſton.* Did you mean by your Queſtion, Whether that Book was her's in Property, or ſhe were the Author and Publiſher of it?

Mr. *Penny.* I would know whether it was her's or no.

Mr. Bar. *Weſton.* But what was your intention in asking? Was it whether ſhe, or any other Perſon made it?

Mr. *Penny.* I don't know who made it, ſhe told me it was her's.

Mr. Bar. *Weſton.* But what was your meaning in it?

Mr. *Penny.* My intention was, for fear ſhe ſhould have given me ſome other Book, to know whether it was writ by her or no.

Cellier. My Lord, I am not to be judged by his meaning; but by his Queſtian and my Anſwer.

Mr. *At. Gen.* Did ſhe tell you ſhe ſold more of them?

Mr. *Penny.* I turned about when I had the Book, and ſaid I, can I have, if occaſion be, any more? She ſaid ſhe had but 4 or 500 left, and in a few days ſhe ſhould have more.

Mr. *At. Gen.* You told us, ſhe told you what ſhe ſold them for by the Dozen.

Mr. *Penny.* Yes, 18 *s.* the Dozen to the Shopkeepers.

Mr. Bar. *Weſton.* Then ſet up *Downing.*

[*Which was done.*]

Pray look upon that Book and the Title of it.

[*Which he did.*]

Have you examined that Book?

Mr. *Downing.* Sir, I printed part of it.

Mr. Bar. *Weſton.* But have you examined that very Pamphlet?

Mr. *Downing.* Yes, I know it very well.

Mr. Bar. *Weſton.* Did you print part of it?

Mr. *Downing.* Yes, I did.

Mr. Bar. *Weſton.* Who brought it to you to be printed?

Mr. *Downing.* Mrs. *Cellier.*

Mr. Bar. *Weſton.* She her ſelf?

Mr. *Downing.* My Lord, about the 22*d* of *Auguſt*, a meſſenger came to me from Mrs. *Cellier*, to tell me ſhe had ſomething to be printed; and ſhe ſent for me to her Houſe, and I went to her Houſe in *Arundel Buildings.* She told me ſhe had a Book to print, and it was her own Caſe. I told her I was a ſtranger to her Concerns, if there was nothing in it that was Offenſive, I would print it. She told me there was nothing but the Truth, and I might ſafely do it. She ſaid ſhe had been publickly and wrongfully abuſed, and was reſolved to publiſh her Caſe, and would make the World ſenſible of the Wrong ſhe had ſuſtained. I was apt, upon the plauſibleneſs of her Diſcourſe to believe her; and ſo I agreed with her to have 10*s.* a Rheam for printing, and I was to print 4 Rheam of every ſheet. And having printed half the Book, the meſſenger found it a printing at my Houſe; and having thus found out the Preſs, he carried it before the Secretary, Sir *Leoline Jenkins*, who granted a Warrant to bring us both before him; and having taken our Examinations, we were bound to appear before the Privy-Council as ſoon as Notice ſhould be given us of it: And being diſcharged by the Council, we were bound to appear the firſt Day of next Term in the *King's-Bench:* Since which time ſhe hath printed t'other half of her Book at ſome other place. And whereas ſhe promiſed to indemnifie me from all Trouble and Charge, when I came to pay the Clerk of the Council his Fees, ſhe refuſed to pay them for me, and told me I had betray'd her; and ſo notwithſtanding her promiſe, I was obliged to pay the Fees my ſelf at the Council.

Mr. *Dormer.* Pray Sir who was it corrected the ſheets?

Mr. *Downing.* Sir, They were brought to her.

Mr. *Dormer.* Did ſhe read them and correct them?

Mr. *Downing.* Yes, ſhe looked over them.

Mr. Bar. *Weſton.* Pray tell me how far it was you printed of the Book?

Mr. *Downing.* It was to *Folio* 22.

Mr. Bar. *Weſton.* All the Clauſes in the Indictment are contained in thoſe Pages.

Mr. *Clare.* All but the laſt in the Poſtſcript.

Mr. Bar. *Weſton.* Have you read it over ſince?

Mr. *Downing.* So far, my Lord, I did print.

Mr. Bar. *Weſton.* You take it upon your Oath, That to the 22*d Folio* of that *Book* that was given in Evidence, was printed by you by her Direction.

Mr. *Downing.* Yes, I do.

Mr. Bar. *Weſton.* Then ſet up *Stevens.*

[*Which was done.*]

Mr. *Stevens.* May it pleaſe your Lordſhip, I ſaw this Book a printing at Mr. *Downing's*, and reading ſome Paſſages in it, I asked him, Mr. *Downing*, do you know what you do? He ſaid, it is a Truth: Then I asked him who he did it for; he ſaid he did it for Mrs. *Cellier*; I bid him have a care that he did no more than what he could juſtifie: He deſired me that I would not hurt him, and I was loth to do a poor man wrong, but away I went to the Secretary; but I asked him before, what was become of the ſheets, he ſaid he carried them to Mrs. *Cellier*, ſaid I, did ſhe bring you the Copy, ſaid he, ſhe ſent

ſent it ſometimes by one meſſenger, ſometimes by another, for ſhe ſent ſeveral: And when I came to her, ſhe did tell me it was her Book, and that ſhe kept a man to write it, and ſhe dictated it to another that ſat by her; and ſhe often owned it was her Book, and ſhe the Author of it.

Cellier. I never ſaid ſo in my Life.

Mr. *Stevens.* Mrs. *Cellier*, by the ſame Token, when you ſent for Bail you had occaſion to write a Note; and I ſaw you write it, and ſaid, I now find 'tis none of your hand-writing, by the difference between the Note and the Copy: Said ſhe, I know that well enough, but I keep a man in the Houſe to write it, and I dictated to him, and he wrote. And I have ſeen there one *Grange*, and one *Sing*, but *Grange* hath come to me ſeveral times about her's and other Buſineſs, and ſhe did tell me, ſhe did dictate the Book to that man, and paid him for writing it. Says ſhe, I am up very early every morning, and preparing and dictating things for the Preſs. She hath put out two ſheets ſince, and this Day at One a Clock ſhe hath invited the *Mercuries* and the *Hawkers* to come and receive a new Pamphlet.

Mr. Bar. *Weſton.* Do you know her Hand-writing?

Mr. *Stevens.* I have not that Note by me.

Mr. Bar. *Weſton.* Did you ſee the Copy?

Mr. *Stevens.* Some part of it I did ſee.

Mr. Bar. *Weſton.* Was it any part of it of her Hand-writing?

Mr. *Stevens.* No, I believe it was none of her Hand.

Mr. Bar. *Weſton.* Was it ſeveral Hands?

Mr. *Stevens.* I ſaw but one part of the Copy, and that was all of one Hand, but not her's, I believe. She ſaid, ſhe kept a man to write it, and ſhe had ſeveral other things to write to be printed.

Mr. Bar. *Weſton* Did ſhe ever before affirm her ſelf to be the Author of the Book?

Mr. *Stevens.* She did (if it pleaſe you) before the Secretary, and before the Council; and ſaid ſhe would anſwer it. And I have ſeen her likewiſe ſell ſeveral of them ſeveral days.

Mr. *Dormer.* Did ſhe deliver any of theſe Books that you know of?

Mr. *Stevens.* I have ſeen her deliver them out, ſeveral times before me my ſelf, ſhe can't deny it.

Mr. Bar. *Weſton.* Compare the Book with the Indictment.

Mr. *Dormer.* Swear Mr. *Fowler.*

[*Which was done.*]

Mr. Bar. *Weſton.* What is that *Fowler*?

Mr. *Dormer.* Shew him the Book if you pleaſe.

[*Which was done.*]

Did you buy any of thoſe Books of Mrs. *Cellier*?

Mr. *Fowler.* I bought 2 of them. I went to her Houſe, and told her I had a Letter from a Friend out of *Oxfordſhire*, that deſired me to buy 2 of her Books.

Mr. *Dormer.* Is that the ſame in your Hand?

Mr. *Fowler.* 'Tis the ſame as I believe. Some Friends came to my Houſe, and told me, they had ſeen me notoriouſly in print; ſo I came to her, and told her I had a Letter out of *Oxfordſhire* for a Book or two of her's. Sir, ſays ſhe, I'll fetch you one preſently; ſhe comes again with them. Madam, ſays I, I believe you have forgotten me.

Cellier. I know you not, I never ſaw you in my Life before.

Mr. *Fowler.* No, I believe not, but yet you could put me in your Book.

Mr. Bar. *Weſton.* Why, What is your Name?

Mr. *Fowler.* My Name is *Fowler*.

Mr. Bar. *Weſton.* Where do you live?

Mr. *Fowler.* At the *Half Moon* Tavern in *Cheapſide*, when I am at Home.

Cellier. Your Name is not in the Book.

Mr. *Clare.* There is one *F.* that keeps the *Half-Moon* Tavern in *Cheapſide*.

Mr. Bar. *Weſton.* You ſwear you had 2 Books of her?

Mr. *Fowler.* Yes. Madam, ſays I, I ſee you are full of buſineſs, ſo I paid her 4 *s.* for them, and away I came.

Mr. *Dormer.* Then you had no Diſcourſe with her farther, who was the Author, had you?

Mr. *Fowler.* No not a Syllable farther. I had only occaſion to get a couple of books; for ſome Perſons of Quality had been at my Houſe, and told me my Name was in it, and were pleaſed to Joke with me about it, as particularly, Mr. *Henry Killigrew* came one Day to my Houſe and called me into the Room, ſays he you are notoriouſly in Print, and known to be Company for a great Duke, and great Lords, you ſhall Drink a Glaſs of Wine now with me, and ſo tells me the Story; and thereupon I went to her Houſe to buy a couple of books.

Mr. *At. Gen.* You are the man meant by the (*F.*).

Mr. *Fowler.* I keep the *Half-Moon* in *Cheapſide*.

Mr. *At. Gen.* There is ſomething ſuppoſed in this Book to be done by you at your going to a man in Priſon, is that true?

Mr. *Fowler.* That I ſuppoſe is cleared by an Oath from *Corral* the Coachman; but withal, I gave my Oath for it before my Lord Mayor my ſelf.

Mr. *At. Gen.* Pray, for the ſatisfaction of People, tell us what you know of the matter.

Mr. *Fowler.* The Subſtance of my Oath before my Lord Mayor was this: That I never was with any great People, as they tax me, in my Life, with any great Duke or Lord: That I never did ſee any of the things that they ſay there, that the Duke ſhould draw his Sword, and a Lord proffer 500 *l.* or I whiſper to the Coachman, That he ſhould name ſome great Perſons, and then he and I ſhould have money enough.

Mr. Bar. *Weſton.* But I come nearer to you with a Queſtion, Mr. *Fowler*.

Mr. *Fowler.* Yes, my Lord, if you pleaſe.

Mr. Bar. *Weſton.* Was one *Corral*, a Coachman, apprehended for carrying away the dead body of Sir *Edmundbury Godfrey*, at your motion and accuſation?

Mr. *Fowler.* As to that, I will tell you the occaſion of all our Diſcourſe, if it may not be too tedious. Upon the Death of Sir *Edmundbury Godfrey*, a Coachman was one day called to carry ſome Gentlemen that were in my Houſe; but they ſtaying a little longer than ordinary, he went away, and, as they ſay, drop'd them; thereupon another Coachman was called, which

was this *Corral* mentioned in this Libel, and he went up to the Gentlemen into the Room, and they, to ingage him to ſtay, ſecured his Whip; he comes down and begs a Pipe of *Tobacco* of my Wife in the Bar: Ay, ſaid ſhe, thou lookeſt like a good honeſt Fellow, and I believe thou haſt no hand in the Plot (a caſual Word that was paſſant at that time) whereupon he begins to tell her, it was very well for him, for he had eſcaped that Danger: Four of them meeting him againſt St. *Clements* Church-Wall, and ſwearing damn them he ſhould ſtand, and do as they would have him; and he ſaw 4, and he ſaw Sir *Edmondbury Godfrey*'s Body in a Sedan, and he ſhamm'd upon them that he could not carry him, for that the Axletree of his Coach was broke. I was in a Room by the Bar, and I overheard the Fellow talk after this rate, I came out, and asked him, ſaid I, are you ſure of this? Then he tells me the ſame Story over again; whereupon I began to ask him, if he were maſter for himſelf, or drove for another; the Fellow being ſenſible he had been too laviſh in his Diſcourſe, pretends to light his Pipe in haſte, and to run out to ſee whether the Seats of his Coach were not ſtoln out, and I took a Candle with me, and went after him to take the Number of his Coach: By that time I got to the Door, he was driving away, tho' he had left his Whip with the Gentlemen as Security for his ſtay. I came in, ſet down the Number of his Coach in my Book, and drew up the ſubſtance of their Diſcourſe that happen'd between my Wife and him; and I was ſaying to my Wife I had a mind to ſtop this Fellow at the Gate, but it rained, and ſo I did not, only kept the Number of his Coach. The next day Captain *Richardſon* and the *Secondary* of the *Compter* were drinking a Glaſs of Wine at my Houſe, where I told them the Story, and they blamed me that I had not ſtopped him. Whereupon Captain *Richardſon* took the Number of his Coach, and the next day ſent his Janizaries abroad, and ſecured him, and kept him in Cuſtody for 2 or 3 days.

Mr. Bar. *Weſton.* When was this?

Mr. *Fowler.* Two or three days after the murder was publickly known of: I think it was *Tueſday* Night that this Fellow told me the ſtory, to the beſt of my remembrance; and the next day I told the Captain and the *Secondary*.

Mr. Bar. *Weſton.* Was that the next *Tueſday* after the murder, or the *Tueſday* ſevennight?

Mr. *Fowler.* It was the *Tueſday* ſevennight after. They blamed me very much that I did not ſtop the Fellow: I told them how the thing was, and the Captain ſent his People abroad, and took the Coachman up by what marks I gave of him. The next day I was ordered to wait upon the Lords at *Wallingford houſe*, where was the Duke of *Buckingham*, my Lord *Shaftsbury*, the Marquis of *Winchester*, two other Lords, and Major *Wildman* the Secretary; where they Examined me upon this thing, and what I have declared to your Lordſhips, I declared then. And they brought the Fellow in Face to Face; and there he does confeſs the whole matter, and made a great whining and clutter, that *John* ſuch a One, a Coach-man, and Mrs. ſuch an One, a Strong-Water Woman, told him this, and that, and t'other. The Lords ſent for two of the Perſons he named, and both of them being brought before them, the Lords were very well ſatisfied, in that one of them keeps a Victualling-Houſe, and they were both of good Reputation, they were ſatisfied it was only a ſham, and that he only named them as the firſt Perſons that came into his mind. Getting nothing out of him, my Lord Duke of *Buckingham* told him, Sirrah, if you will confeſs, there ſhall be nothing of what the King hath promiſed, but it ſhall be made good to you, you ſhall be ſure of it, and you ſhall be protected. My Lord *Shaftsbury* told him the ſame; but withal, if he would not confeſs, and tell him who ſet him on Work, then nothing ſhould be ſevere enough for him; or Words to that effect.

Mr. Bar. *Weſton.* Upon this Accuſation, was he ſent to Priſon?

Mr. *Fowler.* He was re-ordered to Priſon, and there continued ſeveral months.

Mr. Bar. *Weſton.* Where? To what Priſon?

Mr. *Fowler.* To *Newgate*.

Mr. Bar. *Weſton.* Were you ever in *Newgate*, and ſaw him?

Mr. *Fowler.* Never, not I.

Mr. Bar. *Weſton.* Did you never ſee him but at this Chamber with the Lords, and at your own Tavern?

Mr. *Fowler.* Never.

Mr. Bar. *Weſton.* And you never were in *Newgate* in your Life with him?

Mr. *Fowler.* No, not I.

Mr. Bar. *Weſton.* Were you ever in *Newgate* with him with my Lord Duke of *Buckingham*, or my Lord *Shaftsbury*, or any other Lord?

Mr. *Fowler.* No.

Mr. Bar. *Weſton.* Or any other Duke whatſoever?

Mr. *Fowler.* No.

Mr. Bar. *Weſton.* Or any Lord or Nobleman whatſoever?

Mr. *Fowler.* No, except 4 years ago with my Lord *Petre*.

Mr. Bar. *Weſton.* There is no danger of him. But as to this Affair, Were you ever with any?

Mr. *Fowler.* No.

Mr. Bar. *Weſton.* Did you ſee any Sword drawn, or money offered?

Mr. *Fowler.* There was never any Sword drawn, nor money offered.

Mr. *At. Gen.* Did you ever ſee 500 *l.* laid down upon a Table?

Mr. *Fowler.* There was never any Sword drawn, nor money laid down.

Mr. Bar. *Weſton.* He anſwers that very fully; for he ſays he was never in *Newgate* with any Nobleman, but once with my Lord *Petre* 4 years ago, and if he was with any Nobleman, he is accuſed to be there in the preſence of a Duke, and another great Earl; and that the Duke drew his Sword, and the other Nobleman laid down a great deal of Gold, which he ſaid did amount to 500 *l.* and told him it ſhould be his, and that if he would accuſe ſome other Perſons, they would maintain him; and then he did draw the Fellow aſide and tell him, Can't you name ſome body? Then you and I may have money enough. This is the Accuſation of the Book: But now 'tis denied that ever he was in *Newgate* with any ſuch Perſons, which is conſequentially a Denial of the whole Charge.

Cellier.

Cellier. I did not write that this was true, but I writ that the Fellow told me ſo.

Mr. Bar. *Weſton.* We will ſee that in the Book in the firſt place. We have examined this thing by the by, and tho' 'tis a little out of the way, yet it may be ſatisfactory: Read the Book.

Cl. of Cr. Malice Defeated, &c.

Mr. Bar. *Weſton.* Compare it with the Record, for ſhe ſhall have a fair Tryal by the Grace of God.

Then the ſeveral Clauſes recited in the Indictment were read over again by the Clerk out of the Book, and compared by the Judge with the Record.

Mr. Bar. *Weſton.* Theſe are the Clauſes in the Book that are proved exactly upon you. Now I muſt tell you, becauſe this Book doth caſt a very great Infamy upon our Religion, and on the whole Government, it ought to be taken Notice of: For in the firſt place, to contrive to get a man into Priſon, and by Tortures to compel him even to commit Perjury: Then to hale another man to Priſon, and have him thus barbarouſly uſed, as to have Nobles to come to him, one with a Sword drawn, another with money in his Hand laying it down as a Temptation, and to force him to diſcover what he was not willing to confeſs; and then to lay Accuſation upon the King that he makes it a thing of ſafety to be the Hangman's Hounds, and to be Accuſers for Penſions, and ſhall aver, that when it is as free for her to ſpeak Truth, as it is meritorious for them to do otherwiſe, ſhe will diſcover ſuch and ſuch things, is a Slander that ought to receive a publick Rebuke: And to ſatisfie the World of the Untruth of it, I would have you prove, if *Prance* be here and the Coachman, what Uſage they received, to avert that publick Calumny that is caſt upon the Nation. For let Mrs. *Cellier* know, ſhe hath inſinuated, as tho' the murder of the late King was a ſufficient Ground to pervert her from Proteſtantiſm, which avowed ſuch Practices: When all the World knows, that at that time there were Proteſtants that were far better Subjects, and more Loyal, than ever any Papiſt was in the World, and as great Sufferers for their Oppoſition to that dreadful Villany, nay far more than the Papiſts can boaſt of for their Loyalty; whereas 'tis known they were Villains under-hand all the while, and thoſe that did incourage all that Roguery, and ſet that Faction on foot which brought things to that ill period they came to. Therefore you have ſet a fair Outſide upon a damnable Lie. And that the arranteſt rebelliouſeſt Rogues that ever lived under Heaven, are great Saints in compariſon of Proteſtants, no honeſt man will believe.

Cellier. I ſay, they called themſelves Proteſtants. I know the Proteſtants were great Sufferers for the King, and I my ſelf felt it; our Family, which were Proteſtants, were ſeveral times ſtript and plundered for their Loyalty. I grant all this.

Mr. Bar. *Weſton.* Do you? Then you are an impudent lying Woman; or you had a villanous lying Prieſt, that inſtructed you to begin your Book with ſuch a baſe inſinuation againſt the beſt of Religions. But I have no more to ſay to that, for that is ſuch a viſible notorious Falſity to the knowledge of all *Engliſhmen*, and People of Underſtanding, that it needs no greater Conviction than the particular knowledge of thoſe men that lived in that time. Therefore for that Lie, let it go upon the publick infamy that attends on your Party, who are notorious Liars, and among whom Falſhood does ſo much abound.

Call Corral *and* Prance.

Mr. *At. Gen.* We will give that Satisfaction to the People: But the Jury are to know, that it does not at all concern the matter in iſſue: For when all that can be ſaid by them is declared, I muſt ſay, in point of Law, the Publiſhing of a Libel, tho' it be true, yet is a Crime, and deſerves Puniſhment.

Mr. Bar. *Weſton.* I told you ſo. But, Mr. *Attorney*, we are to ſet a Fine; and to inſtruct us for the ſetting of the Fine, it will be a ſatisfaction to the Court to diſprove the things ſhe alledges, if you have the Witneſſes ready, but if you are not ready with your Proof, let it alone.

Mr. *At. Gen.* They are ordered to be here, I only ſpeak that by the way. Swear Mr. *Prance.*

[*Which was done.*]

Mr. Bar. *Weſton.* Mr. *Prance*, Pray were you tortured in Priſon?

Mr. *Prance.* No, I never ſaw any ſuch thing there in my Life.

Mr. Bar. *Weſton.* How were you uſed?

Mr. *Prance.* Very well, I had every thing that was fitting, Capt. *Richardſon* did take great care of me.

Mr. Bar. *Weſton.* The truth is, the very Book it ſelf implies a Contradiction. It ſays, There was one tortured in the Priſon, and the Roarings that they heard were like the Roarings of a ſtrong man in Torture: And yet, preſently after it ſays, that the Priſoner comes up in irons and is examined. Now could any one having been ſo lately on the Rack be able to walk, and come to be examined? Any man that knows what the Nature of a Rack is, knows alſo, that one that has been tortured there, would not be able to heave the irons upon his Legs, nor be able to ſtir or walk: But that is a thing not uſed amongſt us, it was ſome impudent lying Prieſt that durſt venture to broach ſuch a Calumny.

Cellier. I don't ſay it was, but it was ſo reported.

Mr. *Prance.* Dr. *Lloyd* was with me many times for half an hour together, and if any ſuch thing had been, he would have ſeen it.

Then Francis Corral *was called, but he did not appear.*

Capt. *Richardſon. Corral* they have got away, for I had him laſt Night, and he was ordered to be here to day, but here is his Wife.

[*Who was Sworn.*

Mr. Bar. *Weſton.* Good Woman, were you ever with your Husband in Priſon?

Mrs. *Corral.* I was not ſuffered to come near him when he was of the Maſter's ſide.

Mr. Bar. *Weſton.* But when he was out of Priſon, How did he tell you he was uſed? Did he tell you he was compelled to drink his own Piſs?

Mrs. *Corral.* *Sunday* Morning it was before I ſaw him, nay, I did not ſee him then, but I was called to bring him Victuals, or he would have been ſtarved; nay, they ſaid he would be dead before I brought him. So I carry'd him Bread and things, and I did not ſee him then till almoſt a Fortnight after; and when I ſaw him he had great Fetters on, and I was amazed at them. They put in ſome Char-Coal there to warm him, it being very cold, and, ſaid I, Lord, what have you done, you have murdered ſome body ſure? But they ſaid, they put on thoſe things to keep his Legs warm.

Cellier. Were you ever beaten at any time for bringing your Husband Victuals?

Mrs. *Corral.* No indeed, I was never beaten, but they would not ſuffer me to ſee him on the Maſter's ſide.

Lord *Mayor.* Her Husband hath deny'd all upon Oath before me.

Mr. Bar. *Weſton.* Was he ever hurt with Scrues, or any ſuch thing?

Cellier. Had he not Holes in his Legs?

Mrs. *Corral.* Yes, he had a great many; I did ſee Holes in his Legs.

Mr. Bar. *Wetſton.* Did you?

Mrs. *Corral.* I did ſee one, and I can bring them that brought Salve to heal it.

Captain *Richardſon.* There is never an Iron in the Houſe that I keep, that weighs Twelve Pound.

Mr. Bar. *Weſton.* They ſay, you have Irons call'd Sheers, that weigh 40 Pound.

Captain *Richardſon.* If there be one, I'll be hang'd for it before I go hence.

Cellier. I hope I ſhall be allow'd to make my Defence, and call my Witneſſes.

Mr. Bar. *Weſton.* Yes, to be ſure.

Cellier. Did not you hear your Husband tell me, how heavily he was fettered and uſed? That he was chained to the Floor with a Chain not above a Yard long? And was forced to drink his own Water?

Mrs. *Corral.* Madam, he is not ſenſible many times what he does ſay.

Cellier. But did not you hear him tell me ſo?

Mrs. *Corral.* I can't remember.

Cellier. Did not you tell me, That Captain *Richardſon* drove you away, and would not let you give Victuals to your Husband?

Mr. Bar. *Weſton.* All this is but over and above, for the great Matter that ſticks upon your part, is the Death of Sir *Edmunbury Godfrey*, and you are pinch'd there with *Prance*'s Evidence, and ſo you would make the World believe, that he was tortur'd into his Confeſſion, and was mad when he did it, that you may the better turn it off from your own Party, on ſome body elſe, on whom I don't know.

Cellier. Pray, my Lord, hear me one word; As to your ſaying, I do it to defend a Party, I profeſs I ſtand ſingly and alone; I have been ſo barbarouſly uſed by thoſe you call that Party, that the Proteſtants have been abundantly more kind to me than they. And I would not tell the leaſt Lye to do them any good Turn.

Mr. Bar. *Weſton.* Then you are an happy Woman indeed, that are belov'd by both Parties, You have not been ſerviceable alike to both I am ſure, but that is no great matter; if ſo be the Proteſtants were ſo kind, you have requited them ill by ſuch a baſe Libel.

Cellier. I ſay nothing againſt them.

Mr. Bar. *Weſton.* Can you ſay any thing that you did not make this Pamphlet?

Cellier. My Lord, I be'nt bound to accuſe my ſelf, I deſire it may be prov'd.

Mr. Bar. *Weſton.* I think it is fully prov'd.

Cellier. I cannot ſay any thing without my Witneſſes, I deſire I may call them.

Mr. Bar. *Weſton.* Call whom you will.

Cellier. I deſire *George Grange* may be call'd.

[*Who was ſworn.*

Mr. Bar. *Weſton.* What can you ſay for Mrs. *Cellier*? Tell me what Queſtions you will ask him.

Cellier. I deſire to know whether I did not ſend him to find Witneſſes? Who he went for? What Anſwers they return'd? And where they be?

Mr. Bar. *Weſton.* Well, what Witneſſes were you ſent to look for?

Grange. I went to look for one Mrs. *Sheldon*, that lives in Sir *Joſeph Sheldon*'s Houſe, and they told me ſhe was in *Eſſex*. I went to the Coach to ſend for her.

Mr. Bar. *Weſton.* Why *Scoggin* looked for his Knife on the Houſe-top.

Mr. *Stevens.* This man did ſee her ſell theſe Books.

Mr. Bar. *Weſton.* Who did you look for beſides?

Grange. One Mr. *Curtis.* And his Wife ſaid, She had not ſeen him ſince yeſterday Morning.

Mr. Bar. *Weſton.* What were they to prove?

Grange. Truly my Lord I don't know.

Mr. *Dormer.* By the Oath you have taken, Do you know ſhe hath ſold any of theſe Books?

Grange. Yes, I do know that ſhe hath ſold ſome of them.

Lord *Mayor.* There your own Witneſs, Mrs. *Cellier*, proves it againſt you.

Mr. Bar. *Weſton.* Who would you have elſe?

Cellier. I deſire that *Mary Smith* may be called (*which was done, but ſhe appeared not then.*) I deſire *John Clerke* may be ſent for from the Goal.

Captain *Richardſon.* He is in Execution.

Mr. Bar. *Weſton.* For what?

Captain *Richardſon.* For Debt.

Mr. Bar. *Weſton*, 'Tis not out of the Rules of Priſon, you may bring him hither, and 'tis no Eſcape.

Captain *Richardſon.* If your Lordſhip orders it ſo, I will bring him.

Lord *Mayor.* She ſhould have brought an *Habeas Corpus*, if ſhe would have had him.

Mr. *At. Gen.* He muſt bring him through ſome part, I ſuppoſe, that is not within the Rules, and then it will be an Eſcape.

Cellier. I pray an *Habeas Corpus* to fetch him.

Mr. Bar. *Weſton.* You might have had one before.

Cellier. This is all becauſe I had no time to prepare for my Defence.

Mr. Bar. *Weſton.* You might have moved the Court for it; they granted you a Copy of your Indictment.

Cellier. I had it not till nine a Clock to day, and my Counſel could not inſpect it, nor ſpeak a word with me about it.

Lord

Lord *Mayor.* At what time ſhall we have done, if we dally after this rate?

Mr. Bar. *Weſton.* Have you any blank *Habeas Corpus?*

Cl. of Peace. It could not be ſeal'd, and beſides, they ſhould fetch it out of the *Crown Office.*

Cellier. I deſire to have him come, in order to the Defence of ſomething in my Book.

Mr. Bar. *Weſton.* What would he prove?

Cellier. That I have not belied the Government.

Mr. Bar. *Weſton.* In what?

Cellier. That he was ſheer'd with long Sheers, and unreaſonable Irons.

Mr. *Collins.* You cannot do your ſelf greater Wrong than by ſuch Talk as this.

Lord *Mayor.* You are not Indicted for your whole Book, but for only ſome part of it.

Cryer. Here is Mrs. *Smith* now, [*Who was Sworn.*

Cellier. What have you heard *Corral* the Coachman ſay, about his Uſage in Priſon?

Mr. *Dormer.* I think that Queſtion is not to be admitted.

Mr. Bar. *Weſton.* What is it you would have her asked?

Cellier. What ſhe heard the Coachman ſay, for I only ſay he told me ſo.

Mr. *Dormer.* I am in your Lordſhip's Judgment, I think it is not Evidence.

Mr. *At. Gen.* She keeps the Coachman away, and now will tell you what he ſaid.

Mr. Bar. *Weſton.* That is no Evidence, for the Coachman might have been here, if you had not ſent him away.

Cellier. Let his Wife ſpeak that, becauſe ſhe can teſtifie I did not ſend him away.

Captain *Richardſon.* She gave them Money before, and told them ſhe would maintain them.

Cellier. You are not an Evidence againſt me, you are not ſworn.

Captain *Richardſon.* But this that I ſay is ſworn.

Mr. Bar. *Weſton.* Call her.

Mr. *At. Gen.* Ask her a proper Queſtion to the Iſſue.

Cellier. I would know of her whether I kept her Husband away?

Mr *At. Gen.* It may be you did it without her Knowledge.

Cellier. Have I ſeen her Husband without her Knowledge?

Mr. Bar. *Weſton.* Go on with your Witneſſes.

Cellier. I deſire *Mary Johnſon* may be call'd.

Mr. Bar. *Weſton.* For what? What will ſhe prove?

Cellier. That ſhe was to ſee for Witneſſes in order to my Defence.

Mr. Bar. *Weſton.* But if they are not come, what ſignifies that?

Cellier. I have done then my Lord; for not having time to get my Witneſſes, I cannot make my Defence ſo fully, as elſe I ſhould have done: Only I deſire you to conſider I am a poor ignorant Woman, and have erred out of Ignorance: I thought nothing, but that I might publiſh what others had ſaid and told me, and ſo I have offended in Ignorance, if I have offended.

Mr. Bar. *Weſton.* I do verily believe there are more Wits than yours concerned in this Book, though you bear the Name, yet the Book is not the Effect of your Wit only, but you acknowledge enough. And you are to take notice, That the King hath ſet out a Proclamation, that no Books ſhall be printed without a Licenſe.

Cellier. I never heard it. I was under cloſe Confinement when the King ſet it out.

Mr. Bar. *Weſton.* No, I deny that, for you were enlarged the firſt Day of *Trinity-Term*, and the Proclamation came out towards the End.

Mr. *At. Gen.* She now does confeſs ſhe knows of it, becauſe ſhe ſpeaks of the time, and that was before her Book was written.

Cellier. May not my Counſel ſpeak for me, I deſire you would hear him.

Mr. *Collins.* I have nothing to ſay for her.

Mr. Bar. *Weſton.* He ſays he hath nothing to ſay for you.

Mr. *Collins.* And if you had ſaid leſs for your ſelf it had been better.

Mr. Bar. *Weſton.* The Queſtion is but Guilty or not Guilty, Whether you publiſhed this Libel or not; and if the Matter of the Indictment be proved, what can Counſel ſay, except you can diſprove the Witneſſes, that you did not the Fact?

Cellier. Well my Lord, then I beſeech you conſider me I am a Woman, and deal with me in Mercy, as well as Juſtice.

Mr. Bar. *Weſton.* Mrs. *Cellier*, I have not been noted to be a Perſon that uſe any great Severity towards any body, no not towards any of your Party, but when I ſee ſo much Malice as is comprized in your Book, and have reaſon to ſuſpect, that this is not acted only by you, though you bear the Name of it, but ſome of your wicked Prieſts are the Authors of it, as I am ſure they are, then I think it is not ſevere that you, who ſtand at the Stake for all, muſt bear the Blame of all. If you will tell us who it was that ſet you on work, and aſſiſted you in this wicked Buſineſs, that will be ſomething towards the Mitigation of your Fine, but if you will take it on your ſelf, you muſt ſuffer the Conſequence.

Cellier. I beſeech you my Lord have ſome Compaſſion; His Majeſty acknowledged before the Council, that I had ſuffered for him; I ventured my Life through a Sea and an Army to ſerve him; I loſt my Father and my Brother both in a day for him; and if you have no Compaſſion for me, have ſome Commiſeration for my Loyal Parents that loſt their Eſtates for him.

Mr. Bar. *Weſton.* If you have done Service for his Majeſty, and thereby deſerved any thing of him, His Majeſty hath been ſo bountiful in the Diſpenſation of his Favour, that he would not fail to recompenſe you for it; but we are to proceed according to the Rules of Law.

Cellier. But pray have ſome Mercy in your Juſtice.

Mr. Bar. *Weſton.* Gentlemen of the Jury; This Gentlewoman the Priſoner ſtands Indicted——

Jury.

Jury. We have not heard one word that hath been ſaid.

Mr. Bar. *Weſton.* No, that is ſtrange, I will acquaint you with as much of the Evidence as falls under my Information: It had been well if you had told us this before: The Buſineſs is this, She ſtands indicted here for Writing and Publiſhing of a very ſcandalous Libel. But pray did not you hear *Penny* prove that ſhe ſold it?

Jury. We heard the Three firſt Witneſſes.

Mr. *At. Gen.* There was the Proof of the Fact.

Mr. Bar. *Weſton.* The reſt of the Evidence was but a Compariſon of the Clauſes in the Book, with thoſe in the Indictment, which you are to have Direction from the Court in, that they do: She ſtands indicted for Publiſhing a Libel, and the Title of the Libel is, *Malice Defeated, or a brief Relation of the Accuſation and Deliverance of* Elizabeth Cellier. Now this Libel branches it ſelf out into ſeveral Parts; the firſt whereof is a very fine Inſinuation, as though her leaving the Proteſtant Religion, was, becauſe thoſe that murdered the King, and made that very great Subverſion that was made in the Government by the late long Parliament, and the Army that ſucceeded them, were Proteſtants——

Cellier. Pray my Lord, I ſay, called Proteſtants.

Mr. Bar. *Weſton.* By your favour, ſhe pretends it was by thoſe that were called Proteſtants, but if they were only thoſe that were called Proteſtants, and not Proteſtants, What Reaſon had ſhe to go off from the Proteſtant Religion, to turn Papiſt, when there was ſuch a Body of Loyal Proteſtants that did adhere to the Loyal Party? Therefore that was as villanous an Inſinuation as could be; as tho' the Proteſtant Religion did nouriſh and teach ſeditious Principles, which in the Conſequence of them, tended towards the Subverſion of the Government and Order, which certainly it does cheriſh in the higheſt Degree of any Religion in the World, and hath the moſt peaceable Principles in matters of Duty, both in Subjection to our Superiors, and of a charitable Deportment of Men one towards another: And the Practice of thoſe Principles hath been ſeen amongſt Proteſtants, eſpecially amongſt the *Engliſh* Proteſtants, as much as in any Nation of the World; this may be ſaid of it to this Day, for the Reputation of the *Engliſh* Nation, that there is more Fidelity, Honeſty, and generous Truſt amongſt them, than among all the Nations of the World beſides; ſo that if a Man were to go out of *England*, to any other Part of the World, he might very well uſe the Words of *Demoſthenes*, upon his going out of *Athens*, at his Baniſhment; *Farewel beloved City, I am going into a World, where I ſhall not find ſuch Friends as I have had Enemies here*; Friends in other places, will be no better than our Enemies here; the Carriage of *Engliſh* Men is ſo much beyond all others, except the *Germans*, who, I muſt confeſs, are famed for their Honeſty and Integrity one to another; but if you take the *French*, the *Italian*, the *Spaniard*, or any ſort of the *Levantine* People, they live like ſo many Wolves, eſpecially in thoſe Places where the Popiſh Religion is profeſs'd. Now after this Inſinuation, there is another part of the Book recited in the Indictment, There was an horrid barbarous Murder that was committed here, and which certainly did fix the Accuſation of the Plot fuller upon them, than all the Evidence that was given beſides: The Murder of Sir *Edmundbury Godfrey*, a Magiſtrate in doing of his Duty, was moſt barbarouſly murdered, and by whom, is Evidenced by one *Prance*: It hath been the whole Labour of the Party, to caſt this Murder upon other Perſons, and take it off themſelves; for they find if that Accuſation ſticks upon them, it is a thing of ſo hainous a Nature, that it will make the Popiſh Party odious to all Mankind. And therefore this they labour at mightily, and this Task ſhe hath taken on her ſelf; for knowing *Prance* to be a principal Witneſs, ſhe undertakes to let the World know, that *Prance* was tortured in Priſon, to inſinuate, that the Evidence he gave againſt thoſe Perſons that were Executed for this Murder, was extorted from him by ill and cruel Uſage: But you muſt firſt know, the Laws of the Land do not admit a Torture, and ſince Queen *Elizabeth*'s time, there hath been nothing of that Kind ever done. The Truth is indeed, in the Twentieth Year of her Reign, *Campion* was juſt ſtretch'd upon the Rack, but yet not ſo but that he could walk; but when ſhe was told it was againſt the Law of the Land, to have any of her Subjects Racked, (though that was in an extraordinary Caſe, a World of Seminaries being ſent over to contrive her Death, and ſhe lived in continual Danger) yet, it was never done after to any one, neither in her Reign, who reigned Twenty five Years after, nor in King *James*'s Reign, who reigned Twenty two Years after; nor in King *Charles* the Firſt's Reign, who reigned Twenty four Years after; and God in Heaven knows, there hath been no ſuch thing offered in this King's Reign, for I think we may ſay, we have lived under as lawful and merciful a Government as any People whatſoever, and have had as little Blood ſhed, and ſanguinary Executions as in any Nation under Heaven. Well, but (contrary to the Law in this Caſe) ſhe does ſuppoſe Extraordinary Ways were uſed to make *Prance* give this Evidence. She ſays, ſhe thought what ſhe firſt heard was the Noiſe of a Woman with Child, and that *Harris* the Turnkey did tell her it was a Woman in Labour, but when ſhe deſired to be let in to help her, he turned her away rudely; but liſtening, ſhe perceived it was the Groans of a ſtrong Man that muſt be in Torture: She asked ſome of the Goalers what was the matter? They told her, They durſt not tell her, but it was ſomething they could not endure; and they heard him cry, What would you have me confeſs? Would you have me bely my ſelf? I know nothing of it, and ſuch Words as theſe. Whereupon we have called *Prance*, and here, upon his Oath, he tells you, there was no ſuch matter: That he was uſed very kindly, had all things fiting, and under no Compulſion, ſo that this is an high

high Libel againſt the Government. She ſays furthermore, there was one *Corral*, a Coachman that was impriſoned by the Means of one *Fowler* for the Murder of Sir *Edmundbury Godfrey*, that there was a Nobleman a Duke, came to him in Priſon, and drew his Sword at him, and would have him confeſs, that another Nobleman laid down a Sum of Money, and ſaid it was Five hundred Pound, and told him, if he would confeſs, he ſhould have it; and that *Fowler* took him aſide, and bid him lay it upon ſome body elſe, and then he and *Fowler* ſhould have Money enough. *Fowler* being examined, and, upon his Oath, tells you, upon what Account he did charge *Corral*; he tells you, he was never with *Corral* in the Goal in his Life, and never was with him in the Preſence of any Duke or Nobleman but once in a Room, where *Corral* was brought to be examined, and then there was the Duke of *Buckingham*, the Marquiſs of *Winchester* (who I never heard was a Man of Cruelty, or harſh Nature) my Lord *Shaftsbury*, and Major *Wildman*, who was Secretary, but there was no ſuch cruel Uſage there, and he was never in the Priſon with ſuch Noblemen; and then the Conſequence is, that the whole Story is falſe. *Corral* it ſeems, my Lord Mayor ſays, hath been examined to this Point, and denies it all; and is kept out of the way, that he ſhould not give it in Evidence here: But if we had him here it were no great matter, for if there were any thing of this nature true, they are to proceed in a legal way againſt them that make theſe Tranſgreſſions of the Law, ſhe ought to have indicted the Perſons, for they are highly puniſhable for ſuch Extravagances as theſe are. But there is nothing done in that kind, but inſtead of that, ſhe hath defamed them all in a Libel, and ſhe is not contented to have done that neither, for ſhe hath defamed the King highly in his Government, and ſaid, ſhe could have written more. I paſs over the Buſineſs that concerns *Dangerfield*, wherein ſhe complains, that *Dangerfield* had more Friends, and was viſited more by Perſons of Quality, when ſhe had none came to her; every one is viſited according to the Intereſt they have in the World, and the Friends they make: I have nothing to ſay to that, there is not ſo much in it, but come to that part wherein ſhe ſcandalizes the King, which is this, ſhe ſays, *Whenever his Majeſty ſhall pleaſe to make it as Safe, and Honourable, to ſpeak the Truth, as it is apparent, it hath been Gainful, and Meritorious to do the contrary, their Villany will not want Witneſſes to teſtifie the Truth of more than ſhe had Written.*

So that ſhe ſuppoſes, that the King, by the countenancing of Lyes, and giving Penſions to Lyers, chokes the Truth, and makes it dangerous for thoſe that know the Truth, to divulge it to the World, which is a very vile Scandal upon the King and the Government. Theſe are the Matters of the Libel, and the things in Proof have been ſworn by Three Witneſſes; one proves, that he went to her to buy one of her Books, and he asked her for one, and ſhe gave him a Book which bears that Title Page that you hear in the Indictment, ſuperſcribed with her Name, and ſhe gives it as her Book. Now ſhe would evade it thus, that ſhe gave it as her's, not as though ſhe were the Author, but as if it were her's only in Property: But, can any ſuch thing be thought the Meaning of her Words? Or, can there be any greater Evidence that ſhe is the Author of the Book, than her publiſhing of it with her Name to it? But the Fellow goes further, and tells you, when he had the Book, he turned about, and asked her, if it were her Book? Yes, ſhe ſaid it was: And, ſaid ſhe, I could have writ a great deal more, if I would; ſo that her ſaying, ſhe could have writ more, implies, that ſhe writ that; and (more) is a Word of Compariſon, which always ſuppoſes the Poſitive Propoſition. The next is the Printer, who tells you, that he printed the firſt twenty two Folio's, within which, the greateſt part of this Charge, except only that laſt about the King, is contained. He tells you, that ſhe ſent for him, and employ'd him to Print it as her's; agreed with him for Ten Shillings a Ream for the Printing, and that he did Print the firſt Twenty two Leaves at her Requeſt, and as employ'd by her: *Fowler* tells you, he bought two of the Books of her; and theſe are the Witneſſes of the Publication of this Book. I muſt tell you this, the Clauſes in the *Libel* are truly ſet down in the Indictment, for I did examine them one by one. Now whether or no you can doubt ſhe was the Author of the Book, when in a manner ſhe did own it at the Publication, by ſelling it as her's, I leave to you, though I muſt tell you plainly, I leave it as that which is to me under the Notion of expreſs Evidence; but I muſt leave it to you as Judges of the Fact, and expect your Verdict in the Caſe.

Mr. *At. Gen.* There are three things in the Indictment; *Firſt*, That ſhe writ it: *Secondly*, That ſhe cauſed it to be Printed; and *Thirdly*, That ſhe cauſed it to be Publiſhed. Now, if you find any one of theſe, ſhe is guilty of ſo much at leaſt, though I think you have heard Evidence enough for all. She told me, it was her's, and ſaid, ſhe could have put more in; and the Selling the Book is a Publication. So that if you be not ſatisfied ſhe was the Author, yet if you are ſatisfied ſhe cauſed it to be Printed, or if you are not ſatisfied in that, yet if you are ſatisfied ſhe cauſed it to be Publiſhed, you are to find her guilty of ſo much.

Cellier. The Printer does not ſay I writ it.

Mr. *At. Gen.* But he does ſay you gave it him as your's, and to you the Sheets were ſent to be corrected.

Then the Jury deſired they might have the Book with them.

Mr. *Clare.* My Lord, The Jury wants the Book that was ſworn to.

Mr. Bar. *Weſton.* They can have no Papers, without Agreement, neither the Book, nor any Paper elſe.

Mr. *At. Gen.* Not unleſs ſhe will conſent to it. Mrs. *Cellier*, Will you conſent that they ſhall have the Book out with them?

[*To which, after ſome Pauſe, ſhe anſwer'd, No.*

Mr. Bar. *Weſton.* Then they cannot have it by Law.

Then

Then the Jury withdrew for a little, and return'd.

Cl. of Cr. How ſay you, Is *Elizabeth Cellier* Guilty of the Writing, Printing, and Publiſhing of the Libel for which ſhe ſtands Indicted, or not Guilty?

Foreman. Guilty. (*At which there was a great Shout.*) And the Verdict was Recorded.

Mr. Bar. *Weſton.* She muſt ſtand Committed to receive the Judgment of the Court.

Cellier. Will you give me leave to ſpeak a word now?

Mr. Bar. *Weſton.* I cannot give you any Judgment, for by the Cuſtom of the City, that is to be done by the Recorder or his Deputy, and ſo, what you will ſay to the Court, you muſt ſay to them, that will be on *Munday* when the Seſſions is done.

Cellier. What I would ſay is only this, That I am a Woman, and wherein I offended, I offended out of Ignorance, and did not know it was an Offence, and if the Offence be mine, let not others ſuffer for me. Have Mercy in Judgment, and conſider my Loyal Parents and Relations, and the Services they did his Majeſty; and let this Fault be wiped out by that Service and Duty I and they paid him; or at leaſtwiſe, let the Puniſhment for this Offence be mitigated, in Conſideration, that all my Life, ever ſince I had the firſt Uſe of Reaſon, I have been a Loyal Subject.

Mr. Bar. *Weſton.* Theſe are things that will be conſidered on *Munday*, but we can't take Conſideration of it now.

Cellier. I will go away then, and come again on *Munday*.

Mr. Bar. *Weſton.* No, you are to be committed till then.

And ſo the Keeper carried her back to Newgate, *from whence on* Munday *the Thirteenth of* September, *ſhe was brought to the Bar to receive her Judgment, which Mr. Recorder gave thus,*

Mr. *Recorder.* Mrs. *Cellier,* The Court Sir *George Jefferies,* doth think fit for Example ſake, that a Fine of One thouſand Pounds be put upon you; That you be Committed in Execution, till that Thouſand Pounds be paid: And becauſe a Pecuniary Mulct is not a ſufficient Recompence to Juſtice, which you have offended, the Court doth likewiſe pronounce againſt you, That you be put on the Pillory Three ſeveral Days, in three ſeveral publick Places: In the firſt place, in regard her braided Ware received its firſt Impreſſion and Vent at her own Houſe, it is thought fit that ſhe ſtand (as near her own Houſe as conveniently can be) between the Hours of Twelve and One, for an Hour's Space at the *May-pole* in the *Strand*, on the moſt Notorious Day, I think there is a Market near that Place, let it be on that Day. At another time that ſhe ſtand in *Covent-Garden* on a Publick Day, the like Space of time; a Third time, that ſhe ſtand at *Charing Croſs* on the moſt Publick Day, for the Space of an Hour. And in the next place, That ſhe find Sureties for the good Behaviour during her Life; and in every Place where ſhe ſhall ſtand on the Pillory, ſome Parcels of her Books, ſhall, in her own View, be burnt by the Hands of the Common Hangman, and a Paper of the Cauſe to be put upon the Pillory.

Then the Court charged the Sheriff, That he take Care in every Place for a ſufficient Guard, that the Peace may be kept, and ſhe was returned to the Goal.

THE

The Tryal of WILLIAM *Viſcount* STAFFORD: *Begun in* Weſtminſter-Hall, November 30. 1680.

The Firſt Day.

WIlliam Earl of *Powis*, *William* Viſcount *Stafford*, *Henry* Lord *Arundel* of *Wardour*, *William* Lord *Petre*, and *John* Lord *Bellaſis*, having been formerly impeach'd in the Houſe of Lords, of High-Treaſon, and other High Crimes and Offences, by the Houſe of Commons, in the Name of themſelves, and of all the Commons of *England*:

And the Houſe of Commons having ſent a Meſſage to the Lords, to acquaint them with the Reſolution of that Houſe, to proceed to the Tryal of thoſe Lords then in the *Tower*, and forthwith to begin with the ſaid Viſcount *Stafford*, and to deſire their Lordſhips to appoint a convenient Day for the Tryal of the ſaid Viſcount *Stafford*: their Lordſhips did thereupon appoint the 30th Day of *November* 1680, for his Tryal. And a Place in *Weſtminſter-Hall* having been for that purpoſe erected, the ſame was as followeth: *viz.* Therein were both Seats and Wool-packs, correſpondent in all Points to thoſe in the Houſe of Lords; as alſo a State plac'd at the upper end thereof, with a Cabinet for the King, and whom his Majeſty ſhould think fit to attend him there, on the Right Hand the State; and the like on the Left hand, for the Queen and her Followers; as alſo Galleries overhead for Ambaſſadors and others.

And to the end that the Commons might be fitted with Seats upon this great Occaſion, there were erected for them, on each ſide, divers Benches, on ſeveral Degrees, extending to the utmoſt Walls of the Hall.

At the lower end, the Bar, whereunto the Priſoners were to be brought, being plac'd, on the Right hand thereof was a Place rais'd about five foot, wherein the Witneſſes were to ſtand; and on the Left hand a convenient Room for thoſe particular Members of the Houſe of Commons, who were to manage the Evidence.

And the Right Honourable *Heneage* Lord *Finch*, Baron of *Daventry*, Lord High Chancellor of *England*, being by his Majeſty's Special Letters Patent, bearing date the 30th of *November* 1680, conſtituted Lord High Steward for that preſent Occaſion; upon Tueſday the ſaid 30th of *November*, the Lord High Steward was honourably attended from his Houſe in *Queenſtreet* by all the Judges of his Majeſty's Courts in *Weſtminſter-Hall* in their Robes; as alſo by *Garter* principal King of Arms, in his Majeſty's Coat of Arms, and the Gentleman-Uſher of the Black-Rod, unto whom his Majeſty had the Day before delivered the White Wand, to be carried before his Lordſhip: and about Nine of the clock in the Morning ſet forward in his Coach towards *Weſtminſter*, ſitting at the hinder end thereof, *Garter* and the Gentleman who bore the Great Seal ſitting both uncover'd at the other end; one of the Serjeants at Arms, with his Mace, being plac'd on the Right ſide the Coach, and the Uſher of the Black Rod, carrying the White Wand, on the Left ſide; the Judges and his Lordſhip's Gentlemen in ſeveral Coaches following after.

Being thus come to the Stairs-foot, aſcending to the Houſe of Peers, the Judges went up two and two together (the Juniors firſt); next the Lord High Steward's Gentlemen; after them the Serjeant at Arms with his Mace, and the Seal-Bearer; and laſtly, the Gentleman-Uſher of the Black Rod, bearing the White Wand: *Garter*, principal King of Arms, going on his Right hand.

Then his Lordſhip alone, his Train borne by one of his Gentlemen. In this manner entring the Houſe of Peers, he found all the Lords in their Scarlet Robes, alſo the Biſhops in their Rochets, and took his Place upon the uppermoſt Wool-ſack.

This done, and Prayers ended, his Commiſſion for Lord High Steward was read; and then the Biſhops receded, and the Lords adjourn'd themſelves into the new-erected Court in *Weſtminſter-Hall*.

All things being thus in readineſs, and a large Door-place broken thro the upper end of *Weſtminſter-Hall*, into that Room which was heretofore the *Court of Wards*:

Their Lordſhips paſs'd from their Houſe firſt into the *Painted Chamber*, then thro that call'd the *Court of Requeſts*; thence, turning on the Left hand into that call'd the *Court of Wards*; then entred at the Door, ſo broke down as aforeſaid, into *Weſtminſter-Hall*, and paſs'd thro a long Gallery, plac'd between the *King's Bench* and *Chancery* Courts, into this new-erected Court in *Weſtminſter-Hall*, and proceeded after this manner, *viz.*

Firſt, the Aſſiſtants to the Clerk of the Parliament.

Then the Clerk of the Crown in Chancery, and Clerk of the Parliament; after them the Maſters in Chancery two and two, and the King's Attorney-General alone.

Then the Judges of all the Courts in *Weſtminſter-Hall*, by two and two.

Next to them Noblemens eldeſt Sons.

After them four Serjeants at Arms, bearing their Maces.

Next the Gentleman-Uſher of the Black Rod.

Then all the Noblemen, according to their reſpective Degrees, the Juniors firſt, *viz.* Barons, Viſcounts, Earls.

Great Officer, *viz.* Lord Chamberlain of the Houſhold.

Marquiſſes, Dukes.

Great Officers, Lord Privy Seal, Lord Preſident of the Council.

Then four more Serjeants at Arms, bearing their Maces.

After them, the Gentleman carrying the Great Seal.

Then one of his Majeſty's Gentlemen-Uſhers, Daily-waiters, carrying the White Wand; *Garter*, principal King of Arms, going on his Right hand.

Then the Lord High Steward alone, having his Train borne; and after him his Highneſs *Rupert* Duke of *Cumberland*, a Prince of the Blood.

This done, and the whole Houſe of Peers having taken their Places according to their Degrees, the Commons being alſo ſeated on each ſide, and the Managers in the Rooms appointed for them; the Commons being all bare, the Lord High Steward, after Obeiſance made towards the State, took his Place upon the uppermoſt Wool-ſack, and thereupon receiving the White Wand from *Garter* and the Gentleman-Uſher upon their Knees, deliver'd it to the Uſher of the Black Rod, who held it during the time of ſitting there. Having ſo done, his Lordſhip ſaid, Cryer, make Proclamation of Silence. Then the Crier, a Serjeant at Arms, made Proclamation thus: All manner of Perſons are ſtraitly commanded to keep ſilence upon pain of Impriſonment. God ſave the King.

Lord High Steward. Make Proclamation for the Lieutenant of the *Tower* to bring the Priſoner to the Bar.

Cryer. O yes, O yes, O yes, Lieutenant of the *Tower* of *London*, bring forth thy Priſoner *William* Viſcount *Stafford*, upon Pain and Peril ſhall fall thereon. God ſave the King.

Whereupon the Lieutenant of the *Tower* brought the Priſoner to the Bar.

Uſher of the Black Rod. My Lord *Stafford* muſt kneel; which he did.

L. H. S. Riſe, my Lord.

Then he aroſe, and ſtood at the Bar, and the Lord High Steward ſpake to him as followeth:

My Lord Viſcount Stafford,

THE Commons of *England* aſſembled in Parliament have impeach'd your Lordſhip of High-Treaſon; and you are brought this Day to the Bar to be try'd upon that Impeachment: You are not try'd upon the Indictment of Treaſon found by the Grand Jury, tho there be that too in the Caſe; but you are proſecuted and purſued by the loud and dreadful Complaints of the Commons; and are to be try'd upon the Preſentment which hath been made by the Grand Inqueſt of the whole Nation.

In this ſo great and weighty Cauſe, you are to be judg'd by the whole Body of the Houſe of Peers, the higheſt and the nobleſt Court in this, or perhaps in any other part of the Chriſtian World.

Here you may be ſure no falſe Weights or Meaſures ever will or can be found: Here the Ballance will be exactly kept, and all the Grains of Allowance which your Caſe will bear, will certainly be put into the Scales.

But as it is impoſſible for my Lords to condemn the Innocent, ſo 'tis equally impoſſible that they ſhould clear the Guilty.

If therefore you have been agitated by a reſtleſs Zeal, to promote that which you call the *Catholick Cauſe*; if this Zeal have engag'd you in ſuch deep and black Deſigns as you are charg'd with, and this Charge ſhall be fully prov'd, then you muſt expect to reap what you have ſown; for every Work muſt and ought to receive the Wages that are due to it.

Hear therefore with Patience what ſhall be ſaid againſt you, for you ſhall have full Time and Scope to anſwer it; and when you come to make your Defence, you ſhall have a very fair and equal Hearing.

In the mean time, the beſt Entrance upon this Service will be, to begin with the reading of the Charge.

L. H. S. My Lord, if your Lordſhip find your ſelf infirm and unable to ſtand, your Lordſhip may have a Chair to eaſe your ſelf whilſt your Charge is reading. And a Chair was brought accordingly, and his Lordſhip ſat thereon.

Clerk of the Parliament, read the Charge.

Articles of Impeachment of High Treaſon, and other high Crimes and Offences, againſt William *Earl of* Powis, William *Viſcount* Stafford, *and* Henry *Lord* Arundel *of* Wardour, William *Lord* Petre, *and* John *Lord* Bellaſis, *now Priſoners in the* Tower *of* London.

'1. THat for many Years now laſt paſt, there 'hath been contriv'd and carried on by 'Papiſts a traitorous and execrable Conſpiracy and 'Plot within this Kingdom of *England*, and other 'Places, to alter, change, and ſubvert the antient 'Government and Laws of this Kingdom and Nation, and to ſuppreſs the true Religion therein 'eſtabliſh'd, and to extirpate and deſtroy the Profeſſors thereof; which ſaid Plot and Conſpiracy, 'contriv'd and carried on in divers Places, and 'by ſeveral Ways and Means, and by a great 'Number of Perſons of ſeveral Qualities and 'Degrees who acted therein, and intended thereby to execute and accompliſh the aforeſaid wicked and traitorous Deſigns and Purpoſes.

'2. That the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *Henry* Lord *Arundel* of *Wardour*, *William* Lord *Petre*, and *John* Lord *Bellaſis*, together with *Philip Howard*, commonly called Cardinal of *Norfolk*, *Thomas White*, alias *Whitebread*, commonly called Provincial of the *Jeſuits* in *England*, *Richard Strange*, lately call'd Provincial of the *Jeſuits* in *England*, *Vincent*, commonly call'd Provincial of the *Dominicans* in *England*, *James Corker*, commonly call'd Preſident of the *Benedictines*, Sir *John Warner*, alias *Clare*, Baronet, *William Harcourt*, *John Kenis*, *Nicholas Blundel*, ——— *Poole*, *Edward Mico*, *Thomas Bedingfield*, alias *Benefield*, *Faſil Langworth*, *Charles Peters*, *Richard Peters*, *John Conyers*, Sir *George Wakeman*, *Thomas Fenwick*, *Dominick Kelly*, *Fitzgerald*, *Evers*, Sir *Thomas Preſton*, *William Lovel*, Jeſuits; Lord *Baltimore*, *John Carrel*, *John Townley*, *Richard Langhorn*, *William Fogarty*, *Thomas Penny*, *Matthew Medbourn*, *Edward Coleman*, *William Ireland*, *John Grove*, *Thomas Pickering*, *John Smith*, and divers other Jeſuits, Prieſts, Fryars, and other Perſons, as falſe Traytors to his Majeſty and this Kingdom, within the time aforeſaid, have traitorouſly conſulted, contrived, and acted to and for the accompliſhing of the ſaid wicked, pernicious and traitorous Deſigns; and for that end did moſt wickedly and traitorouſly agree, conſpire, and reſolve to impriſon, depoſe, and murder his ſacred Majeſty, and to deprive him of his Royal State, Crown and Dignity, and by malicious and adviſed Speaking, Writing, and otherwiſe, declar'd ſuch their Purpoſes and Intentions.

'And alſo to ſubject this Kingdom and Nation to the Pope, and to his Tyrannical Government.

'And

'And to ſeize and ſhare among themſelves the 'Eſtates and Inheritances of his Majeſty's Proteſ-'tant Subjects.

'And to erect and reſtore Abbeys, Monaſteries, 'and other Convents and Societies, which have 'been long ſince by the Laws of this Kingdom 'ſuppreſs'd for their Superſtition and Idolatry; 'and to deliver up and reſtore to them the Lands 'and Poſſeſſions now veſted in his Majeſty and his 'Subjects by the Laws and Statutes of this Realm: 'and alſo to found and erect new Monaſteries and 'Convents, and to remove and deprive all Proteſ-'tant Biſhops, and other Eccleſiaſtical Perſons from 'their Offices, Benefices, and Preferment.

'And by this means to deſtroy his Majeſty's 'Perſon, extirpate the Proteſtant Religion, over-'throw the Rights, Liberties and Properties of 'all his Majeſty's good Subjects, ſubvert the law-'ful Government of this Kingdom, and ſubject the 'ſame to the Tyranny of the See of *Rome*.

'3. That the ſaid Conſpirators, and their Com-'plices and Confederates, traitorouſly had and held 'ſeveral Meetings, Aſſemblies, and Conſultations, 'wherein it was contriv'd and deſign'd among 'them, what Means ſhould be us'd, and what Per-'ſons and Inſtruments ſhould be employed, to mur-'der his Majeſty; and did then and there reſolve 'to effect it by poiſoning, ſhooting, ſtabbing, or 'ſome ſuch like ways and means; and offer'd 'Rewards and Promiſes of Advantage to ſeveral 'Perſons to execute the ſame, and hired and em-'ploy'd ſeveral wicked Perſons to go to *Windſor*, 'and other Places where his Majeſty did reſide, 'to murder and deſtroy his Majeſty: which ſaid 'Perſons, or ſome of them, accepted ſuch Re-'wards, and undertook the perpetrating thereof, 'and did actually go to the ſaid Places for that end 'and purpoſe.

'4. That the ſaid Conſpirators, the better to 'compaſs their traitorous Deſigns, have conſulted 'to raiſe, and have procur'd and rais'd Men, Mo-'ney, Horſes, Arms, and Ammunition, and alſo 'have made Application to, and treated and cor-'reſponded with the Pope, his Cardinals, Nun-'cio's, and Agents, and with other Foreign Mi-'niſters and Perſons, to raiſe and obtain Supplies 'of Men, Money, Arms and Ammunition, there-'with to make, levy and raiſe War, Rebellion and 'Tumults within this Kingdom, and to invade 'the ſame with foreign Forces, and to ſurprize, 'ſeize, and deſtroy his Majeſty's Navy, Forts, 'Magazines, and Places of Strength within this 'Kingdom; whereupon the Calamities of War, 'Murders of innocent Subjects, Men, Women and 'Children, Burnings, Rapines, Devaſtations, and 'other dreadful Miſeries and Miſchiefs muſt ine-'vitably have enſued, to the Ruin and Deſtruction 'of this Nation.

'5. And the ſaid Conſpirators have procur'd 'and accepted, and deliver'd out ſeveral Inſtru-'ments, Commiſſions and Powers, made and grant-'ed by or under the Pope, or other unlawful 'and uſurp'd Authority, to raiſe and diſpoſe of 'Men, Moneys, Arms, and other things neceſſary 'for their wicked and traitorous Deſigns: and 'namely, a Commiſſion for the ſaid *Henry* Lord '*Arundel* of *Wardour*, to be Lord Chancellor of '*England*; another Commiſſion to the ſaid *William* 'Earl of *Powis* to be Lord Treaſurer of *England*; 'another Commiſſion to the ſaid *John* Lord *Bella-'ſis*, to be General of the Army to be rais'd; an-'other Commiſſion to the ſaid *William* Lord *Petre*, 'to be Lieutenant-General of the ſaid Army; and 'a Power for the ſaid *William* Viſcount *Stafford* to 'be Paymaſter of the Army.

'6. That in order to encourage themſelves in 'proſecuting their ſaid wicked Plots, Conſpiracies, 'and Treaſons, and to hide and hinder the Diſco-'very of the ſame, and to ſecure themſelves from 'Juſtice and Puniſhment, the Conſpirators afore-'ſaid, their Complices and Confederates, have 'us'd many wicked and diabolical Practices, *viz.* 'they did cauſe their Prieſts to adminiſter to the 'ſaid Conſpirators an Oath of Secrecy, together 'with their Sacrament; and alſo did cauſe their 'ſaid Prieſts upon Confeſſions to give their Ab-'ſolutions, upon condition that they ſhould conceal 'the ſaid Conſpiracy.

'And when about the Month of *September* laſt, 'Sir *Edmondbury Godfrey*, a Juſtice of Peace, had 'according to the Duty of his Oath and Office 'taken ſeveral Examinations and Informations 'concerning the ſaid Conſpiracy and Plot, the 'ſaid Conſpirators, or ſome of them, by Advice, 'Aſſent, Counſel and Inſtigation of the reſt, did 'incite and procure divers Perſons to lie in wait 'and purſue the ſaid Sir *Edmondbury Godfrey* di-'vers Days, with intent to murder him; which 'at laſt was perpetrated and effected by them, '(for which ſaid horrid Crimes and Offences *Ro-'bert Green*, *Henry Berry*, and *Lawrence Hill* have 'ſince been attainted, and *Dominick Kelly* and —— '*Girald*, and others are fled for the ſame.) After 'which Murder, and before the Body was found, 'or the Murder known to any but the Complices 'therein, the ſaid Perſons falſly gave out, that 'he was alive, and privately married: And after 'the Body was found, diſpers'd a falſe and mali-'cious Report, that he had murder'd himſelf.

'Which ſaid Murder was committed with de-'ſign to ſtifle and ſuppreſs the Evidence he had 'taken and had knowledge of, and diſcourage and 'deter Magiſtrates and others from acting in fur-'ther Diſcovery of the ſaid Conſpiracy and Plot: 'For which end alſo the ſaid Sir *Edmondbury 'Godfrey*, while he was alive, was by them, their 'Complices and Favourers, threatned and diſcou-'rag'd in his Proceedings about the ſame.

'7. And of their further Malice, they have wic-'kedly contriv'd, by many falſe Suggeſtions, to lay 'the Imputation and Guilt of the aforeſaid hor-'rid and deteſtable Crimes upon the Proteſtants; 'that ſo thereby they might eſcape the Puniſhments 'they have juſtly deſerv'd, and expoſe the Pro-'teſtants to great Scandal, and ſubject them to 'Perſecution and Oppreſſion in all Kingdoms and 'Countries where the *Romiſh* Religion is received 'and profeſs'd.

'All which Treaſons, Crimes and Offences above-'mentioned were contriv'd, committed, perpe-'trated, acted and done by the ſaid *William* Earl 'of *Powis*, *William* Viſcount *Stafford*, *William* Lord '*Petre*, *Henry* Lord *Arundel* of *Wardour*, and *John* 'Lord *Bellaſis*, and other the Conſpirators afore-'ſaid, againſt our Sovereign Lord the King, his 'Crown and Dignity, and againſt the Laws and 'Statutes of this Kingdom.

'Of all which Treaſons, Crimes, and Offences, 'the Knights, Citizens and Burgeſſes in Parlia-'ment aſſembled, do, in the Name of themſelves, 'and of all the Commons of *England*, impeach the 'ſaid *William* Earl of *Powis*, *William* Viſcount *Staf-'ford*, *William* Lord *Petre*, *Henry* Lord *Arundel* of '*Wardour*, and *John* Lord *Bellaſis*, and every of 'them.

'And the ſaid Commons by Proteſtation, ſaving to themſelves the Liberty of exhibiting at any time hereafter, any other Accuſations or Impeachments, againſt the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *William* Lord *Petre*, *Henry* Lord *Arundel* of *Wardour*, and *John* Lord *Bellaſis*, and every of them: And alſo of replying to the Anſwers, which they, and every of them, ſhall make to the Premiſes, or any of them; or to any other Accuſation or Impeachment which ſhall be by them exhibited (as the Cauſe according to Courſe and Proceedings of Parliament ſhall require) do pray that the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *William* Lord *Petre*, *Henry* Lord *Arundel* of *Wardour*, and *John* Lord *Bellaſis*, and every of them, be put to anſwer all, and every the Premiſes: And that ſuch Proceedings Examinations, Tryals and Judgments, may be upon them, and every of them, had and uſed, as ſhall be agreeable to Law and Juſtice, and Courſe of Parliament.'

The Humble Anſwer of William *Viſcount of* Stafford, *now Priſoner in his Majeſty's* Tower *of* London, *to the Impeachment of High Treaſon, and other High Crimes and Miſdemeanors exhibited againſt him and others, to the Right Honourable the Lords Spiritual and Temporal in Parliament, by the Knights, Citizens and Burgeſſes, in Parliament aſſembled, in the Name of themſelves, and of the Commons of* England.

'THE ſaid Viſcount, ſaving to himſelf all Advantage and Benefit of Exceptions to the Generality, Incertainty and Inſufficiency of the ſaid Impeachment, moſt humbly beſeeching their Lordſhips thereof to take due notice, and thereunto at all times to have a juſt regard: He anſwereth and ſaith, That he is Not Guilty of all, or any of the Offences charged againſt him by the ſaid Impeachment; and for his Tryal humbly and willingly putteth himſelf upon his Peers; no ways doubting, but that by the Grace of God, and their Lordſhips impartial Juſtice, he ſhall make his Innocence appear. All which he moſt humbly ſubmitteth unto their Lordſhips further Conſideration.'

STAFFORD.

L. H. S. Gentlemen of the Houſe of Commons be pleaſed to proceed.

Then Mr. Serjeant Maynard, *one of the Committee appointed to manage the Evidence, began as followeth.*

My Lords,

MAY it pleaſe your Lordſhips, by the Command of the Houſe of Commons, who have impoſed upon us this Task, we are here to proſecute this great Charge againſt the Priſoner, the Lord at the Bar. My Lords, there are two Parts that are in this great Charge; there is a General, which is the Subverſion of the whole Nation, the King himſelf to be murdered, the Proteſtant Religion to be ſuppreſſed, War to be introduc'd, and thoſe other things that are expreſſed in the Articles. This General is charged in particular upon this Lord; and, my Lords, it was in conſideration how far it was fit to meddle with this General at this particular Tryal: For if this Lord be guilty of ſuch Crimes, it will prove well enough that there was ſuch a Plot. But, my Lords, withal we did conſider when the firſt Diſcovery of this Plot was made, how afterwards it took cold, how Rumours were raiſed againſt it, how there were Endeavours to ſuppreſs the Belief of it; and therefore, my Lords, we do conceive that it is fit we ſhould firſt ſettle that, that there was a General Plot, a Plot of ſuch a Nature as the Articles expreſs.

Some Objections we thought there might be raiſed, becauſe it hath been ſo long in the World, ſome Years now ſince the Diſcovery of it, ſome Perſons, that is, ſome ten or eleven, proſecuted and attainted for it, and therefore that might have been ſatisfaction enough that ſuch a Plot there was; beſides, that there have been publick Declarations of the Particulars of it to the World. But being now to proceed before your Lordſhips in a judicial way, we did think fit, and we hope your Lordſhips will approve of it, to ſpend ſome time in the Proof of the General Plot, which we hope will be to the ſatisfaction of your Lordſhips, and the whole World; for we do not think that *England* only looks into this Day's Tryal, but the whole World one way or other, the whole Chriſtian World is concerned in it. My Lords, after the publication of theſe things (which were not judicial) how far your Lordſhips will believe them as Judges, we know not; we will prove it now, that their Policies and Contrivances may be laid open to the World: And firſt we offer it to your Lordſhips, becauſe we have made it part of the Charge. And ſecondly, we ſhall do it, becauſe we think your Lordſhips are not obliged to believe things that are in Print, till we prove them by Witneſſes judicially before you. But the main reaſon why we do it, is, becauſe we would touch upon thoſe Endeavours that have been uſed to make this ſeem as if it were a kind of State-Plot, I know not what to call it, a Chimera, an Imagination, and not a real thing. This they labour'd many ways to effect, but we ſhall prove that it is a ry real and a very true one.

When that *Oates* firſt made a diſcovery, it ſeems it had not that weight that we think now it will clearly have with your Lordſhips; and had not the Murder of Sir *Edmondbury Godfrey* follow'd in the neck of it, the World, as it was aſleep, would have lain ſo, but that awaked us.

My Lords, it fell out in this caſe as it did in another: when *Catiline* the Traitor was a great way off *Rome*, and four other Lords with him, *Caſſius*, *Cethegus*, and others, five in all; it came to paſs, that, as the great Orator that was at that time ſaid, *Many were ſo ignorant that they would not think it; many were ſo unwiſe they would not believe it; ſome ſo ill that they would favour it; and ſome ſo much worſe that they did foſter it: but all of them in not believing, it gave ſtrength to the Conſpiracy and the Treaſon.* And ſo it did here, for we look not upon our ſelves as diſcharged from the Treaſon when diſcover'd, but when prevented.

My Lords, another Reaſon to induce us into the Proof of the Main Plot is this; we do not look upon it as a particular Offence, as if one Lord was only to be queſtion'd, and appear before your Lordſhips judicially for it; he is indeed only before you at this time to receive his Tryal, and your Judgment: But, my Lords, This is a Treaſon of a Faction, and of a general Party in the Nation; 'tis not this or that Lord, but a great number: 'tis not this or that Lord that is mention'd in the Articles, but the Conſpiracy is of a great Faction. This

This do we think, and this makes us ſo earneſt to preſs the General before your Lordſhips, that we may give ſatisfaction to your Lordſhips and the World what this Plot hath been, and how carried on every where.

My Lords, The Conſequence of that is very great: For, my Lords, if there were a general Deſign, and a general Plot, as clearly there was; ſome were to act in *Spain*, and ſome in *France*, ſome in other Places, ſome in *Ireland*, *Scotland*, and *England*, and a great number of Jeſuits, (we have a matter of thirty in chaſe about this Buſineſs;) I ſay, my Lords, if it be ſo, if one Action be in one Place, and another in another; yet if there be a common Conſent to accompliſh this Plot, then what the one does, is the Act of all, and the Act of all is the Act of every one.

My Lords, The Perſons were many, and the Places and Times many they acted in, and the Deſigns which they were to accompliſh, and the Means wherewith they were to accompliſh them, were many too. Great and wicked were their Deſigns, to deſtroy our King, to take him out of the World; and why? upon hopes of better Times to them under him that ſhould ſucceed him. Another part of the Deſign, was to deſtroy, not this or that Man that ſtood in their way, but the whole Body of the Proteſtants here in *England*; not a Murder, but a Maſſacre and a Slaughter of all whoſoever they were that came near them, and none were to eſcape; for if any meant to flee, they would be ſure to cut them off: nay, not only to deſtroy our King, though that be the greateſt Offence that our Law can take hold of, but to deſtroy our Religion, and to deſtroy us becauſe of our Religion.

To accompliſh this, that we may open the Generals of it, Arms were to be provided, Men to be raiſed, an Army was formed in effect; and who to lead, and who to command, and who to pay. But, My Lords, not only were Arms to be had here among our ſelves, but a *French* Aid muſt be fetch'd in; Aſſiſtance from *France* muſt come too, Intelligences and Letters are written, and Correſpondencies had, and Aids promiſed by the Miniſters from thence.

My Lords, 'Tis a ſtrange thing that *Engliſhmen* ſhould contrive to have an Invaſion of Strangers upon their own Country; and ſurely they are the worſt Bigots in the World that were ſo zealous to deſtroy their own Nation: and they were not wiſe ſure to think, that if the *French* did come in, they ſhould continue great Lords or great Men; and yet thus it was in general. It is very ſtrange that it ſhould enter into the Heart of any Man to deſtroy ſo many Perſons. But, my Lords, if we look upon what did incourage them, and what confirmed them in this Deſign, and what they have publiſhed to the World about their Religion, we ſhall not wonder at it; ſince they tell us 'tis lawful to kill a Heretick King, and the King of *England* is an Heretick they ſay, and ſo declared, ſo that whoſoever would kill him did a lawful and a pious piece of Service to God: nay, not only ſo, but a meritorious and glorious one too, for which they may be canoniz'd for Saints.

My Lords, We find it is no new thing: Look into all the Nations where the Pope hath any Power, or a poſſibility of hope to gain a Power, nothing hath been able to ſtand in their way, but they have broken thro all the Bonds of Nature, and other Obligations to attain their Ends. Look into *Spain*, King *Philip* there removed his own Son, by what means the Story tells us, he was Heir apparent, but he was a Proteſtant; and there alſo the Father puts fire to his own Daughter, becauſe ſhe was a Proteſtant; there a *Spaniard* goes from *Spain* into *Germany* to murder, and did murder his Brother for no other cauſe but becauſe he was a Proteſtant. Leave *Spain*, and go into *France*; what Maſſacres have been committed there under the colour of a Marriage in Queen *Elizabeth*'s time? And before that, how many hundred *Albigenſes* and *Waldenſes* have been put to the ſword for Religion? Come we to our own Country, and look into *England* what hath been done here, when Queen *Elizabeth* had a Succeſſor of another Religion, how many Attempts were there made upon her Perſon to bring that Succeſſor in? When King *James* came to the Crown, let us remember the *Gunpowder-Treaſon*, wherein all the Nation was to be deſtroy'd, King, Lords, and Commons together, and in Parliament aſſembled were then to be a Sacrifice, a Burnt-Offering, though they might call it a Peace-Offering; for theſe Gentlemen are for Sacrifices of Blood as Peace-Offerings, to reconcile us to the Pope. If this be made out, we think, their Principles having produced theſe Fruits in other Ages, we may believe they would do ſo now.

What has been ſaid as Hiſtory of former times, is not offered as Evidence of Fact to the preſent Caſe, but induces a Probability that what hath been done by ſuch Perſons may be done by them again. But, my Lords, we ſhall make it clear, and bring it home to this Lord, that he hath had his Head, his Tongue, his Hand, his Heart and his Purſe in this damnable and horrible Contrivance and Treaſon for the deſtroying of the King, the Government, our Religion and our Nation. We ſhall bring it home to him; but my Part is only to open the general Conſpiracy: And indeed, my Lords, it is an heavy Burden on my aged Shoulders, conſidering that the Winter of Infirmity and Age is growing ſo faſt upon me.

My Lords, The Particulars concerning this noble Lord, becauſe the Credit of it reſts on the Teſtimony only of one Man, *viz.* Mr. *Oates*, whoſe Teſtimony being taken by Sir *Edmondbury Godfrey*, a Juſtice of Peace, and kept in writing by him, then Sir *Edmondbury Godfrey* was way-laid, and murder'd by Men of the Popiſh Religion, thereby to ſuppreſs the Examination that he had taken.

This ſtartled and open'd the Eyes of the World to look about us for farther Diſcovery, leſt we ſhould be led as *Oxen to the Slaughter, not knowing whither we went.*

Afterwerd it pleaſed God to bring ſome of your Religion and Party to make farther diſcovery: Whereupon ſeveral Jeſuits, guilty of the Plot, were therefore proſecuted and brought to Judgment and Death.

After the Murder of *Godfrey*, ſeveral Fables were ſpread abroad, as if he were alive and married, as was declared to ſeveral Lords: others of the Party reported he had murder'd himſelf; but his Body being found, it was hard for the Party to invent or tell, whether he firſt ſtrangled himſelf, and then run himſelf through, or firſt run himſelf through, and then ſtrangled himſelf: That was a Dilemma to diſprove their Fables touching *Godfrey*'s Murder.

It then fell out, that Mr. *Bedlow* came as a ſecond Diſcoverer, whoſe Teſtimony concurred with *Oates*; and then there being two Witneſſes, as is neceſſary in caſe of Treaſon, the Deſign was to take off *Bedlow* that there ſhould remain but one,

one, a ſingle Witneſs: In order to which, *Reading* tempts *Bedlow* with Rewards to leſſen his former Teſtimony, and qualifies that which he had depoſed poſitively was but Matter of Hear-ſay; for which *Reading*, the Inſtrument in that Deſign and Attempt, was indicted and convicted by three Witneſſes, and ſuffered accordingly.

But then this Attempt upon *Bedlow* failing, the next Attempt was to take off *Oates*'s Teſtimony, by charging him with an infamous Offence: for which purpoſe one *Knox* is imploy'd, who ſuborns *Lane* and *Osborn*, and they ſwore it againſt *Oates*; but on Re-examination confeſs the Subornation and Falſhood of their Deſign, and *Knox* and *Lane* are therefore indicted and found guilty.

Thus when the Treaſon was diſcover'd, the Murder of an Officer of Juſtice is made the Means to hide it; and then falſe and infamous Stories ſet on foot of that Officer to hide that Murder, and Perjury and Subornation the means to blaſt the Diſcoverers.

Theſe wicked and ill Practices we take to be a ſecond Proof of the Plot, both in general and particular, the Records of which Convictions are here before your Lordſhips ready to be proved: For, *cui bono*, none would do ſuch wicked Practices, but to hide a greater Sin; and worſe Deſigns if poſſible will be opened, and proved by one to whom that is particularly appointed.

My Lords, We ſpeak this that the World may receive Satisfaction; we will let our Evidence be all open and publick in the Face of the Sun, and ſhew, we go not about by private Subornations, though there are Endeavours to encounter us by ſuch.

My Lords, If we make out theſe things, here is Matter enuogh for the Satisfaction of the World, as to the general Contrivance. But, my Lords, as you ſit here as Judges of this Lord, the Priſoner at the Bar, we muſt bring it down to particular Perſons, and we ſhall do it even to him, that thoſe things which were mention'd in general were his Contrivance at leaſt-wiſe, as a Man highly deeply guilty of conſpiring the King's Death; and in order to that, of raiſing an Army, and the other things that have been open'd.

My Lords, I beſeech you to pardon me, if I have troubled you too long: The Particulars were many, I have had little help to prepare it from any body but my ſelf, but I ſubmit my ſelf to your Lordſhips; and hope that what is wanting in me, will be ſupply'd by others that follow: and I alſo hope you will find no defect in our Evidence at all, whatſoever may have been in the opening of it.

Then Sir Francis Winnington, *another of the Committee appointed for the Management of the Evidence, began as followeth.*

My Lords,

I Shall begin where Mr. Serjeant *Maynard* ended, and confine my ſelf to this Caſe, as it ſtands before you, and to open the particular Evidence relating to the Lord, the now Priſoner at the Bar.

My Lords, I look upon the Cauſe of this Day to be the Cauſe of the Proteſtant Religion; and I doubt not but that Plot, which has alarmed all Chriſtendom, will be ſo clearly made out in this Tryal, that the moſt malicious of our Enemies will henceforth want Confidence to deny it.

That the Religion of the Papiſts does countenance and encourage the murdering of Princes, the maſſacring of ſuch as they miſ-call Hereticks, and the committing of all ſorts of Impiety, in order to promote their Superſtitions, and Idolatries, has been mention'd by the Gentleman who ſpoke before me; and I ſhould miſpend time to ſay more of a Truth ſo well known, in ſo great and ſo learned a Preſence: I will therefore directly apply my ſelf to the Buſineſs of the Day, to repreſent to your Lordſhips our Evidence of the Plot in general, and of the Guilt of this Lord at the Bar in particular.

In order to which, I ſhall crave your Lordſhips leave that I may uſe this Method.

Firſt, To ſhew what advantageous Opportunities the Papiſt had to enter into, and undertake this great and deteſtable Conſpiracy.

Secondly, To prove the Reality of the Plot in general, which I look upon as a very eaſy Undertaking.

Thirdly, To ſtate the particular Evidence againſt the Priſoner at the Bar, by which he will appear to have been one of the principal Conſpirators in this horrid Deſign, to murder our Sovereign, (whom God preſerve) to extirpate the Proteſtant Religion, and to ſubvert totally the Government and fundamental Laws of this Kingdom.

My Lords, To ſhew what extraordinary Advantages the Papiſts had to enter upon this Conſpiracy, will very naturally lead us into our Proof of it; and therefore I ſhall ſpeak ſomewhat to that in the firſt place.

It is not unknown to your Lordſhips, or to any others who have in the leaſt degree enquired into Affairs, that his Majeſty has been ſo unhappy as that (unawares to him) ſome Miniſters, who have been Papiſts at the bottom, and others that have drove on their Intereſt, have crept into his Councils, and thereby gave great Opportunities to advance Popery.

'Tis moſt true, that as ſoon as theſe ill Miniſters were detected, and their ill Deſigns diſcovered, his Majeſty did diſcharge them: but to the misfortune of the King and his People, as ill Men have been recommended to ſucceed them, and came into their Places.

In the next place, my Lords, there did appear in ſome Men too eaſy and favourable a Diſpoſition towards the Papiſts. They were grown ſtrangely moderate towards theſe old Enemies of our Church and State. New Projects of reconciling us were ſet on foot, and Books were written to diſtinguiſh the Church of *Rome* from the Court of *Rome*. One of thoſe Books, which was printed the Year before the Diſcovery of the Plot, pretends, that there ought to be a Difference made between Papiſts of loyal and diſloyal Principles. This Book, as it was written more artificially than the reſt, and publiſhed in ſo critical and dangerous a Juncture, deſerves, and I doubt not in time will have, a particular Conſideration. 'Tis eaſy to believe how great Encouragement this muſt give to the *Romaniſts*, to ſee how very willing Men were to meet them, and how freely the Pen was drawn in their favour.

Another great Encouragement, my Lords, which the Papiſts had, was, That by the means of thoſe Miniſters who were ſecretly of their Faction, whenſoever his Majeſty was pleaſed to command the Laws made againſt them in the Reign of Queen *Elizabeth* and King *James*, to be put in due Execution, his good Intentions were fruſtrated, and the Severity of thoſe Laws was turned upon the Proteſtant Diſſenters. This was a Maſter-piece of *Rome*, not only to divert from themſelves the Edge of

of thoſe Laws which were deſigned againſt them; but to turn them upon the Proteſtants, and to make them uſeful to advance the *Romiſh* Intereſt: And when they had thus divided and diſtracted us, then was the faireſt time for them to attempt to deſtroy us utterly, and to make ſharp their Weapons in order to a Maſſacre.

But, my Lords, that which gave the Papiſts the greateſt Encouragement to enter into this deteſtable Conſpiracy, was, that they had (to the great unhappineſs of this Kingdom and the Proteſtant Religion) the Expectation and Hopes of a Popiſh Succeſſor. This was an Opportunity not to be loſt. They had abundant Experience of his Majeſty's Firmneſs in the Proteſtant Religion, both during his Exile and ſince his happy Reſtoration, and how reſolutely he had kept that Promiſe which he made in his Letter from *Breda*, That neither the Unkindneſs of ſome Proteſtants, nor the Civilities of ſome Papiſts ſhould in the leaſt degree ſtartle him, or make him ſwerve from his Religion.

They therefore could have no hopes of arriving at their Point, the Re-eſtabliſhment of their Church, whilſt the King liv'd; and it was too great a hazard to expect his Majeſty's Death by the Courſe of Nature: and therefore, like true Papiſts, that would ſtick at no Wickedneſs to accompliſh their Deſigns, they threw off all Bonds of Loyalty and Allegiance, and reſolved to deſtroy our Sovereign, whoſe Life was the only Obſtacle in their way. This was the laſt and moſt wicked Part of their Plot, which tho it conſiſted of very many Parts, yet this was the principal; and our Evidence againſt the Lord at the Bar will chiefly run to this part of the Deſign.

I have only mention'd ſome of thoſe Encouragements which the World plainly ſaw the Papiſts had, before the Plot was detected: But ſince the diſcovery, it has been abundantly proved, that it had been carrying on for many years, and that ſo univerſally, that it is a wonderful thing it appear'd no ſooner.

My Lords, I come now to our Evidence: And tho it may ſeem unneceſſary to prove to your Lordſhips a general Plot of the Papiſts, who are ſo well ſatisfy'd of it already, and have more than once declared ſo to the World; yet becauſe it is the moſt natural Method for us, firſt to prove that there was a Conſpiracy, before we attempt to prove this Lord to have been one of the Conſpirators, we ſhall beg your leave as to that particular. And as we ſhall be careful not to take up too much of your Time, ſo we well know your Lordſhip will allow us all the Time neceſſary to give our Evidence.

We have many Records, things reduced to Judgment, whereby the Plot is moſt undoubtedly prov'd, and which are legal Evidences before your Lordſhips: The Attainders of ſeveral Jeſuits and Prieſts, the Attainder of *Langhorn* and of *Coleman*, whom I ſhould have named in the firſt place. We have alſo the Conviction of thoſe that were proſecuted for the Murder of Sir *Edmondbury Godfrey*; and there is a Conviction, tho not for the Murder, yet for cutting the Throat of Mr. *Arnold*. 'Tis true he is not dead, yet as to the Publick, I count him murdered by the Papiſts, tho he be alive in the World. My Lords, we have Convictions not only of Treaſons, Murders, and cutting of Throats, but of almoſt all other Villanies whatſoever: As of Attempts to ſuborn Witneſſes, and to ſcandalize the King's Evidence; and to that we ſhall produce the Record concerning *Reading*'s Attempt upon *Bedlow*; that concerning the ſuborning of *Knox* and *Lane* to ſwear Buggery againſt Dr. *Oates*; and the Conviction of *Tasborough* and *Price* to corrupt *Dugdale*, a principal Witneſs as to this Plot.

I only mention theſe Particulars, my Lords; and certainly as you are a great Court of Record, you will take notice of them. It would be a hard thing perhaps to ſpend the time in reading all, ſince all of them are made to the known World already; but we ſhall in the Courſe of our Evidence produce them, and you may read ſuch of them as you pleaſe. All the Uſe we make of them, is for the Proof of the general Plot, which is requiſite to be done; for it will be hard to believe the Priſoner guilty of the Plot, if there were no ſuch Plot at all.

My Lords, We ſhall make appear to you things which have not yet been brought into Judgment. In the Year 76. we ſhall prove by a Witneſs that was then abroad, and diſcourſed with *Anderton*, *Campion*, *Green*, and ſeveral other Prieſts and Jeſuits, that they did acquaint him that there would be great Alteration in *England* e'er long; that the King was a Heretick and excommunicated, and might be deſtroy'd; and this Doctrine they continually and induſtriouſly preached. And they further ſaid, If once the King were removed, (who alone ſtood in the way) their Religion muſt needs flouriſh; for this reaſon, as the Witneſſes will ſpeak, that the Duke of *York* was on their ſide.

My Lords, We ſhall prove, that they had in *England* Men no leſs induſtrious amongſt them, ſome whereof have been executed: *Gavan* by name, who made it his buſineſs to go up and down in ſeveral Counties of this Kingdom, to prove by Scripture, Councils, and Examples, That it was a lawful Undertaking to kill his Majeſty. Theſe things I name, as neceſſary in order to introduce our particular Evidence; I am unwilling to dwell longer upon this Point of the general Plot. I ſhall produce the Records, and produce our ſeveral Witneſſes, Mr. *Oates* and others, that will give you a full and plain Account of it.

My Lords, Having done with the general Plot, I come now to open the particular Evidence againſt my Lord, the Priſoner at the Bar. As to him, my Lords, our Evidence ſtands not upon Conjectures, or upon mere Probability, becauſe this Lord is (as we well know) a zealous Papiſt, and hath owned himſelf ſo; but we have expreſs particular Proofs againſt his Perſon. My Lords, we have one Witneſs to produce to your Lordſhips, who will prove, that in *September* 78. there was a Conſult of ſome Prieſts, and other Conſpirators, at *Tixal* in *Staffordſhire*, my Lord *Aſton*'s Houſe, for killing of the King, where my Lord *Stafford* was preſent. And by a Diſcourſe in the ſame Month, we ſhall prove what Reaſons this Lord did give, why he and their Party undertook the murdering of the King, becauſe, he ſaid, that he and many Catholick Families had no Recompence for their Loyalty; but if any thing fell, it was diſpos'd of to Rebels and Traitors. This he reſented deeply; but above all, the Obligation of his Conſcience, and of his Religion perſuaded him to it, and confirmed him in his Reſolution to go on in this horrid Deſign.

My Lords, We will go further, and prove that this Lord offer'd 500 *l.* out of his own Purſe to carry on the Plot, and particularly this part of it, for killing the King. We ſhall produce to your Lordſhips a Witneſs to whom he made this

Offer,

Offer, as looking upon him to be a faithful Man, and having receiv'd ſo great a Character of him from one *Evers* a Prieſt, that he thought he might ſafely communicate the Matter to him; and the Argument he urg'd to perſuade the Witneſs, beſides the 500 *l.* which he ſaid upon his Application to *Harcourt* and *Ireland* they ſhould pay him, was this, That others as well as he were employ'd in the ſame Deſign; that it was the only way to eſtabliſh the *Romiſh* Religion in *England*; that he would lay an everlaſting Obligation upon all the Perſons of that Perſuaſion, and that he ſhould not only have his Pardon, but be canoniz'd for it.

My Lords, This is the Subſtance of the Teſtimony of the firſt Witneſs which we ſhall produce againſt my Lord *Stafford*; and that is ſo expreſs, as I think it can hardly be anſwer'd.

My Lords, Our next Witneſs ſays thus; (for I ſhall but open the Subſtance of what they ſay:) In *June* or *July* 1678, there were ſeveral Letters from this Lord at the Bar to the Jeſuits in *London*, in which his Lordſhip did declare his Readineſs to ſerve them in their great Deſign: And in *June* (78) the latter end of the Month, my Lord *Stafford* came to Mr. *Fenwick*'s Chamber in *Drury-Lane*, (he went not then by the Name of my Lord *Stafford*, but by the Name of Mr. *Howard* of *Effingham*) and there he did receive a Commiſſion from *Fenwick* to be Paymaſter-General of the Army which was to be rais'd for the carrying on the Plot. His Lordſhip told them he was then going into the Country, but he hop'd he ſhould ſoon hear from them, that they had done the Buſineſs, at leaſt that it would be done before his Lordſhip did return. To which *Fenwick* made anſwer, Your Lordſhip muſt look after the Buſineſs as well as other Perſons; and there will be need of ſome to countenance it in Town: thereupon the Lord, the Priſoner at the Bar, ſaid, That they had been often deceiv'd by this Prince, and been patient with him, but they would bear no longer, but were now reſolv'd to do the Work without Delay, for their Patience was worn out. Several other particular Circumſtances the Witneſs will acquaint your Lordſhips withal, which I ſhall not take up your time with.

My Lords, We have a third Witneſs as conſiderable and particular as any of the reſt, one that liv'd three Years in the Lady *Powis*'s Houſe, had his Education there, and was perſuaded by that Lady, and by one *Morgan* a Jeſuit, to become a Fryar, and to that end was ſent to *Doway*; but not liking to continue at *Doway* (he will tell you the Reaſon why) he eſcap'd to *France*, and at *Paris* came to his Brother, a *Benedictine* Monk there, who advis'd him to go for *England*. But whilſt he ſtaid at *Paris*, this Gentleman, by the means of his Brother and other Prieſts, grew into a great familiarity with my Lord *Stafford*, who was then in *France*, and who at laſt came to have ſuch a great Confidence in him, that his Lordſhip could not hold, but told him, that tho he had diſoblig'd all his Friends by going away from *Doway*, yet he had ſomething to propoſe to him, which would be a means to reconcile him to his Friends, and bring him into Preferment, and into the Friendſhip of all good Catholicks, whom he would oblige by it. The Gentleman was willing to embrace ſo happy an Opportunity, and deſired to know what it was could procure him ſo great a Good. My Lord *Stafford*, the Priſoner at the Bar, told him, It was a thing of very great Importance; and after having requir'd from him all poſſible Obligations of Secrecy, he told him plainly what great Benefits would accrue to himſelf, and what Advantage to the Catholick Cauſe, if he would make himſelf and the Nation happy, by undertaking to kill the King of *England*, who was an Heretick, and conſequently a Rebel to God Almighty. My Lord *Stafford* did believe the Witneſs did embrace this Propoſal warmly, and therefore directed him to prepare to go for *England*, and to go beforehand from *Paris* to *Diep*, where he would meet him, and go over with him. But it ſeems my Lord *Stafford* met with ſome Diverſion, for he did not keep his Word with him in coming; and ſo this Gentleman being diſappointed, went over without him: but fearing to be called upon to the ſame Service, he return'd back again ſuddenly, and went into the *French* Army.

My Lords, We ſhall produce theſe Witneſſes againſt the Lord at the Bar; and when they have prov'd to your Lordſhips what I have open'd, any one who was not acquainted with the *Popiſh* Party, would believe they would be at a loſs how to acquit themſelves from this Charge. All manner of foul and indirect Practices have been uſed by them to terrify, to corrupt, and to ſcandalize our Witneſſes; all manner of Objections have been made to our Evidence. If the Witneſs does not come up to ſpeak directly to every Point, we are told, he ſays nothing at all: if he ſpeaks directly, they cry, he is not to be believ'd. Thus they have a ready Anſwer to every Witneſs that has been or ever ſhall be produced, either that he ſays nothing material, or that nothing that he ſays ought to have any Credit.

But we doubt not by this Tryal before your Lordſhips, if we cannot ſtop their Mouths, at leaſt to convince all the World beſides of the Reality of this Plot.

It will be no wonder if their Confidence goes on ſtill to frame Cavils: They are us'd to ſcandalize the Government, and they cannot give it over. How often has his Majeſty under his Great Seal publiſh'd and declar'd this Conſpiracy? How often has he preſs'd his Parliaments to go on to bring the Conſpirators to Puniſhment? And at the Opening of this very Parliament, he ſays plainly, That he does not believe himſelf ſafe from their Deſigns. Your Lordſhips alſo have voted the unqueſtionable Truth of the Plot, and ſo have the Commons; yet theſe Men are ſo hardy as ſtill to deny the plaineſt Truth, ſo confirm'd as this hath been.

Nay, my Lords, their Malice goes yet farther, for they have been ſo bold as to whiſper up and down, and induſtriouſly to ſpread Reports, before the Tryal, as if this Lord at the Bar, and the reſt who are impeach'd, ſhould certainly be acquitted. We do hope to be able to detect the Authors of this great Scandal; and the Commons doubt not of your Lordſhips Concurrence to aſſiſt them in bringing them to their deſerved Puniſhment. This is ſure the firſt time that ever any ſort of Men preſum'd to reflect upon the Juſtice of this high and noble Court. Your Anceſtors, my Lords, did by their Honour, Courage and Juſtice, preſerve our Anceſtors; the Advantage of which we, who are deſcended from them, do now enjoy: and we ſhall never have occaſion to doubt in the leaſt, but that your Lordſhips will tread in their Steps. You have in your hands a great Opportunity to make your Zeal for Truth and for the Proteſtant Religion famous to Poſterity. No Artifice or Malice can create the leaſt Jealouſy in us, that ever your Lordſhips ſhould ſhew any Partiality or Injuſtice to the Commons of *England*. To your Judgment this Cauſe is ſubmitted;

mitted; and when we have your Judgment, we doubt not but we ſhall drive Popery out of this *Engliſh* World.

My Lords, We ſhall go on to the Proof of our Cauſe; and I hope this will be a happy Day to us and the whole Proteſtant Intereſt.

Then Mr. Treby, *alſo one of the Committee appointed for the Management of the Evidence, began as followeth:*

My Lords,

THeſe two learned Gentlemen have fully diſcharg'd their Province.

I ſhall proceed to call our Witneſſes to give their Teſtimony.

But before we produce them, your Lordſhips will be pleas'd to take notice, that our Evidence will conſiſt of two Parts, General and Particular; the General, to ſhew the Univerſal Conſpiracy; the Particular, to ſhew what ſpecial Part this noble Lord, the Priſoner at the Bar, had in it.

And tho in the firſt Part my Lord *Stafford* may not be particularly nam'd, yet that Evidence will be pertinent and proper for us to give in this Tryal of my Lord *Stafford*; for we charge him not with the private Treaſon, wherein he with his immediate Complices only might be concern'd, but it is a Treaſon of the Popiſh Faction, or at leaſt, the principal and active Papiſts.

We lay it in our Articles of Impeachment, That there was an execrable Plot contriv'd and carried on by Papiſts, and that the Conſpirators acted divers Parts, and in divers Places, beyond Sea as well as here. It was a Treaſon that did beſtride two Lands: *England*, indeed was the Thing aim'd at; the Deſtruction of the Religion, Government and Liberty of *England*, was the End: but the Means and Inſtruments were not collected here only, but part of them were to be brought in from abroad.

This is an Enterprize too extenſive to be entirely managed by a ſingle Nobleman: And tho we look upon my Lord *Stafford* as a great Malefactor, yet we cannot think him ſo great a Man, as to be able within his own Sphere to compaſs this whole Deſign.

Should we not take this Courſe of Evidence, firſt to prove the general Plot, it might be a great and juſt Objection in my Lord's Mouth to ſay, *You charge me with a Deſign of ſubverting the Kingdom, how is that poſſible to be undertaken by me, and thoſe I have had opportunity to converſe and confederate with? A mighty part of the Catholick World had need to be engaged for ſuch a purpoſe.*

My Lords, If this would be a material Objection from this Lord, then will it be requiſite for us to obviate and prevent the Objection, by ſhewing, firſt, that there was ſuch a grand and univerſal Deſign of Papiſts, in which this Lord was to co-operate for his diſtinct Share; tho perhaps when we deſcend to our particular Evidence, it will appear, that his Part hath been great, and manag'd with Malice as great as any.

My Lords, We ſhall begin with a Witneſs, a Gentleman whoſe Education has given him the Opportunity of knowing the Inſide of their Affairs; and we preſume he will give you a ſatisfactory Account: His Name is Mr. *John Smith*.

L. H. S. What do you call him to, Gentlemen?

Mr. *Treby*. To the general Plot, my Lords.

Lord *Strafford*. May it pleaſe your Lordſhips, I know not who he is, nor his Name; I humbly beſeech your Lordſhips, that this Witneſs, whoever he be, and all the reſt that have any thing to witneſs againſt me, may look upon me face to face, according to the Words of the Statute. I humbly beſeech your Lordſhips to grant me this, which I take to be according to Law; and that each may give his Evidence alone, and that both againſt me and for me one may not know what the other ſays.

L. H. S. My Lord, You ſhall have all the fair Proceedings that can be.

L. *Staff.* The Law ſays my Accuſers muſt look me face to face. I deſire to have the Words read.

L. H. S. Your Lordſhip may ſee him where he ſtands up.

Then Mr. *Smith* turn'd, and look'd upon my Lord *Stafford*.

L. *Staff.* I do ſee him, but I don't know him.

L. H. S. Swear him.

Clerk. The Evidence that you ſhall give in the Tryal of *William* Viſcount *Stafford*, ſhall be the Truth, the whole Truth, and nothing but the Truth; ſo help you God, and the Contents of this Book.

L. H. S. Your Lordſhip obſerves he is not brought as a particular Witneſs againſt your Lordſhip, but to prove the general Deſign of your Party.

L. *Staff.* 'Tis ſtill concerning me.

L. H. S. Look upon my Lord *Stafford* (which he did;) and now tell your Evidence.

Mr. *Treby*. This is Mr. *Smith*, my Lords. And that which we would examine this Witneſs to, is, the general Deſign of the Plot; what Knowledge he hath had of it here or beyond Sea: the Gentleman is able to underſtand the general Queſtion.

Mr. *Smith*. My Lords, I remember very well, when I went firſt into *France*, I came acquainted with Abbot *Montague*, Father *Gaſcoyne*, and ſeveral other Popiſh Prieſts and Jeſuits, who often diſcourſed with me, and told me, if I would make myſelf a Catholick, I ſhould have an Employment amongſt them there, and afterwards in *England*; for they did not doubt but the Popiſh Religion would come in very ſoon. Upon which I ask'd his Lordſhip the Abbot one day, what Reaſon he had to believe it? He told me two Reaſons: firſt, that they did not doubt but to procure a Toleration of Religion, by which they ſhould bring it in without Noiſe; and ſecondly, that the Gentry that went abroad did obſerve the Novelty of their own Religion, and the Antiquity of theirs, and the Advantages that were to be had by it. Theſe Reaſons Abbot *Montague* gave me. There was one Father *Bennet* and others that told me the chief Reaſon was, their Party was very ſtrong in *England*, and in a few Years they would bring it in right or wrong. All this would not prevail with me to turn Papiſt, and I liv'd among them ſeveral Years. At laſt I had a deſign to go to *Rome*; and as I went I had a deſign to go to *Provence*, (and ſo into *Italy*) where there was one Cardinal *Grimaldi* coming thro the Town, and the Jeſuits having a great School there, I was curious to go to the School, and they were very deſirous I ſhould tarry for ſome time in the Town: I did, and they made much of me, and told me much to the ſame ſubſtance, what Aſſurances they had of their Religion coming into *England*. At laſt they had a deſire I ſhould diſcourſe with the Cardinal, which I did, and he made much of me, and he it was that perverted me to the *Romiſh* Religion. Upon this, the Cardinal ſhewed me a pair of Hangings that were in his Houſe, which he ſaid did belong to the Queen-Mother,

and were bought in *Paris*; and he told me he was acquainted with many of the Nobility in *England*, and that he had great aſſurance the Popiſh Religion would prevail; and he told me there was but one in the way, and tho that Man was a good-natur'd Man, yet they could not ſo far prevail upon him; but that to accompliſh their Deſigns, they muſt take him out of the way. But at laſt I left this Place, and went to *Rome*, where I liv'd ſome Years in the *Engliſh* Jeſuits College there; and when I had liv'd there five Years, I came to be Prefect of ſeveral Rooms there, which are the Scholars Lodgings and Places of Study. I have heard it there often diſputed in their own College, both preach'd and privately exhorted, that the King of *England* was an Heretick, and that there was no King really reigning, and whoever took him out of the way, would do a meritorious Action.

L. H. S. Who was that that ſaid ſo?

Mr. *Treby*. Name the Perſons.

Mr. *Smith*. Father *Anderton*, Rector of the College, who was a very good Scholar; Father *Mumford*, and one Father *Campion*, but chiefly one Father *Southwell*, one of the chief of the Jeſuits. And I doubting of the Truth of that Opinion, they did ſhew me ſeveral of their Books there, and directed me to ſome Paſſages of *Mariana*, *Vaſquez* and *Bellarmine*, which I have ſince publiſh'd to the World, wherein they did aſſert it as a true Doctrine, and as Chriſtian Doctrine, what the Fathers told me; and this was never condemn'd at *Rome*. Beſides, my Lords, when I was coming from *Rome*, with my Faculty and Licence ſign'd by Cardinal *Barberino*, who generally conducts, or cauſes to be conducted all Papiſts to take their Leave of the Pope; and before we came away, (for there were five or ſix of us together) for a whole Month theſe Fathers were exhorting of us, That we were not oblig'd to obey the King of *England*, and that in all private Confeſſions we were to inſtruct all Perſons that we thought were capable of any Deſign, that they ſhould uſe all their Endeavours for promoting the Popiſh Religion. I coming into *England*, made my Application to Dr. *Perrot*, who belonged to the *Portugal* Ambaſſador, and was chief of the Popiſh Clergy in *England*. I was kept there ſome Months, to ſay Maſs in his Chappel; and afterwards I was ſent into the North, where there were abundance of Jeſuits and Fryars, to one Mr. *Jeniſon*'s Houſe, where knowing the Principles of theſe People, I made it my Buſineſs to rout theſe Jeſuits away, eſpecially out of Mr. *Jeniſon*'s Houſe, who had a Kinſman of his own that was a Jeſuit, and us'd to ſerve him in his Houſe, and great Complaint was made againſt me: And there was one Mr. *Smith*, otherwiſe *Serjeant*, in the North, who gave me Intimation of it, and to whom I wrote to ſatisfy him and the Clergy of the Grounds and Reaſons why I routed them away; which, if he be in *England* now, he can juſtify. Upon this, I receiv'd a ſmart Letter, as a kind of a Reprimand for my doing ſo; and he told me, that tho they did agree with me in Doctrine, yet they would endeavour what they could to bring in the Popiſh Religion, and tax'd me ſharply for appearing againſt it. I told him how the Jeſuits perverted the Duke of *York*; and that by that means they would be the chief Men in *England*, tho there were none of their Order till Queen *Elizabeth*'s time. Beſides, my Lords, in *Rome* I ſaw *Coleman*'s Letters, and read them once a month, as I believe; wherein he gave us intelligence of ſeveral Paſſages that happen'd in Court; how the Duke, and the Queen, and the chief of the Nobility were of their ſide; how they carried Matters ſeveral times: the ways my Lord *Clifford* did uſe, and Sir *William Godolphin*, to effect the Work; and that they did not queſtion but they ſhould get my Lord Treaſurer *Danby* on their ſide too. This was in *Coleman*'s Letters; and he had ſo much Allowance for his Intelligence. Theſe Letters of his I read ſeveral times in the College. My Lords, afterwards, when I came from *Rome*, I ſaw Abbot *Montague* again, and he ſaid he was very glad to ſee me, and that I was a Prieſt. Well, but ſaid I, what am I the better? where is the Employment you promis'd me when I ſhould come into *England*? He told me I ſhould have it very ſoon, and he was glad that I had not made myſelf a Jeſuit: and he recommended me to Dr. *Goffe*, Confeſſor to the Queen-Mother, who ſaid he would do any thing in the world for me, and he did not doubt but he ſhould get a Preferment for me; which Dr. *Goffe* is now living. Truly when I came into *England*, I found all the Popiſh Clergy of *England*, that I diſcourſed with, of the ſame Opinion, that they did not doubt but the *Romiſh* Religion would ſoon come in. And beſides, in the North there was gathering of Money, in which I was order'd to be one of the chief Men; but I was againſt it. I told them I would do nothing in it; I thought it was illegal to ſend any Money beyond Sea: They told me it was Charity, only to repair the College at *Doway*. I told them it was ſtrange that there ſhould be ſo much Money rais'd only to repair one College, which would ſerve three or four Colleges; and I perſuaded Mr. *Jeniſon*, and all other Perſons I had to do with, not to meddle with it. As to this raiſing of the Money, I conceive it may be infer'd, it was for ſome other private Buſineſs, and I believe, was for the carrying on the Deſign. As for the Gentleman at the Bar, my Lord *Stafford*, I know nothing of my own particular Knowledge, but only this, There was one *Thomas Smith*, Sir *Edward Smith*'s Brother, that liv'd at a place not far off the place where I liv'd, who was one that contributed in paying the Money that was then collecting: he was the Man that writ a Letter up to my Lord *Stafford*, to complain of two or three Juſtices of the Peace that were active againſt Popery; upon which there was one that was turn'd out, that I think is now of the Honourable Houſe of Commons —

Mr. *Treby*. Name him.

Mr. *Smith*. Sir *Henry Calverly*. The other was not turn'd out. So I ask'd *Smith*, when I was lately in the Country, about it; for I heard a Rumour, that there was a Letter of this Mr. *Smith*'s found in my Lord *Stafford*'s Chamber, and I was told it by a Parliament-Man, one Colonel *Tempeſt*. So, ſaid I to him, now you will be concern'd in the Plot. No, ſaid he, I care not for that Letter, it will ſignify nothing; for my Lord won't keep by him any thing of any moment. I ask'd him what he knew about my Lord. He told me he writ another Letter to my Lord, to know whether he would make a Conveyance of his Eſtate away, and whether he apprehended they were in danger: And he told me, his Lordſhip's Anſwer was, That ſeveral did ſo, but he would not; for he expected ſome ſudden Change or Alteration. I ask'd him what Change or Alteration he underſtood by it. Sir, ſaid he, what can be underſtood by it, but an Alteration of the Government and Religion? I am ſure, ſaid he, my Lord is ſo wiſe a Man, that he would

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would not write ſo without ſome ground. This is all I can ſay to the Gentleman at the Bar; and this is true by the Oath I have taken.

Mr. *Treby.* My Lords, I did obſerve Mr. *Smith* in the Beginning of his Teſtimony (ſpeaking of the Diſcourſe he had at *Rome*) ſaid, they told him there was one in the way; I preſume 'tis not uneaſy to conjecture who was that one.

L. H. S. It was ſurely the King.

Mr. *Treby.* But we would rather have it explain'd by himſelf.

Mr. *Smith.* Father *Anderton* and Father *Southwell* did ſay that the King was a good Man, but he was not for their turn, and he was the only Man that ſtood in the way.

Mr. *Treby.* Did they name the King?

Mr. *Smith.* Yes, it was the common Diſcourſe all over the Country.

Mr. *Treby.* My Lords, I deſire Mr. *Smith* in the next place may give an account of the Methods they were to uſe to accompliſh this Deſign, the firing of the City, and the reſt.

Mr. *Smith.* As to the Burning of *London*, I heard nothing beyond Seas at all but this; it was diſcourſed that the Papiſts did it, and the like, but they deny'd it, and they ſaid it came accidentally in a Baker's Houſe: but this I have often heard them ſay, that it was no great matter if it had been all burnt.

L. H. S. Will you ask him any more Queſtions yet?

Mr. *Treby.* No, we have done with him.

L. H. S. Have you concluded your Evidence, Sir?

Mr. *Smith.* Yes.

L. H. S. My Lord *Stafford*, will your Lordſhip ask him any Queſtions?

L. *Staff.* I deſire to know how long ago it was, my Lord, ſince he was made a Prieſt.

Sir *F. Win.* My Lords, with your Lordſhip's leave no Man is bound to anſwer a Queſtion whereby he ſhall accuſe himſelf; therefore under favour the Queſtion is ſomewhat harſh, and we demand your Judgment in it.

L. H. S. What is the Queſtion your Lordſhip would have ask'd him?

L. *Staff.* I will not ask it ſince 'tis an Offence; but did not he ſay he ſaid Maſs? pray how long ago was that?

L. H. S. I will ask him a Queſtion. Are not you a Proteſtant?

Mr. *Smith.* Yes, my Lord.

L. H. S. How long have you been ſo?

Mr. *Smith.* I have been a Proteſtant near upon two Years.

L. H. S How long ago before were you perverted?

Mr. *Smith.* Some ſix or ſeven Years.

L. H. S. That is nine Years. That was, I ſuppoſe, about 71.

Mr. *Smith.* I was always bred a Proteſtant, and was ſo abroad till I went towards *Rome*.

L. H. S. It is not criminal to have been a Prieſt, if he have conform'd.

L. *Staff.* I have no more to ſay to him.

L. H. S. Have you any more Queſtions to ask him?

L. *Staff.* No; I never ſaw him before; he may be as honeſt a Gentleman for ought I know as any one here.

Mr. *Treby.* Then, if your Lordſhips have no more Queſtions to ask him, he may withdraw. My Lords, the next Witneſs we produce is to the General ſtill, and that is Mr. *Stephen Dugdale*.

L. *Staff.* Is he only to ſpeak to the General, or to me?

Mr. *Treby.* To the General; we ſhall tell your Lordſhip when we come to the Particular.

Sir *F. Win.* My Lords, with your Lordſhips favour, we have open'd our Caſe, firſt, that we would go on with the General; while we are upon that Head, we will only call thoſe that ſpeak to the General, but it may happen that one Witneſs may ſpeak to both; but we ſhall divide his Teſtimony when we come to obſerve upon it.

Mr. *Treby.* My Lords, I take leave to acquaint your Lordſhips, that Mr. *Dugdale* hath but a low Voice, and your Lordſhips will not hear him without a Command of Silence: which was done by Proclamation, and Mr. *Dugdale* ſworn.

Mr. *Treby.* Mr. *Dugdale*, take notice, we call you now only to the general part of the Plot, what Diſcourſes you have heard from Prieſts in general concerning any part of the Plot: And you are not to give your particular Evidence againſt this noble Lord, my Lord *Stafford*, till we call you thereunto.

L. H. S. What ſay you, Sir?

Mr. *Dugdale.* About fifteen or ſixteen Years I have been acquainted, that there was a Deſign carrying on for the bringing in the *Romiſh* Religion. I have at ſeveral times, by the means of my ghoſtly Father, that was Mr. *Evers*, been acquainted that there were ſeveral Lords and ſeveral Prieſts in ſeveral Places in *England* that were to carry it on; that is, they were to have Money and Arms ready, for thoſe that wanted, againſt the Death of the King. I have ſeen ſeveral Letters which have come from *Paris*, *Rome*, and *St. Omers*, all relating to this, to encourage Mr. *Evers*, and that he ſhould go on to encourage the reſt that were engag'd. For that purpoſe I read ſome of 'em, and intercepted them, becauſe they were all directed to me. Mr. *Evers* hath ſent me upon Meſſages, ſometimes by Letters, and ſometimes by word of Mouth, and all tended for the introducing of their Religion, that all ſhould be ready with Money and Arms againſt the King's Death: For I did hear nothing till of late about the killing of the King. In particular, there came one Letter to *Evers* from my Lord *Stafford*, to ſhew that things went on well beyond Sea, and hop'd they did ſo here. I ſaw another time ſome Letters which were alſo tranſmitted to my hands by a Meſſenger that came from *Boſcobel*, which did come from *Paris*, and ſo to *St. Omers*, from whence they came to *Harcourt*, and *Harcourt* had deliver'd the Letters to have the Opinion of ſome Lords; all which contain'd Advice which they had receiv'd from *Paris*, which they counted extraordinary good. The Purport of theſe Letters were to ſhew there was no way could be more likely to do their Work, than if any ſudden Death ſhould happen to the King, then to throw it upon the Presbyterians, who had kill'd the old King, and were likelieſt to be thought to have done this; and ſo they might eaſily get the Proteſtants, thoſe of the Church of *England*, to join with the Papiſts againſt the Presbyterians, who would by that become odious, and ſo ſhould weaken the Party the more eaſily to accompliſh their Deſign. I have of late ſeveral times been in Company with Prieſts and other Gentlemen in the Country, when they have had Conſultations both for the introducing their own Religion, and taking away the King's Life, which they did always intend to be about *November*, *December* or *January* 78. It was late in the Year; but all that Year (78) this

this was their Conſultation. I have been ſent to the Jeſuits, ſome of them, particularly to Mr. *Vavaſor* and Mr. *Gavan* for ſome Moneys, for there was a general Collection, and there was the Sum of five hundred Pounds at one time, which I received, and gave to Mr. *Evers*, and he returned it to *London* for the carrying on this Deſign, and for diſcharging an account of Arms and things receiv'd from beyond Sea. And it was agreed that my Lord *Aſton*, Sir *James Symons*, and others, ſhould go in *October* 1678. to diſpoſe of the Arms which they had ſo received, ſome here, and ſome beyond Sea, to the value, I heard ſay, of 30000*l.* Moreover I did hear that they were to have Men raiſed there, as well as here. So I have heard from Mr. *Evers*, and Mr. *Gavan* and others, and I have been alſo by when it hath been diſcourſed that the King of *France* was acquainted with all theſe Deſigns, and that he would furniſh us with Men, and ſhould not be wanting with all other Aid and Aſſiſtance, if there ſhould be any Alteration, if the King ſhould die or be taken away, or to that purpoſe. I have been ſeveral times put upon to make Foot-Races, to draw People together, that they might the better have Diſcourſes together without Suſpicion. I was likewiſe put in truſt by the Jeſuits all the while the Plot was carrying on, and particularly for two years; all the Letters relating to the Plot came to my hand, ſome of which I opened, and ſome I kept in my own hands; and particularly I had one that came to my hands which was about the Death of Sir *Edmondbury Godfrey*, for when I carried it to Mr. *Evers*, he ſaid, There was one of our Enemies taken out of the way: and it was contained in the Letter, *This night Sir* Edmondbury Godfrey *is diſpatched*; which by the Date of it was the 12th of *October*, 1678. I told him that that would prove a diſcouragement to us, and would be the Ruin of all the Deſign: he ſaid, not ſo, it would rather prove otherwiſe; for he was one that was active in puniſhing lewd and debauched Perſons, and it would rather be put upon them than us, as done out of revenge.

Mr. *Treby*. Pray Sir, ſpeak the particular time when that Letter came into *Staffordſhire*.

Mr. *Dugd*. The 14th of *October* 1678. which was Monday.

Mr. *Treby*. The Date of it pray tell us.

Mr. *Dugd*. The 12th of *October*, 1678.

Mr. *Treby*. The very Night that it was done.

Mr. *Dugd*. Likewiſe when I did hear there was like to be an Alteration in the Government, and having ſuch fair Promiſes, I was incouraged to it, and was very willing to contribute to the Deſign, and I did then make over an Eſtate which I had of four hundred pound value for that purpoſe, and for the praying for my Soul. And when my Lord *Aſton* and I ſhould come to Account, as there was Mony over and above due to me, I did likewiſe promiſe, becauſe I ſaw Mony would be wanting, I would give them a hundred pound more. There were ſeveral other Gentlemen, as Mr. *Heveningham*, Sir *James Symons*, my Lord *Aſton*, Mr. *Draycott*, Mr. *Howard* and Mr. *Gerard*, who did to my knowledge contribute towards the carrying on of this Charge, for defraying of Mony and raiſing Arms, and paying for them. And I have ſeen Letters from beyond Sea, that have been to Mr. *Evers*, that all things have been ready as to the Arms, and there only wanted Orders how they ſhould be diſpoſed of; and I have been ſeveral times brought to the Oath of Secrecy for fear I ſhould diſcloſe it, and particularly that time that I went away from my Lord *Aſton*'s, which was on a Monday Morning, Mr. *Evers* gave it me about the 18th or 19th of *November* 1678. And I did then promiſe by all the Promiſes I could make, and upon the Sacrament, in his Chamber, that I would not diſcloſe it; but having others to adviſe me in it, ſuch as could better do it, that told me ſuch Oaths were better broken than kept: and thereupon I came to diſcover the thing, which I have done to the beſt my knowledge. I am very loth to charge my Memory in particular, about Times, or how many were in Company, but thoſe that I am ſure of; but there hath been in Company at the Conſultation ſeveral times, Mr. *Heveningham*, Sir *James Symons*, Mr. *Vavaſor*, Mr. *Petre*, Mr. *Howard*, and my Lord *Aſton* himſelf; when there hath been Speech about the Deſign, for the introducing of Religion, and for taking order about Money to buy Arms, and particularly when my Lord *Stafford* was by about the Death of the King, and that was about *September* 1678.

Mr. *Treby*. Mr. *Dugdale*, you ſpeak of levying Arms, and of the Oath of Secrecy that was given you; were there not other ſpiritual Weapons uſed? Was there not an Indulgence, or ſuch a thing?

Mr. *Dugd*. There was an Indulgence about 78, or thereabouts, which came thro *Ireland*'s hands, tranſmitted from beyond Sea, and ſo to Mr. *Evers*, and Mr. *Gavan* was put on to publiſh it, which he did one time at *Boſcobel*. And it was likewiſe at all private Chappels, that whoſoever was active for the introducing the *Romiſh* Religion, or killing the King, ſhould have a free Pardon of all his Sins.

Mr. *Foley*. Pray declare what Arguments have been uſed by your Prieſts, to induce you to this Deſign?

L. H. S. Raiſe your Voice, that we may hear what you ask.

Mr. *Foley*. We would know what Arguments have been uſed to perſuade to this Deſign?

Mr. *Dugd*. They have told me in their Meetings, the King was an excommunicated Heretick, and he was out of the Pale of the Church, therefore it was lawful to kill him, and it was no more than the killing of a Dog.

Sir *John Trevor*. My Lords, I deſire to ask him one Queſtion further, what he hath heard about a Maſſacre that was intended?

L. H. S. Have you heard of any Maſſacre that was to be?

Mr. *Dugd*. I have heard that about the time the King ſhould be killed, ſeveral ſhould be provided with Arms, and ſuch Inſtruments, and riſe all of a ſudden at an hour's warning, and ſo come in upon the Proteſtants, and cut their Throats; that was one Propoſal: and if any did eſcape, there ſhould be an Army to cut them off in their Flight.

Mr. *Treby*. My Lords, I deſire to ask him one Queſtion further, Whether he ever knew or heard of Mr. *Oates* and *Bedloe* till the Plot was detected?

Mr. *Dugd*. I have heard of them from Prieſts, as Meſſengers entruſted by them, but no otherwiſe.

L. H. S. When did you hear that?

Mr. *Dugd*. I have formerly declared it.

Mr. *Treby*. Ay, when?

L. H. S. Before the Diſcovery, or after?

Mr. *Dugd*. Before the Diſcovery.

Mr. *Treby*. My Lord, the reaſon of the Queſtion, and the uſe we make of it is this; we charge the Papiſts with the Conſpiracy of a Plot, and they charge our Witneſſes with a Conſpiracy to accuſe: Now it appears, that Mr. *Dugdale* had not any knowledge

knowledge of the other Witneſſes, and only had heard of them as Perſons concerned; ſo it could not poſſibly be a joint Contrivance amongſt them.

Sir *John Trevor*. My Lords, I deſire to ask this Queſtion, Whether Mr. *Dugdale* hath ſeen any Letters from *Whitebread* to *Evers*, and what Inſtructions were in thoſe Letters to *Evers* about the Perſons to be concerned, and what kind of Creatures he was to imploy in this great Deſign of theirs?

Mr. *Dugd*. I ſaw a Letter from *Whitebread*, to give Mr. *Evers* a caution who he did imploy or truſt in the Deſign; for he told him there had been good care taken therein hitherto; and it were no matter whether they were Gentlemen of Quality or not, ſo they were ſtout and truſty, or to that purpoſe.

L. H. S. What ſhould they be truſty for?

Mr. *Dugd*. For the killing the King.

L. H. S. Was that ſaid plainly in the Letter?

Mr. *Dugd*. To the beſt of my remembrance in thoſe very Words.

L. H. S. Was there no Cypher or Character?

Mr. *Dugd*. There was no Cypher or Character that I know of, nothing but two Letters for his Name.

Mr. *Treby*. My Lords, I deſire Mr. *Dugdale* may give an account of thoſe Papers he ſpeaks of; what became of them, and tell us the reaſon why they were not produc'd?

Mr. *Dugd*. My Lords, when I was by the Inſtruction of Mr. *Evers* to take my flight, I convey'd all my Papers, that either belonged to him or my ſelf, for the carrying on of the Plot, and carried them to an Houſe not far remote from my Lord *Aſton*'s, and by the help of two Maids——

Mr. *Treby*. Name them.

Mr. *Dugdale*. *Elizabeth Eld*, and *Anne Eld*. And they two did prepare a Fire in their Chamber for that purpoſe, and they aſſiſted me to burn them: I was in a great Conſternation, and great Fear, in regard I muſt fly and abſcond my ſelf, and indeed I did it with Tears in my Eyes. And whilſt we were burning of the Papers, one of them ſpy'd a little Paper-Book, by chance, and ſhe asked me, whether that ſhould be burnt; I told her, no; burn not that, for there is no Treaſon in it. With that one of them asked me, Is there any Treaſon in the reſt? and I put them off, to the beſt of my knowledge, and would not give them a direct anſwer.

Sir *John Trevor*. Why did you conſent to burn them?

Mr. *Dugd*. Becauſe I knew they would diſcover me, and others that were concerned in the Plot.

Sir *Fr. Winnington*. Your Lordſhips will be pleaſed to obſerve, the burning of the Letters was before he diſcovered the Plot, or any thing.

Mr. *Sacheverell*. My Lords, We deſire he may be asked one Queſtion; he told your Lordſhips of the Letter that came into *Staffordſhire* about the Death of Sir *Edmondbury Godfrey*, but he hath not told you of the reaſon why he was to be taken away. We deſire he will let your Lordſhips know what reaſons they gave for it.

Mr. *Dugd*. My Lords, I was deſirous to know how things went, being concerned as well as Mr. *Evers*; and I asked what the Reaſon was they took away his Life? Mr. *Evers* told me, that there was a Meſſage ſent to Mr. *Coleman*, to deſire him that he would not reveal what he knew concerning the Plot, or any thing of that nature.

Mr. *Sacheverell*. From whom was that Meſſage ſent?

Mr. *Dugd*. From the Duke of *York*. And *Coleman* did ſend word back again, What was it the nearer? for he had been ſo fooliſh as to reveal all to Sir *Edmondbury Godfrey*, who had promiſed to keep it all as a Secret. But upon the Examination of *Oates*, before Sir *Edmondbury Godfrey*, as a Juſtice of Peace, he was afraid he would come in an Evidence againſt him; and had ſhewn himſelf a little too eager, which made *Coleman* afraid he would witneſs againſt him. And the Duke of *York* did ſend word back again, That if he would take care not to reveal but conceal it, he ſhould not come in againſt him, or to that purpoſe: And the next News we heard was the Letter that he was diſpatched.

Mr. *Foley*. I deſire he may give an account what Aſſiſtance the Pope gave for the carrying on of this Deſign?

Mr. *Dugd*. I heard the Pope had out of his Revenue promiſed ſeveral Sums of Money for the carrying on this Plot; and particularly that he would aſſiſt the poor diſtreſſed *Iriſh*, with both Men and Money; and there ſhould not be any thing wanting on his part.

L. H. S. Have you done with him, Gentlemen?

Mr. *Treby*. Yes, I think we have done with him as to the General.

L. Staff. I deſire to ask him then what Sums of Money did the Pope contribute to it?

L. H. S. What Sums of Money did the Pope contribute to this Deſign?

Mr. *Dugd*. I have heard of ſeveral Sums in general that he was to contribute for the carrying on of the Plot.

L. H. S. Did you hear of any Sum certain?

Mr. *Dugd*. I do not know, but I think I have heard ſometimes of ten thouſand Pound, or ſome ſuch Sum. I have been told by a Servant, that formerly belonged to my Lord *Stafford*, That the Pope's daily Income was twenty four thouſand Pounds a day; and that if he would do as he had promiſed, he was able to do very much.

L. H. S. They told you ſo, you do not know it otherwiſe.

Mr. *Treby*. We have done then with him: We call Mr. *Prance* next. (Who was ſworn.)

Mr. *Treby*. My Lords, I deſire Mr. *Prance* would give us an account of what Diſcourſe he had with one Mr. *Singleton* a Prieſt, and when.

Mr. *Prance*. I went to one Mr. *Singleton* a Prieſt, at one *Hall*'s, in the Year 78: and he told me, That he did not fear but in a little time to be a Prieſt in a Pariſh-Church; and that he would make no more to ſtab forty Parliament-Men, than to eat his Dinner, which he was at, at that very time.

L. H. S. Where was that?

Mr. *Prance*. At one *Hall*'s, a Cook in *Ivy-Lane*.

L. H. S. Will you ask him any Queſtions, my Lord.

L. Staff. No, my Lord.

Mr. *Treby*. Then call Dr. *Oates*. (Who was ſworn.)

L. H. S. Do you examine Mr. *Oates* upon the general Plot, or the particular?

Mr. *Treby*. Only to the General now; and we deſire him to take notice he is ſo to ſpeak, and to confine himſelf to that at preſent.

Dr. *Oates*. My Lords, in the Year 76, I was admitted into the Service of the Duke of *Norfolk*, as Chaplain in his Houſe, and there I came acquainted with one *Bing*, that was a Prieſt in the Houſe. And being acquainted with him, there came one *Kemiſh* very often to viſit him, and one *Singleton*, who told me, that I ſhould find that the

Proteſtant

Proteſtant Religion was upon its laſt legs, and that it would become me, and all Men of my Coat (for then I profeſſed my ſelf a Miniſter of the Church of *England*) to haſten betimes home to the Church of *Rome*. My Lords, having had ſtrong Suſpicions for ſome years before, of the great and apparent Growth of Popery; to ſatisfy my Curioſity, I pretended ſome Doubts in my Mind. My Lords, after ſome time had paſſed over, and I had had ſome Converſation with theſe Men, I found they were not Men for my turn, becauſe being regular Men, they were not Men that had any great degree of Learning. Afterwards, my Lords, I met with one *Hutchinſon*; I found him a ſaint-like Man, or one that was religious for Religion ſake; and him I found not for my turn neither: For, my Lords, my Deſign was to deal with their Caſuiſts; that is, thoſe of the Society. After that I had obtain'd the Favour from him, to have ſome Conference with one of the Society, I found they were the Men for my turn, becauſe I found they were the cunning politick Men, and the Men that could ſatisfy me. After that I had had ſome Diſcourſe with them, I pretended to be convinced by their Arguments. And, my Lords, after that I had thus acknowledged my Conviction, I deſired to be reconciled; and accordingly on *Aſh-Wedneſday*, $16\frac{76}{77}$, I was reconciled. And ſoon after my Reconciliation, *Strange*, who was then Provincial of the Society, did tell me much after this way; Mr. *Oates*, you are now reconciled to the Church of *Rome*, and you muſt lay down your Miniſtry, for your Ordination is invalid, and you muſt look upon your ſelf as no more than a Layman: Pray, ſays he, now what courſe do you think to take? I told him, I did deſire to be one of their Society, and to be admitted a Novice into their Order. He ſaid, it was a very honeſt Requeſt, and a very honeſt Deſire; and he ſaid, he would take ſome time to conſider of it, and he would take till the Saturday following. Saturday following I was ſent for, by one *Fenwick*: I lodged then in *Barbican*, and *Fenwick* came to me, and told me, the Fathers were met at *Wild-Houſe*, and would ſpeak with me: And he alſo told me, they had granted my Requeſt, and I ſhould be admitted. After I was admitted, they told me, I had ſome years upon me, and I could not undergo thoſe Burdens they put upon younger Men; but what did I think of travelling, and going beyond Sea to do their Buſineſs? I did agree to it, and in *April* 77, I went aboard one *Luke Roch*, Maſter of the *Bilboa-Merchant*, bound for *Bilboa*, having their Letters of Recommendation. After I arrived there, which was on a Sunday, in *May* or *June*, I can't tell which, I went the Friday following for *Vallidolid* in *Caſtile*, and I got thither the Tueſday following; but by the way I open'd certain Letters, wherein was made mention of a Diſturbance deſigned in *Scotland*. And the Letters did expreſs what Hopes they had to effect their Deſign in *England*, for the carrying on (as they worded it) the Catholick Cauſe, and for the Advancement of the Intereſt of the Biſhop of *Rome*. My Lords, after I had arrived at *Vallidolid*, there were Letters there got before me, which were dated in *May*, wherein was expreſſed News, that the King was diſpatched, which was the Cauſe of great Joy to the Fathers there; and afterwards Letters dated in *May* too (but towards the latter end of *May*) came, that they were miſtaken, and deſired the Fathers there to ſtifle that News. My Lords, there came Letters dated in *June*, wherein they did give an account, That they had procured one *Beddingfield* to be Confeſſor to the Duke of *York*; which *Beddingfield* by his Intereſt might prevail much with the Duke, in order to this Deſign. Letters came alſo in *June* from *St. Omers*, which gave them an account, that Father *Beddingfield* had aſſured them of the Duke's Willingneſs to comply with them, for the advancement of the Catholick Religion. My Lords, after I had ſtay'd ſome time there, and had paſſed thro the Country for the Buſineſs of the Society, I found that in the Court of *Spain* ſome Miniſters of that Court had been very ready to advance Money, which Money was returned for *England*; and that the Father Provincial of the Jeſuits of *Caſtile*, by his Care and Induſtry had advanced ten thouſand Pound, which was promiſed to be paid in *June* following, within a twelvemonth after. My Lords, in *July* I received Letters out of *England*, wherein an Account was given there, to the Fathers in *Spain*, that they were ſending them a Miſſion of twelve Students, four whereof were to go to *Madrid*, and eight to *Vallidolid*: the Conductors of theſe twelve Students were one Father *Croſſe*, that was his true Name, and one Father *Mumford*, whoſe true Name was *Armſtrong*. Theſe Miſſioners arrived in *December*, where they had a Sermon preached at their coming by this ſame *Armſtrong*, wherein the Oaths of Allegiance and Supremacy were declared to be antichriſtian, heretical, and deviliſh; in which the King's Legitimacy was vilify'd and abuſed; and that his Religion did intitle him to nothing but ſudden Death and Deſtruction, in that he appear'd an Enemy both to God and Man. Theſe were the Contents of that Sermon, as near as I remember. My Lords, after the meeting with ſeveral Letters there, in *July*, *Auguſt*, and *September* in the Kingdom of *Spain*, it was ordered, I ſhould return for *England*, and in the Month of *November* I came for *England*, at which time I had Letters from the Provincial of *Caſtile*, called by the Name of *Padre de Hieronimo de Corduba*, who did in his Letter aſſure the Provincial in *England*, and the Fathers here, that the ten thouſand Pound ſhould be paid (as I ſaid before) in *June* following. When I came for *England*, at *London* I was lodged at one *Grigſon*'s, that lived in *Drury-lane*, near the Sign of the Red-Lyon, and there I lay till I went to *St. Omers*; and by the Provincial and Conſulters of the Province I was order'd a Maintenance, and it was paid to this Man for entertaining of me. I went and brought theſe Letters to this *Strange*, and there was Father *Keins* lying ill upon *Strange*'s Bed; and *Keins* was ſaying, he was mighty ſorry for *honeſt William* (ſo they called the Ruffian that was to kill the King) that he had miſſed in his Enterprize. But, my Lords, this I think good to tell your Lordſhips, they were not ſo zealous for the Deſtruction of the King, till the King had refuſed *Coleman* the diſſolving of the long Parliament. Then they were more intent upon it, though they had ſeveral times attempted it ever ſince the Fire of *London*; but when *Coleman* was refuſed the Diſſolution of the Long-Parliament, then were they more zealous for the Deſtruction of the King: but the Deſign for the introducing the Popiſh Religion, they have been carrying on ſome Years before the Fire, by thoſe Inſtruments, ſome of whom are yet alive. My Lords, I left *England* in *November* O. S. and *December* N. S. for when I came to *St. Omers*, it was (as near as I can remember) the 9th or 10th of *December* according to the Stile of the Place. I carried with me a Packet of Letters from *Strange*,

the

the Provincial, and other Fathers that were of the Conſult for the Province of *England*, to the Fathers at *St. Omers*, wherein *Strange* did tell them, that they had great hopes of their Deſign taking effect the next Year, but as yet it would not be effected: he ſaid, therefore they at *London* thought fit to ſuſpend it till they ſaw what the Parliament would do. And he did in the ſame Letter declare, That the Parliament would be about a long Bill that had been brought into the Commons Houſe ſome Seſſions before, but he did not queſtion but that the Catholick Party would evade that Bill. And, my Lords, in that year, ſome time after, we had a Letter from our new Provincial, whoſe true Name was *Whitebread*, and his counterfeit Name *White*. This Father writes to the Fathers at *St. Omers*, and therein he does order one *Conyers* to preach upon St. *Thomas of Canterbury*'s Day; and he did therein alſo tell them, that he would be as zealous for the carrying on of the Deſign as his Predeceſſor had been: and a Sermon was accordingly preached at the Sodality Church, wherein after he had commended the Saint, whoſe Day they celebrated, for his great Virtues, declaring how unworthily he was ſacrificed, he did inveigh againſt the Tyranny (as he called it) of temporal Princes, and particularly of the King of *England*; and when he came to ſpeak of the Oaths of Allegiance and Supremacy, he declared, that he looked upon them as antichriſtian and deviliſh, and that it was fit to deſtroy all ſuch as would countenance them. We have done with the Year 77, and we come now to *January* 1678.

L. H. S. You ſpeak of one *Keins*, who (lying upon *Strange*'s Bed) ſaid he was ſorry *honeſt Will* had miſſed his Enterprize: You have not explain'd who that *honeſt Will* was; explain that.

Dr. *Oates*. It was *Grove*.

L. H. S. But about what did he ſay he was ſorry for him?

Dr. *Oates*. That he had miſſed his Deſign.

Mr. *Foley*. What was that miſſing of his Deſign?

Dr. *Oates*. That he had not killed the King, my Lords, in *January* 78.

L.H.S. You mean according to the foreign Stile?

Dr. *Oates*. Yes, according to the foreign Stile, my Lords: we received Letters out of *Ireland*, and there, my Lords, we found by the Contents of thoſe Letters, that they were as buſy in *Ireland* as we were in *England*. We found there that the *Talbots*, and other Perſons, were very zealous in raiſing of Forces, and were reſolved to let in the *French* King, provided that the Parliament ſhould urge the King to break with *France*. My Lords, likewiſe in *January* (as near as I can remember) *Morgan* was ſent into *Ireland* as a Viſitor (which is ſomething a better Place than a Provincial, but only it is but temporary for the time he viſits) and he returns in *February* or *March*, and gives us an account how ready the *Iriſh* were to vindicate their Freedom, and their Religion, from the Oppreſſion of the *Engliſh*, as they called it. My Lords, in *February* ſome were employ'd to go into ſome Parts of *Germany*, to *Liege*, and to ſome Parts of *Flanders*, to ſee how the Affairs there ſtood, and how their Correſpondencies ſtood, to ſee whether there was not an Interruption in the Correſpondencies. My Lords, upon their return, they found that the Fathers at *Ghent* were inclined to take into this Buſineſs the Secular Clergy; but the Fathers of *St. Omers*, together with the Provincial, did refuſe the Motion, becauſe the Secular Clergy were more cowardly, and ſought themſelves, and not the Intereſt of the Church, or to that purpoſe. My Lords, in *March* we received Letters, that there was a very ſhrewd Attempt made upon the Perſon of the King, and that the Flint of *Pickering*'s Gun or Piſtol was looſe, and his Hand ſhaking, the King did then eſcape, for which he received a Diſcipline, and the other a ſevere Chiding.

L. H. S. You explain not the Meaning of what you ſay; that was not *honeſt Will*, for he you ſay was *Grove*.

Dr. *Oates*. I mean *Pickering* received the Diſcipline, and *William* was chid; for it was *Pickering*'s Flint that was looſe. My Lords, this was in *March*, and at the latter end of *March* there comes a Letter from *London*, in which there was a Summons to a Conſult here in *London*; and being ſummoned, there went over eight or nine from *St. Omers*, *Leige*, and *Ghent*, to this Conſult, and I did attend them in their Journey.

L. H. S. When did that Summons come?

Dr. *Oates*. The latter end of *March*, or the beginning of *April*, as I remember; they had notice of it in *England* before, but we had notice of it juſt when we were to come. I think it was in *April*, as near as I can remember; I cannot be certain in that, my Lord. We did come to Town in *April*, there the Conſult was held, it begun at the White-Horſe Tavern, where they did conſult about ſome things of the Society, and afterwards they did adjourn into particular Societies, where they did debate and reſolve on the Death of the King, and that *Grove* ſhould have fifteen hundred Pounds for his pains, and the other being a religious Man, ſhould have thirty thouſand Maſſes ſaid for him. My Lords, after ſtaying in Town awhile, we returned to *St. Omers*; and after I had ſtaid there ſome few days, the new Provincial did begin to viſit his Province, and comes over to *St. Omers*, where after ſtaying ſome ſix days he goes over from thence to *Wotton*. But whilſt he ſtaid at *St. Omers*, I was ordered to go into *England* to attend the Affairs here, and for to do ſome other Services that they ſhould employ me about. My Lords, accordingly I did come over, a nd it was on the 23d N. S. as near as I remember, I got to *Calice*; the 24th I got to *Dover*; on the 25th I got to *Sittenburn*, but between *Dover* and *Sittenburn* we had ſome Boxes ſeized: for at *Dover* we met with *Fenwick*, who is ſince executed, who went by the Name of *Thompſon*, and carried a Box with him; and a little on this ſide *Canterbury* it was ſeized by the Cuſtom-Houſe Officers, and ſeveral little Trinkets in, which were ſeized as *French* Goods; and he did deſire the Searcher to ſtand his Friend, and he would give him ſomething for his pains, and told him where he ſhould write to him in *London*. There was a Superſcription on the Box to one *Blundel*, but he ſhould write to him by the Name of *Thompſon*, at the Fountain Tavern near *Charingcroſs*. We arrived in Town the 17th of *June*, which is the 27th N. S. it was upon a Monday; and there were Letters which did follow us, wherein were Propoſals made to Sir *George Wakeman* for the poiſoning of the King, and that the ten thouſand Pounds which the *Spaniards* had promiſed in *January* before, and was accordingly paid in *London* at the time, ſhould be propoſed to *Wakeman* to poiſon the King. I found that *Coleman* did look upon it as too little, and he thought fifteen thouſand Pound ſhould be given to him: I found that *Langham* thought it too much, and that he ought to do ſo great a piece of Service for nothing, and told us he was a narrow-ſpirited Man, if he would not engage in ſuch a thing. My Lords,

there

there was five thouſand Pounds, as the Books told me, paid; but I did not then ſee it paid, becauſe I was then ill, and not fit to ſtir abroad. My Lords, we are now paſt *June* 78. In *July* Father *Aſhby* comes to Town, who did revive the Propoſal to Sir *George Wakeman*; but being ſick of the Gout, he haſtned down to the *Bath*; and when he came there, as ſoon as he began to be well, he was adviſ'd by the Fathers to ſee how the Catholicks ſtood affected in *Somerſetſhire*; for they had an account in *March* 78, by Letters from *Berkſhire*, *Oxfordſhire*, and *Eſſex*, that the Catholicks ſtood well affected; and Sir *William Andrews* did ſecure that the People of *Eſſex* ſhould ſtand to their Points; and ſo ſeveral Men did ſecure that they would have them in readineſs. My Lords, in *Auguſt* (I cannot remember every Particular, but refer myſelf to the Records of the Houſe) about the 26th of *Auguſt*, I find that *Fenwick* went to *St. Omers*, and there he was to attend the Provincial home, and to give the Provincial an Account of the Propoſal accepted by Sir *George Wakeman*: but in *July* (if your Lordſhips pleaſe to give me leave to go back again) *Strange* comes to Town, and falling in diſcourſe about the Fire of *London*, and the Rebuilding of it, he very frankly told me how it was fir'd, and how many of thoſe concerned were ſeiz'd; and among the reſt, told me, that the Duke of *York*'s Guard, as by his Order, did receive them, and were afterwards willing to diſcharge them: which I forgot to mention before, but upon review of my Papers, I do find that it was told me his Guard did releaſe the Priſoners that were ſuſpected about the Fire, and that all the Order they had for it, they pretended was from the Duke. But now, my Lords, we return to *Auguſt* again. Upon the 3d of *Auguſt*, I find *Ireland* did pretend to go to *St. Omers*, and a Letter came from him as directed from thence; but we find by his Tryal and other things ſince, that he went into *Staffordſhire*: And about the 12th of *Auguſt* (as I remember) he was here in Town. The latter part of *July* I communicated with Dr. *Tongue*, and gave him ſome particular account of Affairs; I deſir'd him to communicate it to ſome that might make it known to the King: The King had notice the 13th of *Auguſt*, or the 14th, as I remember; and by the 3d of *September* I was betray'd, and was expos'd to the Vengeance of theſe Men whoſe Contrivances I had thus diſcover'd. So my Intelligence did ceaſe wholly the 8th of *September*. Then was I forc'd to keep private; and upon my Examination, what Information I gave before the Lords and Commons, I refer myſelf to them.

L. H. S. My Lord *Stafford*, will you ask him any Queſtions?

L. *Staf.* No, my Lord; I am not at all concern'd in his Evidence.

L. H. S. You ſay you were betray'd; Can you tell how or which way you were betray'd?

Dr. *Oates.* My Lord, I will give this Honourable Houſe what Light I can in it; but I deſire then to be excus'd from my Oath, for I can't ſpeak it of my own Knowledge.

Sir *J. Trevor.* Then the next Witneſs we deſire may be called, is Mr. *Bernard Dennis.*

Mr. Serj. *Maynard.* This Witneſs we call now, is to confirm what Dr. *Oates* hath ſaid, that he was at *Vallidolid*, and other Places in *Spain*: he will be ſhort.

L. H. S. Call you *Oates* again?

Sir *F. Win.* No, my Lord, we call *Dennis* to confirm what Dr. *Oates* hath ſaid. He hath given your Lordſhip an account that he was in *Spain*; we now produce one that ſaw him when he was there, and ſo confirms the Evidence that was given by him.

[Then Mr. *Dennis* was ſworn.]

Mr. *Treby.* Mr. *Dennis*, Do you give their Lordſhips an account of your diſcourſing with Dr. *Oates* in *Spain*, or any where elſe abroad, and where.

L. H. S. Stay a little; do you know Mr. *Oates?*

Mr. *Dennis.* Yes, my Lord.

L. H. S. How long have you known him?

Mr. *Dennis.* I knew him in the Year 77.

L. H. S. Where?

Mr. *Dennis.* At *Vallidolid.*

L. H. S. Did you ſee him there? Was he a Student there?

Mr. *Dennis.* Yes, my Lord.

L. H. S. Was he known by the Name of *Oates?*

Mr. *Dennis.* Yes, my Lord, he was.

Sir *F. Win.* My Lord, we deſire he may tell his Knowledge of Mr. *Oates*, what Converſation he had with him in *Spain.*

Mr. *Dennis.* My Lords, I was in *Spain* in the City of *Victoria*; and leaving the City of *Victoria* in the Month of *June*, I took my courſe to *Madrid*, and paſſing thro the City of *Vallidolid*, going into the Convent of the Dominicans, there came an *Iriſh* Man, a Prieſt of *Ireland*, out of the City to ſee me; and there he told me there was a Student of the Jeſuits, by Name Mr. *Oates*, an *Engliſhman*: and I underſtanding this, went into the College of the Jeſuits to ſee Mr. *Oates*, and there had Converſation with Mr. *Oates*; and in the Converſation I had with him there, he told me that he was a Vicar in *Kent*, and that he was Chaplain to a great Nobleman in *England*, by Name *Howard*; and that he went out of *England* by the Conſent of the Jeſuits in *England*, being converted by them to the *Roman* Catholick Faith, and that his going into *Spain* was to fit himſelf for the Society of the Jeſuits. And underſtanding my Reſolution was to go to *Madrid*, he did deſire me to carry a Letter to the Archbiſhop of *Tune*, one *James Lench* an *Iriſhman*, who liv'd at *Madrid*. And further, he lent me four Pieces of Eight to defray my Journey to *Madrid*, and deſir'd me to pay the Money to the Procurator of the Jeſuits at *Madrid*. And in carrying this Letter to the Archbiſhop, when I came there, I got a *Dominican* Fryar of *Ireland*, by Name *Humphrey Delphin*, to go with me and ſee the Archbiſhop at his Lodging; and going in, I deliver'd him the Letter in the Preſence of the Dominican, and he perus'd it in my Preſence, and in the Preſence of a Prieſt that waited upon him; and finiſhing the Contents of the Letter, as I ſuppoſe, with a ſmiling Countenance he turned about, and ſaid, Sirs, the Contents of this Letter is, that Mr. *Oates* is deſirous to receive the Order of Prieſthood from me, or at my hands; and if it be ſo, it will be much in our way, and this Man will be a fit Man for our Purpoſe: for, ſaid he further, Dr. *Oliver Plunket*, Primate of *Ireland*, is reſolv'd this Year, or with the next Convenience, to bring in a *French* Power into *Ireland*, thereby to ſupport the *Roman* Catholicks in *England* and *Ireland*; and if it pleaſe God, I myſelf, without any delay, will go into *Ireland* to aſſiſt in that pious Work. All this Diſcourſe between us and the Archbiſhop, and between *Oates* and me, was in *July* 77. And there I did ſpeak and converſe with Mr. *Oates*. All this I can teſtify for Truth on the behalf of Mr. *Oates*, who was then a Student in the College of *Vallidolid*, and had no other Name nor Title.

Mr. *Foley.* I deſire himſelf may tell your Lordſhip what Religion he is of.

L. H. S. What Religion are you of?

Mr.

Mr. *Dennis.* I am a Dominican Fryar, my Lord.

L. H. S. Are you?

Mr. *Dennis.* My Lords, I am.

L. H. S. At this time?

Mr. *Dennis.* Yes, my Lords.

Mr. Serj. *Maynard.* He hath a Pardon, my Lords.

Mr. *Treby.* This hath been controverted, my Lords, whether Mr. *Oates* ever was in *Spain*; we deſire to make it out plain to the World, for the Confirmation of his Evidence: therefore we ask him again, Do you know the Perſon of Mr. *Oates?*

Mr. *Dennis.* Yes, I do.

Mr. *Treby.* Is this Perſon that gave Evidence laſt before you, the ſame Perſon you ſaw at *Vallidolid*?

Mr. *Dennis.* Yes it is.

Mr. *Sacheverel.* My Lords, we deſire to ask of him, why he had the four Pieces of Eight of Mr. *Oates*?

L. H. S. Why had you that Mony of *Oates?*

Mr. *Dennis.* For to defray my Journey to *Madrid.*

L. H. S. Was that all you had?

Mr. *Dennis.* Yes, my Lords.

Mr. *Sachev.* We pray he may be ask'd how he came to be ſo needy.

Mr. *Dennis.* My Lords, I was not altogether needy; but it is very certain Religious Perſons, eſpecially of my Order, cannot carry any Money about them but what is requiſite for their Journey, and that which may be remov'd from place to place.

Sir *J. Trevor.* I deſire to ask him, did he ſee any more Money that Dr. *Oates* had?

Mr. *Dennis.* I did ſee Dr. *Oates* in his Chamber in the College at *Vallidolid*, when he deliver'd me the four Pieces of Eight, to draw out a Drawer of a Table in his Chamber, and out of the Drawer he pull'd a Bag of Money, which was a very conſiderable Sum of Money, and I am certain he did not want Money there then.

Mr. *Treby.* My Lords, I think we have done with him; if my Lord pleaſe to ask him any Queſtion, he may.

L. *Staf.* But only one Queſtion, for I never ſaw the Man in my Life. I deſire he may be ask'd whether he be ſtill of the *Romiſh* Religion.

Sir *J. Trevor.* My Lords, We have not yet done with him; the Queſtion we would ask him, is this, whether he hath heard of any Money that was gather'd in *Ireland* for the Support of this Plot?

L. H. S. The Queſtion ask'd of you, have you heard of any Money gather'd in *Ireland* for the Support of this Plot?

Mr. *Dennis.* I have both heard and ſeen of it.

L. H. S. When and where?

Mr. *Dennis.* My Lords, in the Year 68, I entred into the Order of the Dominicans in *Ireland*; and in the ſame Year there arriv'd at *Dublin* a Franciſcan Fryar, Brother to the late Earl of *Carlingford*; and arriving there, he made ſeveral Collectors for the levying a competent Sum of Money out of every Convent and Religious Houſe. My Lords, the Collectors were by Name *John Reynolds*, alias *Landy*, and *John Berne*; and arriving at the County of *Sligoe*, in the Month of *May*——

L. H. S. What Year?

Mr. *Dennis.* 68. And when the Collectors came to the Convent of our Fryars in *Sligoe*, all the Fryars gather'd together into a Room, and theſe Collectors coming in did read their Commiſſion given them from one *James Taaffe*, as they ſaid; and I was there perſonally preſent, tho a Novice; and upon reading their Commiſſions, they ſaid forty Shillings was to be paid by the Prior, and the Fryars of that Convent: and the Provincial of the Order of the Dominicans queſtion'd the Power of the ſaid *Reynolds* and *Berne*, and ſo did the Prior; and I ask'd why the Money was levy'd? They gave anſwer, That that Levy and ſeveral other Levies was to encourage the *French* King, in whoſe Kingdom were ſeveral Biſhops of *Ireland*, Clergymen, and others, whoſe Buſineſs it was to provoke the King to bring an Army to invade *Ireland*, whenever time ſhould ſerve.

L. H. S. Have you done with him now?

Mr. *Treby.* Yes.

L. H. S. Will your Lordſhip ask him any Queſtions?

L. *Staf.* My Queſtion is only whether he profeſs himſelf of the Church of *Rome*, or a Proteſtant?

Mr. *Dennis.* I am a *Roman* Catholick ſtill, my Lord.

L. H. S. Are you?

Mr. *Dennis.* I am, my Lords.

L. *Staf.* Then I have no more to ſay.

Sir *J. Trevor.* Then we call Mr. *Jeniſon.*

[Who was ſworn.]

Mr. *Treby.* Mr. *Jeniſon*, you have been among the Papiſts, and you have had great Confidence among them; pray declare what you know of their Deſigns for the Deſtruction of the Proteſtant Religion, or the means of doing it, whether by the Murder of the King, or what other Means, tell your whole Knowledge.

Mr. *Jeniſon.* My Lords, in the Beginning of the Year 78, I have heard Mr. *Ireland* and Mr. *Thomas Jeniſon*, both Jeſuits, ſpeak of a Deſign they had to gain a Toleration of Conſcience for their Party in *England*; and the way then deſign'd to get it, was, by procuring a great Sum of Money from their Party, and by bribing the then Parliament. I have heard them likewiſe diſcourſe of procuring the Duke of *York*'s Succeſſion; and that (they told me) was to be done, by procuring of Commiſſions to be granted out to thoſe of their Party, to be ready to riſe upon the Death of the King. I likewiſe have heard them diſcourſe of the Neceſſity and Uſefulneſs to their Party of the Alteration of the Government eſtabliſh'd, and that their Religion could never flouriſh till that was done, and this Kingdom alter'd according to the *French* Model. In the Month of *June* 78, I was at Mr. *Ireland*'s Chamber; and there happening a Diſcourſe, that the *Roman* Catholick Religion was like to come into *England*, Mr. *Ireland* did then ſay, there was but one who ſtood in the way, and that it was an eaſy thing to poiſon the King, and that Sir *George Wakeman* might eaſily and opportunely do it. I ask'd Mr. *Ireland*, whether Sir *George Wakeman* was the King's Phyſician? His Anſwer was, No, but he was the Queen's, and ſo might have an Opportunity to do it. In the Month of *Auguſt* the ſame Year, the Day that I came from *Windſor*, I went to Mr. *Ireland*'s Chamber, and I found that he was newly come from *Staffordſhire*, and was drawing off his Boots on the Frame of a Table; he ask'd me whence I was come? I told him from *Windſor*: He enquir'd of me about the Diverſions of the Court. I told him I underſtood his Majeſty did take delight in Hawking and Fiſhing, but chiefly in Fiſhing; and that he went accompanied only with two or three, early in the Morning. Then Mr. *Ireland* reply'd, He were eaſily taken off or remov'd. To which I anſwer'd, God forbid, being ſurpriz'd at that time: Oh, ſaid he, I ſay not that it is lawful. Then there happen'd ſome Interruption to our Diſcourſe about *Staffordſhire*; then we

fell into a Diſcourſe of their Religion that he ſaid was ſuddenly to come into *England*; and he ask'd me if I would be one of thoſe that would go to *Windſor* to aſſiſt to take off the King. I told him no; then he told me he would remit the 20 *l.* I ow'd him, if I would go to *Windſor* to be one of thoſe that were to take off the King. My Lords, I told him I would have no hand in any ſuch Matter, and that I would not for twenty times 20 *l.* have any hand in the Death of the King. Said he, Would you do nothing for the bringing in of our Religion? I told him I thought it would never come in by Blood: I told him further, God forgive me, if the King were taken off ſo, well and good, but I would have nothing to do with it. He left not the Diſcourſe there, but ask'd me if I knew any *Iriſhmen* that were ſtout and courageous. I told him, yes I did, and nam'd Captain *Levallian*, Mr. *Karney*, Mr. *Broghall*, and Mr. *Wilſon*, all Gentlemen of my Acquaintance about *Grays-Inn*. When I nam'd theſe, he ask'd me if I would go along with him to *Windſor*, to aſſiſt them in taking off the King. I told him I did not think any Man of Eſtate would engage in ſuch a matter; that I was Heir to an Eſtate, my Brother being a Prieſt, and that Captain *Levallian* was Heir to a very good Eſtate, and therefore I did believe he would not do ſuch a thing, unleſs the Pique which he had to the King or Religion might move him to it. My Lords, he approv'd of theſe Perſons, and ſaid, he knew the firſt two of them, *Levallian* and *Karney*; and he ſet down, as I remember, the other two Names in Writing. He told me he was going to the Club, to Mr. *Coleman*, and Mr. *Levallian*, and *Karney* at that time, and then ask'd me for the Money, the 20 *l.* that I ow'd him. He told me he wanted fourſcore Pounds, and he deſir'd me that I would return it as ſoon as I came into the Country. Now, my Lords, the ſame Day that I receiv'd this twenty Pound of *Ireland*, I went with Mr. *Thomas Jeniſon* the Jeſuit to *Harcourt*'s Chamber, to give the Fathers Thanks for the Loan of the Money; and there Mr. *Jeniſon* falling into Diſcourſe on that common Topick of their Religion coming into *England*, he did then uſe that Expreſſion which Dr. *Oates* hath in his Narrative, *If* C. R. *would not be* R. C. *he ſhould not be long* C. R. And he did interpret it thus in *Latin*: *Si Carolus Rex non eſſet Rex Catholicus, non foret diu Carolus Rex.* And he did add, my Lords, upon the Diſcourſe, that if the King were excommunicated or depos'd, he was not longer King, and it was no Sin, or no great Sin to take him off; and if it were diſcover'd who did it, two or three might perhaps ſuffer, but denying the Fact, the matter ſoon would be blown over. My Lords, about two Months after the muſtering the Forces upon *Hounſlow-Heath*, Mr. *Thomas Jeniſon* did tell me he had a matter of great Conſequence to impart to me, that there was a Deſign on foot ſo laid, as that it could not well be diſcover'd, and that the greateſt Papiſts, the greateſt Catholicks in *England* were in the Deſign; that the Queen and the Duke were in it, and that ſeveral Lords, by Name my Lord *Bellaſis*, my Lord *Powis*, my Lord *Arundel* of *Warder*, and others: I believe my Lord *Stafford* was nam'd, but I cannot be poſitive in that. At that time, my Lords, I did wiſh I had had a Commiſſion in the new-rais'd Levies that were muſter'd on *Hounſlow-Heath*. He told me he would procure me a Commiſſion from the Duke of *York*, and that there was a new Army to be rais'd to bring in the Catholick Religion; but he did ſay he would tell me more Particulars after my receiving the Sacrament of Secrecy; and I did underſtand by him that that Commiſſion was not to be ſent till the taking off the King was effected: but being I was ſurpriz'd at it, he would not tell me the whole matter, but he deſired me to come and receive the Sacrament at Sir *Philip Tyrwhitt*'s in *Bloomsbury*, and then he would acquaint me with the whole Affair. My Lords, being in *Berkſhire* about the Month of *December* 78. at Madam *Hall*'s in *Shinefield* Pariſh, one Mr. *Cuffil* a Jeſuit came into our Company. It was about the Tryal of *Coleman*; and Mr. *Cuffil* did then ſay, that he thought Mr. *Coleman* was infatuated, upon the Diſcovery of the Plot, to give notice to Mr. *Harcourt*, Mr. *Ireland*, and Mr. *Fenwick*, and the other Jeſuits, to burn or ſecure their Papers, and yet not to ſecure his own. My Siſter *Hall* was preſent at this Diſcourſe; and Mr. *Cuffil* did then further ſay, that *Bellarmine* did draw a Sentence out of the Scripture, to favour the Pope's Authority of excommunicating, depriving, and depoſing temporal Princes; and the Saying was this, *Quod Papa habeat eandem poteſtatem ſuper Reges, quam Jehoiada habuit ſuper Athaliam.* And that there were other corroborating Teſtimonies among the Fathers for it.

Mr. *Treby*. My Lords, we deſire to ask him whether ever he heard of Mr. *Oates* being in the Plot, or being thought Truſt-worthy among them.

Mr. *Jen*. Yes, my Lords, I did.

L. H. S. When did you hear it, and of whom?

Mr. *Jen*. Of my Brother *Tho. Jeniſon* the Jeſuit.

L. H. S. When did he tell you ſo?

Mr. *Jen*. About the latter end of *July* 78, when there was a Diſcourſe of a Deſign, and that the greateſt Papiſts were in it, he ſaid, Mr. *Oates*, a Parſon newly come over to them, was in that Deſign: I anſwer'd, I did wonder that he would truſt a reconciled Enemy. He anſwer'd, That being once reconcil'd, they were more zealous and truſty. I ſubmitted to his Opinion, and inſtanc'd in Dr. *Godmyn* and Dr. *Bayley*, that were Proteſtants, and afterwards came over to the Church of *Rome*.

Mr. *Treby*. We have done with him, my Lord.

L. H. S. Will your Lordſhip ask him any Queſtions, my Lord *Stafford*?

L. *Staf*. No, my Lord.

Sir *F. Win*. My Lords, I would only obſerve the time when he ſays his Brother told him of the Deſign, that it was about the time of the muſtering the Forces on *Hounſlow-heath*; and that he was then told Mr. *Oates* was in the Plot: I only obſerve it now for the end of the Caſe in point of time.

L. H. S. He ſaid it was in *July*.

Mr. *Jen*. It was two Months after the muſtering of the Forces, about the latter end of *July*.

L. H. S. Before the Diſcovery?

Mr. *Jen*. Yes.

L. H. S. Did you know *Oates* at that time?

Mr. *Jen*. No, my Lords, I was not acquainted with him.

Sir *J. Trevor*. Did you not ſee him then?

Mr. *Jen*. Yes, I ſaw him at *Ireland*'s Chamber.

Sir *J. Trevor*. When was that?

Mr. *Jen*. The latter end of *April*, or the beginning of *May*.

L. H. S. You ſay you did not know him in *July*; how then can you ſay you ſaw him before?

Mr. *Jen*. I did not know him; I only ſaw him come into *Ireland*'s Chamber, and whiſper for ſome time, two or three Minutes, and then they told me that that was Mr. *Oates*, a Parſon newly come over to them, a briſk jolly Man, and worthy my Acquaintance.

L. H. S.

L. H. S. Is this the ſame Man you ſaw there?

Mr. *Jen.* My Lords, I cannot remember his Face, for he was gone out when I was told of him.

L. H. S. Why, you know Mr. *Oates* now?

Mr. *Jeniſon.* Yes, I do.

L. H. S. Do you know him to be the ſame Man that you ſaw then?

Mr. *Jeniſon.* I can't tell that.

Sir *J. Trevor.* My Lords, He ſays Mr. *Oates* only came in for three or four Minutes, and his Back was towards him, and his Brother told him when he was gone who it was.

Mr. *Jeniſon.* I only knew his Name from my Brother.

Mr. *Treby.* And I preſume your Lordſhips will obſerve this was at the very time of the Jeſuits Conſult.

Sir *J. Trevor.* We deſire this Gentleman may tell your Lordſhips who his Brother is, and what Profeſſion he is of.

Mr. *Jeniſon.* My Brother was a Jeſuit brought up at *St. Omers.*

L. H. S. Your Brother is dead, and dy'd in *Newgate?*

Mr. *Jeniſon.* Yes, he did ſo.

L. H. S. Pray recollect yourſelf again: When was it that you ſaw the Man they call'd *Oates* at the Jeſuit's Chamber?

Mr. *Jeniſon.* My Lords, It was in the Year 78, the latter end of *April*, or the beginning of *May*. And I will tell you why I apprehend it to be that time. My Brother being a Prieſt, liv'd with Sir *Philip Tyrwhitt* in *Lincolnſhire*; and in that Year in *Lent* he came to Town with my Lady and that Family, and he and I us'd to dine together at the Fiſh-Ordinary at *Pedley*'s. And about three Weeks or a Month after that time, when he came to Town, I was at Mr. *Ireland*'s Chamber, and there was a Gentleman, whom they told me was *Oates*.

L. H. S. This you ſay was the latter end of *April*, or beginning of *May* 78; for the time is material: upon your Oath you ſay it?

Mr. *Jeniſon.* Yes, my Lords, I do.

L. H. S. You ſay it was at *Ireland*'s Chamber.

Mr. *Jeniſon.* Yes, my Lords.

Sir *F. Win.* My Lords, Will you give us leave to ask him one ſhort Queſtion; becauſe ſome of the Gentlemen doubt of it, we would ask it again: What his Brother was, whether he was a Jeſuit or no?

Mr. *Jeniſon.* I have heard him own it, my Lords.

L. H. S. Whom do you call next, Gentlemen?

Mr. *Treby.* If it pleaſe your Lordſhips, we ſhall in the next place produce our Evidences that are Matters of Record; and we deſire your Lordſhips Advice and Direction how we are to miniſter the ſame, whether your Lordſhips will have them all read, or but a word of them, and let them be left with your Lordſhips.

L. H. S. What Records are they?

Mr. *Treby.* They are the Records of the Attainder of *Coleman*, *Ireland*, and the other Conſpirators.

L. H. S. The Fact is ſo notorious that they were attainted and executed, that the reading of a Word will ſerve the turn.

Sir *J. Trevor.* Then we deſire they may be produc'd here, and the Copies prov'd upon Oath; and then we ſhall leave them upon your Lordſhips Table. And, my Lords, we deſire likewiſe at the ſame time to ſave another Trouble, there may be deliver'd in the Convictions of *Reading*, *Lane*, *Knox*, and others.

Then Mr. Clare *was ſworn, and deliver'd in the Copies of the Records.*

L. H. S. What Record is that?

Mr. *Clare.* It is the Record of the Attainder of *Coleman* for High-Treaſon.

L. H. S. Did you examine it?

Mr. *Clare.* I did examine it.

L. H. S. Is it a true Copy?

Mr. *Clare.* To the beſt of my Underſtanding it is. Here is likewiſe a Copy of the Record of the Conviction of *Ireland*, *Pickering*, and *Grove*, for High-Treaſon.

L. H. S. Is there Judgment of Attainder entred upon Record?

Mr. *Clare.* Yes, my Lords, there is Judgment entred. Here is a Copy of the Indictment, Conviction, and Attainder of *Whitebread*, *Fenwick*, *Harcourt*, *Gavan*, and *Turner* for High-Treaſon. Here is a Copy of the Record of Attainder of *Richard Langhorn* for High-Treaſon. Here is a Copy of the Attainder of *Green*, *Berry*, and *Hill*, for the Murder of Sir *Edmondbury Godfrey*. Here is a Copy of the Conviction of Mr. *Nathaniel Reading*, for endeavouring to ſuborn Mr. *Bedloe* to retract his Evidence againſt ſome of the Lords in the *Tower*, and Sir *Henry Titchbourn*.

L. H. S. What is the Judgment there?

Mr. *Clare.* The Judgment is entred upon it; and 'tis to pay 1000 *l.* Fine, and to be put in and upon the Pillory in the *Palace-Yard*, *Weſtminſter*, for an Hour, with a Paper upon his Head, written in great Letters, *For endeavouring Subornation of Perjury.* Here is a Copy of the Record of the Conviction of *Tasbrough* and *Price*, for endeavouring to ſuborn Mr. *Dugdale*, and Judgment entred upon it. And here is a Copy of the Record of Conviction of *Knox* and *Lane*, for conſpiring to aſperſe Dr. *Oates* and Mr. *Bedloe*.

Here is the Record of the Conviction of *John Giles*, for barbarouſly attempting to aſſaſſinate *John Arnold* Eſq; one of his Majeſty's Juſtices of the Peace; and the Judgment entred thereupon is, To ſtand three times on the Pillory, with a Paper on his Hat declaring his Offence; to pay 500 *l.* to the King, to lie in Execution till the ſame be paid, and find Sureties for his good Behaviour during Life.

L. H. S. Deliver them all in. And if my Lords have occaſion to doubt of any thing, being left in the Court, they will be there ready to be us'd. (All which were then deliver'd in.)

Mr. *Treby.* My Lords, we humbly deſire that the Record of *Coleman* may be read, becauſe there is more of ſpecial Matter in it than any of the reſt, and your Lordſhips may diſpoſe of the others as you pleaſe.

L. H. S. Read the Record of *Coleman.*

Then the Clerk read (in *Latin*) the Record of the Attainder of *Edward Coleman*, formerly executed for High-Treaſon, by him committed in this horrid Popiſh Plot, which is in *Engliſh* as followeth.

Of the Term of St. Michael, *in the thirtieth Year of the Reign of King* Charles *the* Second, &c.

Middleſex.

AT another time, to wit, on Wedneſday next after eight days of St. *Martin* this ſame

Term, before our Lord the King at *Weſtminſter*, by the Oath of twelve Jurors, honeſt and lawful Men of the County aforeſaid, ſworn and charged to enquire for our ſaid Lord the King and the Body of the County aforeſaid, it ſtands preſented, That *Edward Coleman* late of the Pariſh of St. *Margaret Weſtminſter*, in the County of *Middleſex* Gent. as a falſe Traitor againſt the moſt illuſtrious, moſt ſerene, and moſt excellent Prince, our Lord *Charles* the Second, by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c.* and his natural Lord, not having the Fear of God in his Heart, nor weighing the Duty of his Allegiance, but by the Inſtigation of the Devil moved and ſeduced, the cordial Love, and the true, due and natural Obedience, which true and faithful Subjects of our ſaid Lord the King towards him, our ſaid Lord the King, ought and of right are bound to bear; utterly withdrawing, and deviſing, and with his whole Strength intending the Peace and common Tranquillity of this Kingdom of *England* to diſturb, and the true Worſhip of God within this Kingdom of *England* practiſed, and by Law eſtabliſhed, to overthrow; and Sedition and Rebellion within this Realm of *England* to move, ſtir up, and procure; and the cordial Love, and true and due Obedience, which true and faithful Subjects of our ſaid Lord the King towards him our ſaid Lord the King ſhould bear, and of right are bound to bear, utterly to withdraw, blot out, and extinguiſh, and our ſaid Lord the King to Death and final Deſtruction to bring and put, the 29th day of *September* in the 27th year of the Reign of our Lord *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c.* at the Pariſh of St. *Margaret Weſtminſter* aforeſaid, in the County aforeſaid, falſly, malicicioſly, ſubtilly and traitorouſly propoſed, compaſſed, imagined and intended Sedition and Rebellion within this Realm of *England* to move, raiſe up and and procure, and a miſerable Slaughter among the Subjects of our ſaid Lord the King to procure and cauſe; and our ſaid Lord the King from his kingly State, Title, Power and Government of his Realm of *England* utterly to deprive, depoſe, deject and diſinherit, and him our ſaid Lord the King to Death and final Deſtruction to bring and put, and the Government of the ſame Realm, and the ſincere Religion of God in this Kingdom, rightly, and by the Laws of this Realm, eſtabliſhed, for his Will and Pleaſure to change and alter, and the State of this whole Kingdom in its univerſal Parts well inſtituted and ordain'd, wholly to ſubvert and deſtroy, and War againſt our ſaid Lord the King within this Realm of *England* to levy. And to accompliſh and fulfil theſe his moſt wicked Treaſons and traitorous Imaginations and Purpoſes aforeſaid, the ſame *Edward Coleman* afterwards, to wit, the ſaid 29th Day of *September*, in the aboveſaid 27th Year of the Reign of our ſaid Lord the King, at the Pariſh of *St. Margaret Weſtminſter* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, ſubtilly and traitorouſly deviſed, compoſed, and writ two Letters to be ſent to one Monſieur *le Chaiſe* then Servant and Confeſſor of *Lewis* the *French* King, to deſire, procure and obtain to the ſaid *Edward Coleman*, and other falſe Traitors againſt our ſaid Sovereign Lord the King from the ſaid *French* King, his Aid, Aſſiſtance and Adherence, to alter the true Religion in this Kingdom then and ſtill eſtabliſhed, to the Superſtition of the Church of *Rome*, and to ſubvert the Government of this Kingdom of *England*: And afterwards, to wit, the ſaid 29th Day of *September*, in the aboveſaid 27th Year of the Reign of our ſaid Lord, now King of *England*, &c. at the aforeſaid Pariſh of St. *Margaret Weſtminſter* in the County of *Middleſex* aforeſaid, falſly and traitorouſly deviſed, compoſed and writ two other Letters to be ſent to one Monſieur *le Chaiſe*, then Servant and Confeſſor of the ſaid *French* King, to the intent that he the ſaid Monſieur *le Chaiſe* ſhould entreat, procure and obtain to the ſaid *Edward Coleman* and other falſe Traitors againſt our ſaid Sovereign Lord the King, from the aforeſaid *French* King, his Aid, Aſſiſtance and Adherence to alter the true Religion in this Kingdom of *England*, then and ſtill eſtabliſhed, to the Superſtition of the Church of *Rome*, and to ſubvert the Government of this Kingdom of *England*: And that the aforeſaid *Edward Coleman*, in further Proſecution of his Treaſons and traitorous Imaginations and Purpoſes aforeſaid, afterwards, to wit the ſame 29th Day of *September*, in the aboveſaid 27th Year of the Reign of our ſaid now Lord the King, the aforeſaid ſeveral Letters from the ſaid Pariſh of St. *Margaret Weſtminſter* in the County of *Middleſex* aforeſaid, falſly, ſubtilly and traitorouſly did ſend into Parts beyond the Seas, there to be delivered to the ſaid Monſieur *le Chaiſe*. And that the aforeſaid *Edward Coleman*, afterwards, to wit the 1ſt Day of *December* in the 27th Year of the Reign of our Sovereign Lord *Charles* the Second, now King of *England*, *&c.* at the aforeſaid Pariſh of St. *Margaret Weſtminſter*, in the County of *Middleſex* aboveſaid, one Letter from the aforeſaid Monſieur *le Chaiſe* (in anſwer to one of the ſaid Letters, ſo by him the ſaid *Edward Coleman* writ, and to the ſaid Monſieur *le Chaiſe* to be ſent, firſt mentioned) falſly, ſubtilly and traitorouſly received, and that Letter ſo in anſwer received, the Day and Year laſt aboveſaid, at the aboveſaid Pariſh of St. *Margaret Weſtminſter* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, ſubtilly and traitorouſly did inſpect and read over; and that the aforeſaid *Edward Coleman*, the Letter aforeſaid ſo by him in anſwer received in his Cuſtody and Poſſeſſion the Day and Year laſt aforeſaid, at the aforeſaid Pariſh of St. *Margaret Weſtminſter*, in the County of *Middleſex* aforeſaid, falſly, ſubtilly and traitorouſly detained, concealed and kept; by which ſaid Letter the ſaid Monſieur *le Chaiſe*, the Day and Year laſt aboveſaid, at the aforeſaid Pariſh of St. *Margaret Weſtminſter*, in the County of *Middleſex* aforeſaid, ſignify'd and promiſed to the ſaid *Edward Coleman*, to obtain for him the ſaid *Edward Coleman* and other falſe Traitors againſt our ſaid Lord the King, from the ſaid *French* King, his Aid, Aſſiſtance and Adherence. And that the aforeſaid *Edward Coleman*, afterwards, to wit the 10th Day of *December* in the aboveſaid 27th Year of the Reign of our ſaid Sovereign Lord *Charles* II. now King of *England*, &c. at the Pariſh of St. *Margaret Weſtminſter* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, maliciouſly, ſubtilly and traitorouſly did relate and declare his traitorous Deſigns and Purpoſes aforeſaid to one Monſieur *Ruvigni* (then Envoy Extraordinary from the *French* King to our ſaid moſt Serene King, at the Pariſh aforeſaid, in the County aforeſaid, reſiding) to move and excite him the ſaid Envoy Extraordinary with him the ſaid *Edward Coleman*, in his Treaſons aforeſaid to partake: And the ſooner to fulfil and compleat thoſe his moſt wicked Treaſons and traitorous Imaginations and Purpoſes aforeſaid, he the ſaid *Edward Coleman*, afterwards, to wit the 19th Day of *December* in the aboveſaid

ſaid 27th Year of the Reign of our ſaid Lord *Charles* the Second now King of *England*, &c. at the aforeſaid Pariſh of St. *Margaret Weſtminſter*, in the County of *Middleſex* aforeſaid, adviſedly, maliciouſly, ſubtilly and traitorouſly did deviſe, compoſe, and write three other Letters to be ſent to one Sir *William Throgmorton* Knt. then a Subject of our now Lord the King, of this Kingdom of *England*, and reſiding in *France*, in Parts beyond the Seas, to ſollicit him the aforeſaid Monſieur *le Chaiſe* to procure and obtain of the ſaid *French* King his Aid, Aſſiſtance and Adherence aforeſaid. And thoſe Letters laſt mention'd, afterwards, to wit the Day and Year laſt aboveſaid, from the aforeſaid Pariſh of St. *Margaret Weſtminſter*, in the County of *Middleſex* aforeſaid, to the ſame Sir *William Throgmorton* in *France* aforeſaid, falſly and traitorouſly did ſend, and cauſe to be deliver'd, againſt the Duty of his Allegiance, and againſt the Peace of our ſaid now Lord the King, his Crown and Dignity, and againſt the Form of the Statute in ſuch caſe made and provided. Wherefore it was commanded the Sheriff of the County aforeſaid, that he ſhould not omit, *&c.* but that he ſhould take him, if *&c.* to anſwer *&c.* And now, to wit, on Saturday next after eight Days of St. *Martin* this ſame Term, before our Lord the King at *Weſtminſter*, came the aforeſaid *Edward Coleman* under the Cuſtody of *William Richardſon* Gent. Keeper of the Goal of our ſaid Lord the King of *Newgate*, by virtue of the King's Writ of *Habeas Corpus ad ſubjiciend'*, *&c.* (into whoſe Cuſtody before then for the Cauſe aforeſaid, he was committed) to the Bar here brought in his poper Perſon, who is committed to the *Marſhal*, &c. and preſently of the Premiſes to him above impoſed, being asked, How he will thereof be acquitted? ſaith, That he is in no wiſe thereof guilty, and thereof for Good and Evil doth put himſelf upon the Country. Therefore let a Jury thereupon come before our Lord the King at *Weſtminſter* on Wedneſday next after fifteen Days of St. *Martin*; and who *&c.* to recognize *&c.* becauſe *&c.* the ſame Day is given to the ſaid *Edward Coleman* &c. under the Cuſtody of the ſaid Keeper of the Goal of our ſaid Lord the King, of *Newgate* aforeſaid, in the mean time committed to be ſafely kept until *&c.* At which Wedneſday next after fifteen Days of St. *Martin*, before our Lord the King at *Weſtminſter*, came the aforeſaid *Edward Coleman* under Cuſtody of the aforeſaid Keeper of the King's Goal of *Newgate* aforeſaid, by virtue of a Writ of our Lord the King of *Habeas Corpus ad ſubjiciend'*, *&c.* to the Bar here brought in his proper Perſon, who is committed to the aforeſaid Keeper of the King's Goal of *Newgate* aforeſaid. And the Jurors of the Jury aforeſaid, by the Sheriff of the County aforeſaid hereunto impannelled, being called, came, who being choſen, tried and ſworn to ſpeak the Truth upon the Premiſes, ſay upon their Oaths, That the aforeſaid *Edward Coleman* is guilty of the High Treaſon aforeſaid, in the Indictment aforeſaid ſpecify'd, in manner and form as by the ſaid Indictment above againſt him is ſuppoſed; and that the aforeſaid *Edward Coleman* at the time of Perpetration of the High Treaſon aforeſaid, or at any time afterwards had no Goods, Chattels, Lands or Tenements, to the knowledge of the Jurors aforeſaid. And the aforeſaid *Edward Coleman* being asked if he hath any thing, or knows what to ſay for himſelf, why the Court here ought not to proceed to Judgment and Execution of him upon the Verdict aforeſaid, ſaith nothing, but as before he had ſaid: And hereupon inſtantly the Attorney-General of our ſaid Lord the King, according to due form of Law, demandeth againſt him the ſaid *Edward*, Judgment and Execution to be had upon the Verdict aforeſaid, for our Lord the King. Whereupon all and ſingular the Premiſes being viewed, and by the Court here underſtood, it is conſidered, That the ſaid *Edward Coleman* be led by the ſaid Keeper of the Goal of *Newgate* aforeſaid, unto *Newgate* aforeſaid, and from thence directly be drawn to the Gallows of *Tyburn*, and upon thoſe Gallows there be hanged, and be cut down alive to the Earth, and his Entrails be taken out of his Belly and be burned (he ſtill living); and that the Head of him be cut off, and that the Body of him be divided into four Parts; and that thoſe Head and Quarters be put where our Lord the King will aſſign them, *&c.*

Lord *Staff.* I do not hear one word he ſays, my Lords.

L. H. S. My Lord, this does not concern your Lordſhip any further than as to the Generality of the Plot.

Sir *Will. Jones.* My Lords, we have now done with our Proofs for the firſt general Head that we open'd, which was to make it out, that there was a Plot in general. We now come to give our particular Evidence againſt this every Lord; and before we do begin, we think fit to acquaint your Lordſhips, that our Evidence will take up ſome time: if your Lordſhips will have the patience to hear it out now, we will give it; but if your Lordſhips will not ſit ſo long till we can finiſh it, it may be ſome Inconvenience to us to break off in the middle. And therefore we humbly offer it to your Lordſhips conſideration, whether you will hear it now, or no.

L. H. S. If it cannot be all given and heard now, it were better all ſhould be given to-morrow.

Sir. *Will. Jones.* If your Lordſhips pleaſe then, we will reſerve it till to-morrow.

Lord *Staff.* My Lords, I would only have your Directions, whether I ſhall anſwer this General firſt, or ſtay till all be ſaid againſt me. That which I have to ſay to this General, will be very ſhort.

L. H. S. My Lord, you are to make all your Anſwer intire, and that is beſt for you.

Lord *Staff.* I am very well contented, that I may be the better prepared for it.

L. H. S. Is it your Lordſhips Pleaſure that we ſhould adjourn into the Parliament-Chamber?

Lords. Ay, Ay.

L. H. S. Then this Houſe is adjourned into the Parliament Chamber.

And the Lords went away in the ſame Order they came.

The Commons returned to their Houſe, and Mr. Speaker reſumed the Chair, and then the Houſe adjourned to eight of the Clock the next Morning.

The Second Day.

Wedneſday *December* 1. 1680.

A Meſſage was ſent from the Lords by Sir *Timothy Baldwyn* and Sir *Samuel Clark*.

Mr. Speaker,

The Lords have ſent us to acquaint this Houſe, That they intend to proceed to the Tryal of *William*

liam Viſcount *Stafford*, at ten of the clock this Morning, in *Weſtminſter-Hall*.

Mr. Speaker left the Chair, and the Commons came into *Weſtminſter-Hall* in the new erected Court.

And the Managers appointed by the Commons went into the Room prepared for them in that Court, to proceed to the particular Evidence againſt *William* Viſcount *Stafford*.

About ten of the Clock in the Morning the Lords came into the ſaid Court in their former Order; and Proclamation being made of Silence, and for the Lieutenant of the *Tower* to bring his Priſoner to the Bar, they proceeded.

L. H. S. My Lords expect you ſhould go on with your Evidence, and proceed in the Tryal of this noble Lord.

L. Staff. My Lords, if your Lordſhips pleaſe, I humbly deſire that my Counſel may be near me for the arguing of what is fit to them to ſpeak to, as to Points of Law; for Points of Fact I do not deſire it.

L. H. S. My Lord, you have an Order for your Counſel to attend, and they muſt and ought to attend.

Mr. Serj. *Maynard*. The Counſel muſt not ſuggeſt any thing to him, while the Evidence is giving, they are not to be heard as to Matter of Fact.

L. H. S. It is not intended to make uſe of Counſel as to Matter of Fact, but they may ſtand by.

Mr. Serj. *Maynard*. My Lords, they may ſtand within hearing, but not within prompting.

Lord *Staff.* I aſſure you, if I had all the Counſel in the World, I would not make uſe of them for any Matter of Fact.

Mr. *Treby*. My Lords, will you pleaſe to order them to ſtand at a convenient diſtance, that they may not prompt the Priſoner?

Sir *Will. Jones*. My Lords, I hope your Lordſhips will conſider, that a Man in a capital Cauſe ought not to have Counſel to matter of Fact. 'Tis true, he may adviſe with his Counſel, I deny it not; but for him in the face of the Court to communicate with his Counſel, and by them be told what he ſhall ſay, as to Matters of Fact, is that which (with ſubmiſſion) is not to be allow'd. If your Lordſhips order they ſhall be within hearing, I do not oppoſe it; but then I deſire they may ſtand at that diſtance, that there may be no means of Intercourſe, unleſs Points in Law do ariſe.

L. H. S. You were beſt make that Exception when there is Cauſe for it, in the mean time go on with your Evidence.

Sir *F. Win.* We did perceive his Counſel came up towards the Bar, and very near him, and therefore we thought it our duty to ſpeak before any Inconvenience happened. This Lord being accuſed of High Treaſon, the allowing of Counſel is not a Matter of Diſcretion. If Matters of Law ariſe, all our Books ſay, that Counſel ought to be allowed: But we pray that there may be no Counſel to adviſe him in Matter of Fact, nor till your Lordſhips find ſome Queſtion of Law to ariſe upon the Evidence.

L. H. S. When there is Cauſe, take the Exception, but they do not as yet misbehave themſelves.

Mr. *Treby*. My Lords, we preſume your Lordſhips did, from the Strengh and Clearneſs of yeſterday's Evidence, receive full Satisfaction concerning the general Plot and Conſpiracy of the Popiſh Party.

It being an Evidence apparently invincible, not out of the Mouths of two or three Witneſſes only, but of twice that number, or more, credible Perſons.

Upon which we doubt not but your Lordſhips who hear, and Strangers and unborn Poſterity when they ſhall hear, will juſtify this Proſecution of the Commons, and will allow that this Impeachment is the proper Voice of the Nation crying out, as when the Knife is at the Throat. By the Evidence already given, I ſay, it is manifeſt that there was a general grand Deſign to deſtroy our Religion, our King, and his Proteſtant Subjects. And 'tis even impoſſible that this Deſign, ſo big, could be conducted without the Concurrence of ſuch Perſons as this noble Lord at the Bar: It could not be carry'd on by leſs and lower Men.

And it were a Wonder, that a Perſon ſo fervently affected and addicted (as this Lord is) to that Party, ſhould not be in, at ſo general a Deſign of the Party.

But this indeed is but preſumptive Evidence, which will induce a moral Perſuaſion.

We ſhall now produce ſuch poſitive Evidence as will make a judicial Certainty; and will abundantly ſuffice to convince your Lordſhips, and convict this Lord.

The Particulars you will hear out of the Mouths of the Witneſſes, whom we ſhall call: They will teſtify what ſhare this Lord had in (almoſt) all the Parts and Articles in our Charge; contriving and contracting for the Murder of the King, levying Arms, *&c.* And firſt we call Mr. *Dugdale*.

L. Staff. My Lords, I do conceive I have good ground to except againſt this Man for a Witneſs: for my own particular, I know my ſelf as clear and free as any one here, but I will not except againſt him now, but reſerve it againſt the time when I come to make my Defence, and therefore admit him to be ſworn, provided, my Lords, that he look me full in the face.

L. H. S. My Lord *Stafford*, What is your Exception againſt this Man that he may not be a Witneſs?

L. Staff. I do admit him to be ſworn, I ſay nothing now againſt him.

Mr. *Treby*. He is ſworn already.

L. H. S. You ſwore him to give Evidence as to the general Plot; you not did ſwear him as to the Particulars againſt my Lord *Stafford*.

Sir *John Trevor*. We are content he ſhall be ſworn again, we pray he may be ſworn.

Sir *Will. Jones*. 'Tis true, my Lords, we did divide the Evidence into two Parts, but his Oath was not divided: If your Lordſhips pleaſe you may ſwear them all over again, if it may be any ſatisfaction, but I think it was never ſeen before.

Then Mr. *Dugdale* was ſworn.

L. H. S. There is Mr. *Dugdale*; come, Sir, what ſay you?

L. Staff. Really he is ſo changed I do not know him.

Mr. *Dugd.* My Lord, I have Witneſſes to prove that you know me.

L. Staff. I beg your Lordſhips that he may look me in the face, and give his Evidence, as the Law is.

Sir *John Trevor*. My Lords, if this noble Lord, the Priſoner at the Bar, will have this Witneſs to look him continually in the face, the Court will not hear half his Evidence: We deſire he may addreſs himſelf, as the Law is, to your Lordſhips and the Judges.

L. Staff.

L. Staff. I deſire the Letter of the Law, which ſays, my Accuſer ſhall come face to face.

Mr. *Dugd.* My Lords, I am willing to do as your Lordſhips ſhall order.

L. H. S. My Lord, you do ſee the Witneſs, that is enough for face to face; and you make no legal exception againſt him, why he ſhould not be heard.

L. Staff. Very well, my Lord, I ſubmit.

Mr. *Dugd.* My Lords, I have for ſome years paſt, whilſt I was a Servant with my Lord *Aſton*, been acquainted and frequently had Diſcourſes with my Lord *Stafford*, before we came to diſcourſe any thing concerning the Plot on foot. Lately, in 78, my Lord coming down into the Country, it was either in *Auguſt* or *September*, the latter end of *Auguſt*, or the beginning of *September*——

L. Staff. I beſeech your Lordſhips he may name the times.

L. H. S. My Lord, if your Lordſhip pleaſe do not interrupt the Witneſſes, but wherein he is ſhort, do you ask him the Queſtion when it comes to your turn, I will bring it to as much Certainty as I can.

Mr. *Dugd.* There was a meeting at *Tixal* where there were ſeveral preſent——

L. H. S. When?

Mr. *Dugd.* It was in *September* or the latter end of *Auguſt*.

L. H. S. What Year?

Mr. *Dugd.* 78. My Lords, I had then by Mr. *Evers*'s means Admittance to hear, becauſe of my Incouragement, what the Diſcourſe was at that time. It was to debate and determine upon the former Reſolutions both beyond Sea and at *London* before, both to take away the Life of the King, and to introduce their Religion, of which I was then one. My Lord *Stafford* was there preſent, and did with the reſt conſent to it. Afterwards my Lord *Stafford* being at one Mr. *Abnett*'s of *Stafford* one Sunday Morning in *September*, came to my Lord *Aſton*'s Houſe to Maſs: I met with my Lord *Stafford* at ſome diſtance from the Gate, and my Lord ſpeaking to me when he alighted off from his Horſe, told me it was a very ſad thing they could not ſay their Prayers but in an hidden manner, but e'er long we ſhould have our Religion eſtabliſhed; which was much to my Joy at that time. After that time my Lord *Stafford* was ſometimes at *Stafford*, and ſometimes at *Tixal*, I will not be poſitive as to a Day, but I think it was about the middle of *September*. My Lord *Stafford* ſent for me to his Lodging-Chamber, as he had ſeveral times before ſent for me; and ſaid, he had had great Commendations of me from Mr. *Evers* that I was faithful and truſty.

L. Staff. My Lords, I deſire I may have Pen, Ink and Paper allowed me.

L. H. S. Ay, God forbid you ſhould be denied that: Give my Lord Pen, Ink and Paper. I hope your Lordſhip hath one to aſſiſt you that takes Notes for you; if you have not, you have loſt a great deal of time already.

L. Staff. There was one all day yeſterday, my Lords; I deſire he may ſpeak his Evidence over again.

L. H. S. Let him begin his Evidence again, for my Lord had not Pen, Ink nor Paper, which he ought to have, to help his Memory.

Mr. *Dugd.* I may miſs as to the Words, but the Matter of Fact I ſhall repeat: My Lords, I have been frequently acquainted whilſt I was a Servant at my Lord *Aſton*'s with my Lord *Stafford*, coming to my Lord's Houſe in the Country, and my Lord being ſeveral times where I came to that Intimacy by Mr. *Evers*'s means, that my Lord would frequently diſcourſe with me. About the latter end of *Auguſt* or ſome Day in *September*, my Lord *Stafford*, my Lord *Aſton*, and ſeveral other Gentlemen, were in a Room in my Lord *Aſton*'s Houſe, and by the means of Mr. *Evers* I was admitted to hear for my Incouragement, and there I heard them in that Debate at that time fully determine a Reſolution upon all the Debates that had been beyond Sea and at *London* before, That it was the beſt way they could reſolve on to take away the Life of the King, as the ſpeedieſt means to introduce their own Religion. After ſome time my Lord being at *Stafford* at Mr. *Abnet*'s ——

L. H. S. Was my Lord *Stafford* at that Meeting where they debated to kill the King?

Mr. *Dugd.* My Lord was there.

L. H. S. Was he conſenting to that Reſolution?

Mr. *Dugd.* Yes, I heard every one give their particular full Aſſent.

(At which there was a great Hum.)

L. H. S. What is the meaning of this? For the Honour and Dignity of publick Juſtice, let us not carry it as if we were in a Theatre.

Mr. *Dugd.* My Lords, ſometimes in *September*, my Lord *Stafford* being at Mr. *Abnet*'s Houſe in *Stafford*, came once upon a Sunday Morning to hear Maſs: I meeting him at the outward Gate of my Lord *Aſton*'s Houſe when he alighted off his Horſe, after ſome Diſcourſe he turned to me, and told me, It was a ſad thing we could not ſay our Prayers but in an hidden manner; but e'er long if things took effect we ſhould have the *Romiſh* Religion eſtabliſhed: and I at that time did ſeem to be, and really was as glad as any Perſon could be. After ſome time, I think it was about the 20th or 21ſt of *September*, my Lord *Stafford* ſent for me into his Lodging-Room, I think it was by his Page or him that waited upon him in his Chamber; and he told me I muſt come to my Lord, and I immediately went to his Lordſhip, he was juſt then ariſing and dreſſing, he ſent his Men out, and told me, he had had a good Account from Mr. *Evers* and other Gentlemen that I would be faithful and true to their Intentions about the introducing their Religion. He told me, he was likewiſe concerned himſelf, and that in a very high degree; and for taking away the Life of the King, he offered me at that time for my Charges and Incouragement 500 *l.* and that I ſhould go in *October* after to *London* with him (my Lord *Stafford*) and that I ſhould be with him ſometimes at *London*, and ſometimes at an Houſe of my Lord *Aſton*'s, about twenty five Miles from *London*, and that I ſhould be under the care of him in *London* and Mr. *Ireland*, and in the Country of one Mr. *Parſons* that knew of the Deſign. I did then ſhew as much Reſolution to be faithful to my Lord as I could, and that I would be true to what my Lord then engaged me. I after went to Mr. *Evers*, and communicated to him what my Lord *Stafford* ſaid, and was ſomething in admiration at my Lord's offering me ſuch a Sum of Mony, for I doubted of my Lord's Ability to make good Payment. He told me, that I need not fear it, for Mr. *Harcourt* and Mr. *Ireland* had Mony enough in their hands to defray that and other Charges; and I ſhould not want Mony for the carrying it on. My Lords, I remember that at another time there was a Meeting, wherein there was a Debate about my going up, and other Buſineſſes; my Lord *Stafford* was preſent, and there were ſeveral there beſides, I did not know them all then; but in the firſt

place

place they told me I ſhould be made equal with one Captain *Adderly* that is ſince dead, and that I ſhould have a Reward in *London*. I underſtood that the Duke of *York*, my Lord *Arundel*, and my Lord *Bellaſis*, and others were to give me it; and ſpeaking of the Rewards to thoſe that were ingaged, they ſaid, there would be Land enough from the Proteſtants to ſatisfy all that acted in the Deſign. Another time my Lord *Stafford* diſcourſing in a Dining-Room in my Lord *Aſton*'s Houſe, did expreſs his great zeal, and the reaſon why he was ſuch an Enemy againſt the King; he ſaid, both he and my Lord *Aſton* had been great Sufferers for the King, and for his Father, and that my Lord in particular his Grandfather or his Father had ſpent 30000 *l.* in the King's Service, and had no Recompence; that he had always ſhewed himſelf loyal to the King, but whenever there came any Place of Preferment to be diſpos'd of, it was rather given to ſuch as had been Traitors and Rebels to the old King, and likewiſe to the King himſelf, than to any that had been loyal. He ſaid, this was his chief Motive, if there were not Religion in the Caſe, which was of an higher Nature, or to that purpoſe.

L. H. S. When was this laſt Diſcourſe?

Mr. *Dugdale*. In *September* 78, as near as I remember, for we had ſeveral Diſcourſes.

L. H. S. This was not the time you were at my Lord's Chamber?

Mr. *Dugdale*. No, it was in my Lord *Aſton*'s Dining-Room.

L. H. S. No, nor when he ſent for you to offer you the 500 *l.*?

Mr. *Dugdale*. No, not at that time, it was another time.

L. H. S. What Month and Year?

Mr. *Dugdale*. *September* 78, my Lord.

Mr. *Foley*. I deſire he may give your Lordſhips an account what Aſſurance he had of Pardon, if he did ſucceed.

Mr. *Dugdale*. I was told I need not fear; and particularly my Lord *Stafford* told me, I ſhould have a free Pardon for it; for the King had been excommunicated, and was likewiſe a Traytor, and a Rebel, and an Enemy to Jeſus Chriſt.

L. H. S. But how could you be pardon'd? From whom were you to have that Pardon?

Mr. *Dugdale*. I was to be pardon'd by the Pope.

L. H. S. That was for your Sins.

Mr. *Dugdale*. Yes; I expected no other if I had gone on.

Mr. *Treby*. Were you promis'd nothing elſe but a Pardon from the Pope?

Mr. *Dugd*. Yes, I was to be Sainted.

Sir *W. Jones*. Will his Lordſhip pleaſe to ask him any Queſtions? we ask him no more.

Mr. *Foley*, Yes, I deſire another Queſtion may be ask'd him; That he would give an account of the Letters my Lord *Stafford* writ to *Evers* about the Deſign.

L. H. S. What ſay you to that Queſtion?

Mr. *Dugd*. There came a Letter to *Evers* from my Lord *Stafford*; I knew it to be my Lord's Hand: ſome might counterfeit his Hand; but as near as a Man can ſwear to the Hand of another in a Paper he did not ſee written, that was my Lord's Hand; That things went all well beyond Sea, and ſo he did hope they did here, for the carrying on of the Deſign: it was to this purpoſe expreſly.

Mr. *Treby*. We have done, my Lords, with him.

L. H. S. My Lord *Stafford*, Will you ask him any Queſtions?

L. *Staf*. My Lords, I have divers Queſtions to ask him, very many; but I humbly crave your Lordſhips Directions, if I askt him any Queſtions now, whether I may not ask him ſome afterwards?

L. H. S. My Lord, you may ask Queſtions of the Witneſſes as often as you pleaſe, and whenever you find it uſeful to you: God forbid there ſhould be any time to foreclose a Man from asking a Queſtion that may ſave his Life.

L. *Staf*. I pray he may be ask'd how long before this time he knew of the Plot.

L. H. S. How long have you known this Plot?

Mr. *Dugd*. In general, for the introducing of the Popiſh Religion, and the Incouragement to it by the Duke of *York*'s being Succeſſor, I have known it fifteen or ſixteen Years by the means of Mr. *Evers*.

L. Staff. My Lords, I underſtand him, he ſays he knew the Plot fifteen or ſixteen Years ago; if I be not miſtaken, he ſays ſo.

Mr. *Dugd*. My Lords, if your Lordſhips pleaſe to give me leave to explain my ſelf further, it was not for taking away the Life of the King, but for making ready againſt the King died, with Men and Arms.

L. Staff. My Lords, he ſays in the latter end of *Auguſt*, or beginning of *September*, I told him ſuch and ſuch things, I deſire he may name the Day, that may be many Days, and I may prove I was not there, and I can prove for all *Auguſt*, and a good while in *September*; therefore I deſire he may name the Day.

L. H. S. My Lord *Stafford*, I come thus near on purpoſe to ſerve your Lordſhip, that you may not ſtrain your Voice too much; but I am not ſo happy as to apprehend what it is you ſay.

L. *Staf*. My Lords, I ſay, he ſpeaks of the latter end of *Auguſt*, or beginning of *September*, which is too great a Latitude, and I conceive more than ought to be given in ſuch a Matter of Importance as this is to me; I deſire he may name the Day, for he may name Days perhaps that I was not there.

L. H. S. Look you, Mr. *Dugdale*, my Lord does deſire, if you can, you would be a little more particular than about the latter end of *Auguſt*, or the beginning of *September*; if you can remember the Day, tell it us.

Mr. *Dugd*. I cannot remember particular Days, it being a thing I then took no account of; only this I do remember by a remarkable Circumſtance, that one time was either the 20th or 21ſt of *September* 78.

L. H. S. That was the time of your coming into his Chamber, and his offering you five hundred Pound?

Mr. *Dugd*. It was ſo; but other Meetings I dare not charge to a day.

L. Staff. How then can I make my Defence?

Mr. *Dugd*. I will ſtand to that time.

L. Staff. How, my Lords, can I be able to give an account of it? I ſhall prove to your Lordſhips, that he once ſaid it was in *Auguſt*, now he ſays it was in *Auguſt* or *September*. I beſeech you that he may poſitively ſtand to the Month, if not to the Day.

Mr. *Dugd*. I ſpeak as near as I can.

L. Staff. But he ſays the 20th or 21ſt particularly.

Mr. *Dugd*. Thereabouts I am ſure it was.

L. Staff. Look you, he will be poſitive in nothing.

Mr. *Dugd*. I will ſtand to that time.

L. Staff. If he ſwears falſe in one thing, I hope, upon proof of that, your Lordſhips will believe he may be falſe in all. I pray he may be asked what

what Hour of the Day it was, whether it was Morning or Afternoon.

L. H. S. He is poſitive only to the 20th or 21ſt of *September*, the time when he ſays you called for him into your Chamber, and offered him five hundred Pound to kill the King: would your Lordſhip ask him whether it were in the Forenoon or the Afternoon?

L. Staff. Yes, my Lord, I would.

L. H. S. Was it in the Forenoon or in the Afternoon?

Mr. *Dugd.* It was in the Forenoon; for I did formerly ſpeak of that, he was dreſſing himſelf when I came in.

L. H. S. Then that is anſwered poſitively.

L. Staff. My Lords, he ſays one Sunday Morning I came to my Lord *Aſton*'s to Maſs, I deſire you would pleaſe to ask him, whether ever he ſaw Mr. *Evers* and me in his Life alone together?

L. H. S. Have you ſeen my Lord *Stafford* and Mr. *Evers*, ever together alone?

Mr. *Dugd.* Several times I have ſeen them walking together in the Garden, and in the Walks, at my Lord *Aſton*'s; and I have been with them my ſelf when there hath been only them two beſides.

L. H. S. That is anſwered fully; will your Lordſhip ask him any thing elſe?

L. Staff. He ſays he was to go to *London* in *October* with me, I ſtand not upon that till I come to make my Anſwer; but I take it he ſays the 20th or 21ſt of *September* when I offered him five hundred Pound, in my Chamber, to kill the King, that he went preſently to *Evers* to ſpeak with him about it.

L. H. S. As doubting the Payment of the Money, and he told him, that *Harcourt* and *Ireland* would pay it.

L. Staff. Was it the ſame Day? pray ask him, my Lords.

Mr. *Dugd.* I do not ſay it was the ſame Day, but it was the next time I could come to ſpeak with him.

L. H. S. He tells you it was as ſoon as he could ſpeak with him.

L. Staff. He ſaid before, it was preſently after he went from me. I deſire your Lordſhips would take notice how he contradicts himſelf in every Circumſtance.

L. H. S. What ſay you, did you go preſently to Mr. *Evers* after my Lord *Stafford* had made the Offer, or was it the ſame Day or the next Day?

Mr. *Dugd.* To the beſt of my remembrance it was the ſame Day; I can't ſay poſitively.

L. Staff. My Lords, I have no other Queſtions with *Dugdale*.

Sir *J. Trevor.* Then my Lords, we will call another Witneſs.

L. H. S. Have you no more to ſay to *Dugdale*, my Lord?

L. Staff. Not at preſent, till I come to make my Defence.

L. H. S. God forbid, but you ſhould have leave to ſay all that you can for your ſelf.

Mr. *Treby.* Then ſet up Dr. *Oates*. Do your Lordſhips require that he ſhould be ſworn again?

L. Staff. I deſire nothing, nor propoſe it, if he will declare upon his Oath that he took yeſterday.

L. H. S. Hark you Dr. *Oates*, this is but a Continuation of the Proceedings yeſterday, you are upon the ſame Oath now that you were then, and what you ſay this morning will be taken to be upon ſame Oath.

Mr. *Treby.* Dr. *Oates*, upon the Oath you have taken yeſterday——

L. H. S. Pray ſwear him again. (*Which was done.*)

Mr. *Treby.* Dr. *Oates*, pray ſpeak your Knowledge of my Lord *Stafford*'s being ingaged in the Deſign.

Dr. *Oates.* I deſire I may be left to my own Method.

L. H. S. Go on in your own Method.

Dr. *Oates.* My Lords, in the Year 67, there were divers Attempts upon the Life of the King, as the Jeſuits told me; and in the Year 74, there was an Attempt upon the account of the King's withdrawing the Indulgence in 74, and 75: in the Year 1677, whilſt I was in *Spain*, I met with ſeveral Letters ſigned *Stafford*, wherein my Lord *Stafford* did aſſure the Jeſuits in *Spain*, that were of the *Iriſh* Nation, how zealous he ſhould appear in the promoting of the Catholick Deſign. My Lords, in the Year 77, I went to *St. Omers*, and I came there in *December*. My Lords, in that Year I being order'd to look over the Papers, and put them in order, I found ſeveral Letters ſigned *Stafford*; wherein my Lord *Stafford* did intimate to the Fathers, that whereas there had been ſome Difference betwixt him and the Society for ſeveral Years, the Buſineſs was reconciled by one Signior *Con*, who came over into *England* in the Year 76, to reconcile the great Difference that was betwixt the Jeſuits and the Secular Clergy, and between the Benedictine Monks and the Jeſuits. My Lords, my Lord *Stafford*, upon the perſuaſion of this Signior *Con*, as he does intimate in his Letter, does aſſure the Jeſuits of his Fidelity and his Zeal. My Lords, in the Year 78, I found Letters from my Lord *Stafford*, wherein he does blame Mr. *Coleman*'s Openneſs, and his being too publick in the great Affair, and that Mr. *Coleman* was pleaſed to communicate ſeveral great Secrets to Men, of whoſe Fidelity his Lordſhip was not ſecure. My Lords, in 1678, in the Month of *June*, my Lord *Stafford*, the Priſoner at the Bar, came to Mr. *Fenwick*, and there received a Commiſſion from him to pay an Army that was to be raiſed for the promoting of the Catholick Intereſt, and he did aſſure Mr. *Fenwick* that he was going down into *Staffordſhire*, and there he did not queſtion but he ſhould have a good Account how the Catholicks ſtood affected; and he did not queſtion but to give a good account how Affairs ſtood in *Staffordſhire*, *Shropſhire*, and *Lancaſhire*: and this Commiſſion to my Lord *Stafford* was, as near as I can remember, to be Pay-Maſter-General of the Army. My Lords, among other Diſcourſes with my Lord at the Bar, he was diſcourſing about my Lord Duke of *Norfolk*, and my Lord *Arundel* his Son; and after ſeveral other Paſſages, he (*Fenwick*) was asking of him how my Lord *Arundel* came to have a Jeſuit in his Houſe. My Lord *Stafford* did ſay, that my Lord of *Peterborough*, his Father-in-Law, was inſtrumental in it, on purpoſe to oblige the Duke of *York*; for my Lord *Arundel*, as I have been told, kept Father *Symonds* in his Houſe, who to my knowledge was a Jeſuit. But, my Lords, he came to Mr. *Fenwick*'s (my Lord *Stafford* did) by the Name of Mr. *Howard* of *Effingham*.

L. H. S. Were you at *Fenwick*'s when my Lord *Stafford* came to his Chamber?

Dr. *Oates.* Yes, my Lords.

L. H. S. Look upon my Lord *Stafford*, is that the ſame Perſon?

Dr. *Oates.* It is the ſame Gentleman that came there by the Name of *Howard* of *Effingham*.

L. H. S. And he took the Commiſſion?

Dr. *Oates*. Yes, he did ſo.

L. H. S. And he promiſed to effect it?

Dr. *Oates*. Yes, and he ſaid that he was then going down into the Country, and he did not doubt but at his return *Grove* ſhould do the Buſineſs.

L. H. S. Who ſaid ſo, *Fenwick?*

Dr. *Oates*. No, my Lord *Stafford*. And ſays *Fenwick* to my Lord *Stafford* again, Sir, 'tis fit that ſome ſhould be here preſent, leſt you fail of your Expectation; or to that purpoſe. 'Tis two Years ſince, and I cannot remember the Words, but my Lord *Stafford* did ſay, he was of neceſſity to go into the Country at that time. And there he did write a Letter to *St. Omers*, in which he did excuſe himſelf about a young Man that was to be ſent to the Jeſuits College, whom he had taken care of another way. And he deſired their Excuſe, but he would be as faithful to them as any body for all that. And the ſame Hand that wrote that Letter, by all the comparing I could make in my Thoughts, wrote all the other Letters that I ſaw at *St. Omers*, and in *Spain*. My Lords, I ſaw my Lord *Stafford* at Dr. *Perrott*'s, I think verily it was in *June* or *July* 78; it was before the riſing of the Parliament that ſat that Summer, and my Lord *Stafford* was diſcourſing of a Son he was to ſend over to *Lisbon*, and he went over by the name of Sir *John Stafford*. And after this Diſcourſe was over, they fell into a Diſcourſe of the Affairs in hand, and my Lord was mighty glad there was ſo good a Correſpondence and Concord; tho, my Lords, it was not very great, for the Jeſuits have an irreconcilable Quarrel with the reſt of the Clergy: But my Lord did hope that their fair Correſpondence might tend highly to the advancing the Catholick Cauſe. But, my Lords, I have one thing more to ſpeak as to the Diſcourſe at *Fenwick*'s Chamber; ſpeaking of the King, he ſaid, he hath deceived us a great while, and we can bear no longer.

L. H. S. Who ſaid ſo?

Dr. *Oates*. My Lord *Stafford*, the Gentleman at the Bar.

L. H. S. When was that? At Dr. *Perrott*'s?

Dr. *Oates*. No, I ſpeak of a Paſſage at *Fenwick*'s, which I had forgot. My Lords, this is all I can remember at preſent.

Mr. *Foley*. My Lords, I deſire he may give an account what Letters my Lord *Stafford* ſent to *Fenwick* and *Ireland* to pay Money.

Dr. *Oates*. There was ſome Money returned, but it was no great Sum, and it was about private Buſineſs; Mr. *Morgan* was to receive it: I chanced to have the Mony in my own keeping; Mr. *Fenwick* gave it me to pay to Mr. *Morgan*, and the Letter in which the Sum was mentioned did give them an account (for it was out of *Staffordſhire*) that he found things ſtand in a very good ſtate there. But I being not within, Mr. *Morgan* called on Mr. *Fenwick* for the Money, which I returned to him when he had paid it.

L. Staff. My Lords, I do in the firſt place deſire to know where Mr. *Fenwick* lived.

L. H. S. Where did Mr. *Fenwick* live when you ſaw my Lord at his Chamber, and the Commiſſion delivered?

Dr. *Oates*. His Lordſhip, I ſuppoſe, knows very well where he lived; he lived in *Drury-lane*.

L. Staff. I will ſubmit to any thing, if I ever ſaw the Man or heard of him till the Diſcovery of the Plot.

Dr. *Oates*. He came to him by the Name of *Thompſon*.

L. H. S. Your Lordſhip does not obſerve; your Lordſhip ſays that you never knew any *Fenwick*, but your Lordſhip knew one *Thompſon*, and that *Thompſon* was *Fenwick*.

L. Staff. I did know one *Thompſon*, but that *Thompſon* I knew was an *Engliſh* Merchant in *Bruſſels*, and not a Jeſuit.

Dr. *Oates*. I can't ſay what my Lord knows, that he knew *Fenwick* to be a Jeſuit, but he knew one *Thompſon*, that was *Fenwick* the Jeſuit.

L. Staff. I never heard of the Name till this Plot.

Dr. *Oates*. But, if your Lordſhips pleaſe, I will give you a reaſon why I believe he knew him to be a Jeſuit, becauſe the Society was very often in their Mouths in their Diſcourſes; which gives me a ground to believe he knew him to be what he was: but, my Lord, he took his Commiſſion from him.

L. Staff. I deſire he may be asked——

L. H. S. Good my Lord raiſe your Voice, for I am come half way to hear you.

L. Staff. Pray my Lords give me leave to ask him whether Dr. *Oates* hath not ſaid ſeveral times ſince I was firſt impriſoned, that he never ſaw me in his Life. I think I was impriſoned the 21ſt of *October* 78.

Dr. *Oates*. My Lords, I never ſaid any ſuch thing.

L. Staff. I will willingly die, if ever I ſaw this Doctor in my Life.

Dr. *Oates*. I excuſe my Lord for that, for I was in another Habit, and I went by another Name, and your Lordſhips do remember I came in another Habit to make the firſt diſcovery.

L. Staff. My Lord, I never ſaw his Face, nor know him, nor *Fenwick*, or *Thompſon*, otherwiſe than one *Thompſon*, a Merchant at *Bruſſels*.

Dr. *Oates*. But, my Lords, I have one thing more to ſay of my Lord *Stafford*; my Lord *Stafford* went into *France*, I can't ſay the Year, but I believe it is within the Term of ſix or ſeven, but he went over to *France*; and it did appear by Letters from him, that Signior *Con* was made choice of to heal the Difference between the Regulars and the Seculars; and Signior *Con* did come over in the Year 76, and there did make a kind of a Peace among them, which laſted whilſt *Con* ſtayed here, and *Con* did bring over Meſſages, to which my Lord *Stafford* (if he tells any Truth in his own Letter) did return Anſwers.

L. Staff. For the preſent all I ſay to it is this, I never writ any one Letter this 25 years, nor had any Correſpondence with any Jeſuit.

L. H. S. I beſeech you, my Lord, make me capable of ſerving your Lordſhip, by letting me hear what you ſay.

L. Staff. My Lord, I have a great Cold, and can ſpeak no louder; I deſire to ask this Witneſs no more Queſtions at preſent, but I ſay I never writ any Letters to any Prieſt this 25 years.

Mr. *Foley*. Then, my Lords, if my Lord hath done, we will call another Witneſs, and that is Mr. *Edward Turbervile*. (Who was ſworn.)

L. H. S. Look upon the Priſoner. Do you know my Lord *Stafford?*

Mr. *Tur*. Yes, my Lord.

L. H. S. Raiſe your Voice, and ſpeak deliberately.

Mr. *Treby*. Give an account of your Knowledge, and uſe your own Method.

Mr. *Tur*. My Lords, in the Year 1675, I was perſuaded by my Lady *Powis*, and one *Morgan* that was Confeſſor

Confeſſor to the Family, to go to *Doway*, in order to take upon me the Fryar's Habit. When I came there, inſtead of Religion, I found nothing but Hypocriſy and Villany among them, and quickly grew weary of ſtaying there, and with much difficulty I eſcaped thence to go for *England*: when I came into *England*, I did not think that my Friends would look unkindly upon me, becauſe I refuſed to live in that way that they propoſed to me to live in. I uſed all the means I could to have them reconciled, and made Applications to them, that ſince I could not bear with the Life they would have had me lived in, they would contrive ſome way for me, being a younger Brother, that I might live in the World; but they were ſo averſe and inveterate againſt me, that they told me, inſtead of doing any thing for me, they would do me all the Miſchief and Prejudice they could; and having lived all my time among them, I thought the World would receive a Character of me from them who were my Relations, as they would pleaſe to repreſent it. So having no hopes in *England*, I took a Reſolution to go into *France*, where I had a Brother that was a Benedictine Monk; and I hoped that he being in good repute amongſt them, might be able to do me ſome ſervice there. When I came to *Paris*, my Brother uſed all the Endeavours imaginable to get me to be of that Order; but I having ſo ill a Conceit and Opinion of the Order that I was in before, and thinking all the reſt were the ſame, I was unwilling at all to enter into it. And after I had ſtaid there a while, I reſolved to come over into *England*. My Brother uſed all the means he could for my Accommodation, and recommended me to this noble Lord, the Priſoner at the Bar, who lodged then at a corner Houſe in a Street, which, as I remember, bears the Name of *La Rue de Beaufort*, where I was ſeveral times with him in order to come over with him in the Yacht for *England*. After I had been there for a fortnight with this Lord, he underſtanding my Condition, by my Brother, and by the other Fathers of that Convent, and imagining I was a fit Inſtrument to be employ'd on ſuch an occaſion, propoſed to me a way whereby, as he ſaid, I might not only retrieve my Reputation with my Relations, but alſo make my ſelf a very happy Man: and after having exacted from me all the Obligations of Secrecy which I could give him, he at length told me in direct Terms, it was to take away the Life of the King of *England*, who was an Heretick, and conſequently a Rebel againſt God Almighty. I looked upon it as an extraordinary Attempt, and deſired time to conſider of it before I would undertake it. And I gave him this Anſwer, I would give him my Reſolution at *Diep*, where we were to go on board for *England*. And when I came to take my leave of this noble Lord at the Bar, he was ſitting upon a Bench, and he was troubled with the Gout in his Foot at that time. And he told me he had ſome Buſineſs to go to *Verſailles*, and that he ſhould not be in ſix or ſeven days at *Diep*, where I was to wait for him. After a while, I received a Letter at *Diep* from his Lordſhip, wherein he writ me word, that he had altered his Reſolution, and would go by the way of *Calais*, and that I ſhould haſten to wait on his Lordſhip at *London*. I have one thing more to obſerve to your Lordſhips; when I got paſſage from *Diep*, in a Fiſher-boat for *England*, I never came near my Lord *Stafford*, becauſe being not willing to undertake his Propoſal, I thought my ſelf not ſafe, even from my own Relations; and therefore I made my Applications to the Duke of *Monmouth*, and his Grace was pleaſed by Letter to recommend me into the *French* Service, and by that means I avoided his Lordſhip's further Importunity.

L. H. S. You ſay my Lord did propoſe to you the killing of the King; did he plainly make the Propoſal in direct Terms to kill the King?

Mr. *Tur.* Yes, he did, my Lord.

L. H. S. What did he offer you to do it?

Mr. *Tur.* Nothing, for I would not accept of it. I told him it was a Matter of great Concernment, and I ought to conſider of it, and I took time to think of it, and would give him my Anſwer at *Diep*, which he came not to; and ſo there was an end of it.

L. H. S. What Engagements of Secrecy had you given my Lord before he open'd himſelf ſo plainly to you?

Mr. *Tur.* I gave my Lord my Word and my Promiſe that I would not diſcover it to any Perſon, directly nor indirectly; my Lord had nothing of an Oath from me.

L. H. S. Will you ask him any more Queſtions, Gentlemen?

Sir *Will. Jones.* No, my Lords.

L. H. S. Will your Lordſhip ask him any Queſtions, my Lord *Stafford?*

L. Staff. My Lord, I never ſaw the Man before in my Life. I will ask him one Queſtion, ſince he hath been pleaſed to ſwear againſt me.

Mr. *Tur.* My Lords, I had no reaſon but the Truth to do it; for I never received any Injury from his Lordſhip in my Life.

L. Staff. It ſeems I had ill luck to chuſe this Man for an Attempt to kill the King, who was ſuch a Coward he ran away from his Colours, and was to have been ſhot to death.

Mr. *Tur.* Ask the Duke of *Monmouth* what Character he received of me.

L. Staff. He ſays, in the Year 75 he went from *London* to *Doway*, and ſtaid ſome time there, and then came back to *England*; I beſeech your Lordſhips to ask him what time he went back to *Paris*.

L. H. S. What time was it that you went back to *Paris?*

Mr. *Tur.* Truly, my Lord, I cannot be punctual to a Fortnight, but I believe it was the beginning of *June*.

L. H. S. What Year?

Mr. *Tur.* 75.

L. Staff. My Lords, I would know who recommended him to me to go over with me into *England*.

L. H. S. Who recommended you to my Lord *Stafford* to go into *England?*

Mr. *Tur.* My Lords, it was Father *Sherborn* who was then Prior of the Benedictine Monks in *Paris*, and Father *Nelſon* Sub-Prior of thoſe Monks, and my Brother, who is a Monk in the ſame Convent.

L. H. S. He ſays, that there were three Perſons that recommended him to your Lordſhip.

L. Staff. I never ſaw them in my Life.

Mr. *Tur.* Your Lordſhip, that ſays I was a Coward, and run away from my Colours, will ſay any thing.

L. Staff. I not only ſay it, but will prove it by two Witneſſes.

Mr. *Tur.* Do it if you can.

L. Staff. He ſays in the beginning of *June* 75. he went into *France*. I deſire to know of him when was it he ſpoke to me?

Mr. *Tur.* In *November* 75.

L. Staff. He ſays in *November?*

Mr. *Tur.* Yes, my Lord, about the beginning of *November.*

L. Staff. I beſeech your Lordſhip, where was it he ſpoke to me?

L. H. S. Turbervile, where was it you ſpoke to my Lord?

Mr. *Tur.* In *Paris.*

L. Staff. Whereabouts in *Paris?*

Mr. *Tur.* It was the Corner-Houſe of the Street, which Street faces *Luxenburgh* Houſe, the Prince of *Conde* lodges on the right hand in that Street, I take it to be ſo, and you lodged at the Corner-Houſe; I think the Name of the Street was *La Rue de Beaufort.*

L. Staff. Which if the Prince of *Conde* did—I will ſay no more.

Mr. *Tur.* I cannot be upon my Oath in ſuch Caſes, but I think he does, I take it ſo.

L. Staff. He ſays he was with me a Fortnight, what does he mean?

Mr. *Tur.* I came to my Lord ſeveral times in the ſpace of a Fortnight.

L. Staff. I deſire to know who brought him to me?

Mr. *Tur.* Father *Sherborn*, Father *Nelſon*, and my Brother Father *Anthony Turbervile*; and ſometimes I came alone.

L. H. S. He ſays thoſe three Fathers recommended him to your Lordſhip, and he came himſelf ſeveral times.

Mr. *Tur.* Yes, my Lords, it is true.

L. Staff. I beſeech your Lordſhips, did he come directly to my Chamber, or where?

Mr. *Tur.* Sometimes to my Lord's Chamber, and at other times I met him in a lower Room.

L. Staff. It concerns me much, my Lords; and tho they be fooliſh Queſtions, yet I hope your Lordſhips will pardon me if I ask them. Where was this Diſcourſe about killing the King?

L. H. S. Was this Diſcourſe in the Chamber, or in the lower Room?

Mr. *Tur.* In the lower Room.

L. Staff. He ſays, I think, that he hath been in my Chamber.

L. H. S. Have you been in my Lord's Chamber as well as in the lower Room?

Mr. *Tur.* Yes, my Lords, I have.

L. Staff. What kind of Room is it?

Mr. *Tur.* I can't remember that.

L. Staff. No, I dare ſwear you can't.

Mr. *Tur.* I cannot tell the Particulars; what Stools and Chairs were in the Room.

L. Staff. My Lords, I have no more to ſay to him at preſent.

L. H. S. Mr. *Turbervile*, how long have you been in *England?*

Mr. *Tur.* I cannot anſwer punctually; I have been in *England* near four years?

L. H. S. How came it to paſs that you never diſcovered this ſooner?

Mr. *Tur.* I had no Faith to believe that I ſhould be ſafe if I did it, but my Brains might be knocked out; and that kept me off from doing that Service which I might be better able to do, if I did defer it.

L. H. S. How come you to diſcover it now?

Mr. *Tur.* The King's Proclamation, and ſome Friends that have perſuaded me that I may do it with Safety, who will give your Lordſhips an account of it.

L. Staff. I deſire he may attend when I make my Defence.

Mr. *Tur.* Yes, I ſhall: But I am ſorry his Lordſhip hath ſo ill a Memory as to what paſſed between us. I ſhall be very unwilling to do his Lordſhip or any body elſe any injury, but I muſt tell the Truth.

Sir *Will. Jones.* My Lords, we ſhall call no more Witneſſes, unleſs my Lord, the Priſoner, give us an occaſion. If he ſhall make any Objections to any of our Witneſſes, I hope we ſhall have liberty to call Witneſſes to ſupport them; but we give over at preſent, and expect his Lordſhip's Anſwer.

L. Staff. May it pleaſe your Lordſhips, I beſeech your Lordſhips, before I ſay any thing that I may know if they have any more Witneſſes to examine.

L. H. S. They ſay they will call no more Evidence, unleſs your Lordſhip's Anſwer do give them occaſion to fortify their Witneſſes you except againſt.

L. Staff. My Lords, it is now about two Years that I have had the misfortune to be accuſed of this deteſtable Treaſon. I have been ſeveral times in thoſe two years a cloſe Priſoner, that my Wife and Children were deny'd to come near me; and hardly a Servant permitted to ask how I did, but at the Door of my Priſon. My Lords, this was a great and an heavy Affliction to me; and, my Lords, it was ſo great an Affliction to me, that truly I did not know how to bear it. 'Tis true, I had that Comfort, that I did hope I ſhould ſoon come to my Tryal, and before your Lordſhips make my Innocency appear. In order to which, I did all I could, having heard this Hall was provided for it; and I did expect in a very few days to clear my ſelf before your Lordſhips and all the World. When I had ſettled my Mind, and did not foreſee any greater Affliction that could befal me, I had on the ſudden by ſome of my Friends a ſad Meſſage ſent me, That the Houſe of Commons had impeached me of High Treaſon. My Lords, I looked upon the Houſe of Commons then (as I do now) as the great Repreſentative Body of the Commons of *England*; and I confeſs, my Lords, to be accuſed by them was a Load, eſpecially being added to what lay before upon me, more eſpecially to my weak Body and weaker Mind, that I was ſo afflicted with it, and have ſo continued, that I am ſcarce yet able to bear up under it: for I look upon the Houſe of Commons as the great and worthy Patriots of this Kingdom; I ever held them ſo, and I hold them ſo ſtill. My Lords, theſe things being ſuch great Afflictions to me, and ſome other Accidents, which I ſhall not trouble your Lordſhips with the telling you of, have ſo much diſordered my Senſe and Reaſon (which before was little) that I ſcarce know how to clear my ſelf to your Lordſhips, as I ought to do; or which way to go about the doing of it: therefore I do with all Humility beg your Lordſhip's pardon if I ſay any thing that may give an Offence, or urge that which may not be to the purpoſe. All which I deſire you would be pleaſed to attribute to the true Cauſe, my want of Underſtanding, not of Innocency, or a Deſire to make it appear.

My Lords, Theſe Gentlemen the Managers of the Houſe of Commons, who are great and able Men, ſome I am ſure, if not all them very well read, and have underſtanding in the Law, have ſet forth to your Lordſhips Treaſon in an horrid ſhape; but I confeſs, my Lords, if they had made it never ſo much worſe, it cannot be ſo horrid as I have often fancied it my ſelf: for, my Lords, I do, and did ever hold Treaſon to be the greateſt Sin in the World, and I cannot uſe Words enough to expreſs it; and therefore I hope you will give me

me leave to clear myſelf of it, and I ſhall give you one Notion of it, which I heard at your Lordſhips Bar ſome Years ago, where you were pleaſed to hear ſeveral People of ſeveral Perſuaſions give you ſome Reaſon why Liberty of Conſcience ſhould be allowed them. And I remember one of them, an Anabaptiſt, I think, did tell you, That they held Treaſon to be the Sin of Witchcraft, and ſo do I. And next to Treaſon, I hold Murder to be the worſt Sin. But the Murder of the King I look'd upon to be ſo above all others, that it is not to be expreſs'd by Words.

My Lords, I have heard very much of a thing that was nam'd by theſe Gentlemen of the Houſe of Commons, and that very properly too, to wit, of the Gun-Powder-Treaſon. My Lords, I was not born then, but ſome Years after I heard very much Diſcourſe of it, and very various Reports; and I made a particular Enquiry, perhaps more than any one Perſon did elſe, both of my Father who was alive then, and my Uncle, and others; and I am ſatisfied, and do clearly believe, by the Evidence I have received, that that thing call'd the Gun-Powder-Treaſon was a wicked and horrid Deſign (among the reſt) of ſome of the Jeſuits: and I think the Malice of the Jeſuits, or the Wit of Man, cannot offer an Excuſe for it, it was ſo execrable a thing. Beſides, my Lords, I was acquainted with one of them that was concerned in it, who had his Pardon, and lived many Years after: I diſcourſed with him about it, and he confeſſed it, and ſaid, he was ſorry for it then; and I here declare to your Lordſhips, that I never heard any one of the Church of *Rome* ſpeak a good Word of it: it was ſo horrid a thing, that it cannot be expreſs'd or excus'd. And God Almighty ſhewed his Judgments upon them for their Wickedneſs; for hardly any of the Perſons, or their Poſterity, are left, that were concerned in it; and even a very great Family too, that had collaterally ſomething to do in it, is in the Male-Line extinct totally; and I do think God Almighty always ſhews his Judgments upon ſuch vile Actions. And I have been told, all thoſe Perſons that were engaged in this wicked Act, were all heartily ſorry for it, and repented of it before they died, without which I am ſure there is no Salvation. And therefore I think it was not the Intereſt of Religion, but a private Intereſt put them upon it.

My Lords, as to the Doctrine of King-killing, and abſolving Perſons from their Allegiance, I cannot ſay the Church of *Rome* does not hold it; I never heard it did hold it, it may be it does, it may be not, I ſay not one thing or other: but, my Lords, there was an *Engliſh* College of Prieſts at *Rheims*, that tranſlated the Bible, and printed it with Authority, according to their Tranſlation; and in their Annotations upon the 14th Chapter to the *Romans*, they do declare their Diſlike and Deteſtation of that Opinion. They ſay all Subjects ought to obey their Kings, as the primitive Chriſtians did the Heathen Princes of the Empire; and the learned Doctors of the College at *Sorbonne*, did, upon an occaſion adminiſtred to them about that Opinion, declare the Miſtakes that were in it, and own'd it to be a damnable Principle. My Lords, I have an authentical Copy of that Decree of the *Sorbonniſts*, whether it be here or no, I can't tell---- Yes, here it is, which does declare that a damnable Poſition: and there is lately come out a Book, written by a Prieſt of the Church of *Rome*, try'd for his Life for being in the Plot, but acquitted of that, in which he ſays, That that Opinion of killing Kings is damnable and heretical, and declar'd ſo by the Council of *Trent*.

My Lords, this gives me occaſion to believe that the Church of *Rome* holds it not. I do not ſay that it does not, but ſome particular Perſons do abhor it, which are great in that Church, and which weighs far with me: but that which furthermoſt of all confirms me in my ill Opinion of it, is the Words of our Saviour, when not only he commands us to give unto *Cæſar* the things that are *Cæſar's*, but aſſerts our Obedience to our Governours in many other Paſſages of the Holy Scripture; and what I find there, the whole World is not able to alter my Opinion of.

I do aſſure your Lordſhips in the Preſence of Almighty God, that I do extremely admire when I hear of any thing like it; and I did read with great Horror what I found the other Day in the *Gazette*, of ſome imprudent People in *Scotland*, and of their wicked Principles and Practices.

My Lords, I do in the Preſence of Almighty God, who knows and ſees all things, and of his Angels which are continually about us, and of your Lordſhips who are my Peers and Judges, ſolemnly profeſs and declare, that I hate and deteſt any ſuch Opinion, as I do Damnation to myſelf. And I cannot be more deſirous of Salvation to my ſelf, than I am cordial in hating this Opinion.

My Lords, I know no Perſon upon Earth, nor all the Perſons in the World put together, nor all the Power they have, can in the leaſt abſolve me of my Allegiance. And I do acknowledge the King is my Sovereign, and I ought to obey him as far as the Law of the Land obliges any Subject of his to obey him: whether I have taken the Oath of Allegiance, I appeal to your Lordſhips to be my Witneſſes; and if I did not take it a thouſand times for my Allegiance to the King, if required, I ſhould think I deſerved a thouſand Deaths, and all the Torments in the world for refuſing it.

My Lords, Theſe Gentlemen here did begin their Charge (Serjeant *Maynard*, and Sir *Francis Winnington*) with telling your Lordſhips there was an horrid Deſign to murder the King, to alter the Government, and introduce the Popiſh Religion. This they ſay was engag'd in by the *Roman* Catholicks; that all the Church of *Rome* were the Contrivers of it; for they tell your Lordſhips, the whole Body hath been engag'd in it, and they have given you many Proofs by Witneſſes examined the firſt Day, of a general Plot: what Credit you will give to them, I leave to your Lordſhips in the end of the Caſe; but ſtill they ſaid it was the Body of the *Roman* Catholicks in *England*, or the Papiſts, or what they call them, that were the Plotters in this Deſign. But I beſeech your Lordſhips, how am I concerned in it? for I muſt ſay to your Lordſhips, they have not offer'd one Proof that I am of that Religion. So that tho any of you ſhould have ſeen me at the Exerciſes of that Religion, or otherwiſe know it of your ſelves, yet if there be no Proof judicially before you, you are not to take notice of it. I have heard, if a Man be accus'd of a Crime, and be to be tryed, and no Evidence come in; if every Man of the Jury were ſure that the Fact was done, yet they muſt go upon the Evidence produc'd to them, and not upon their own Knowledge. So then, no Evidence being produc'd before your Lordſhips about my being a Papiſt, you are not to take me for ſuch a one. But, my Lords, if I were of that Church,

Church, and that were never ſo well prov'd too, I hope I have an Advantage in it, that I have kept myſelf from being poiſon'd with ſo wicked a Principle, or engaged with the reſt in ſo ill a thing.

My Lords, I am here accus'd of having endeavoured to kill the King. I find by the Law, upon reading Sir *Edward Coke*, ſince my Impriſonment, That all Accuſations of Treaſon ought to be accompanied with Circumſtances antecedent, concomitant and ſubſequent: but I conceive, my Lords, there is no Tittle of any ſuch thing prov'd againſt me. The whole Compaſs of my Life, from my Infancy, hath been clear otherwiſe. In the beginning of the late unhappy Times, the late King of happy and glorious Memory, did me the honour to make me a Peer; and thinking that my Preſence might rather prejudice him than ſerve him, myWife and I ſettled at *Antwerp* when the War begun, where I might have liv'd, tho obſcurely, yet ſafely; but I was not ſatisfy'd in my Conſcience to ſee my King in ſo much Diſorder, and I not endeavour to ſerve him what I could, to free him from his Troubles. And I did come into *England*, and ſerv'd his Majeſty faithfully and loyally, as long as he liv'd. And ſome of your Lordſhips here know, whether I did not wait upon the now King in his Exile, from which he was happily reſtor'd; which ſhews I had no ill Intention then.

My Lords, I hope this I have ſaid does ſhew, that my Life hath given no Countenance to this Accuſation, but clear contrary to what theſe (I hope I may call them ſo, and I doubt not to prove them ſo) perjur'd Villains ſay againſt me.

My Lords, After I had this Misfortune to be thus accus'd, about a Month or ſix Weeks after, your Lordſhips were pleas'd to ſend two Members of this Honourable Body to me, (I do not ſee them at preſent here) to examine me about the Plot, (they were my Lord of *Bridgewater*, and my Lord of *Eſſex*) if they be here, I appeal to them what I did ſay. Theſe two, after they had examin'd me, told me, they did believe, and could almoſt aſſure me, that if I would confeſs my Fault, and let them know the Particulars of it, your Lordſhips would intercede with the King for my Pardon; but I then, as I ought, aſſerted my own Innocency. Not long after, the King, out of his Grace and Goodneſs to me, ſent ſix of the Council to the *Tower*, to offer me, That tho I was never ſo guilty, yet if I would confeſs, I ſhould have my Pardon. I did then conſider with my ſelf; I could not imagine what Ground there was to believe your Lordſhips could have Evidence of what there was not, to bring me in guilty; and thereupon I was ſo far from being able to make a Diſcovery, that I could not invent any thing that might ſave my Life, if I would.

My Lords, I was ſeven Days in the Country after I heard of the Plot; if I had known myſelf guilty, I ſhould ſurely have run away. As I came to *London*, when I was at *Litchfield*, there met me two of my Lords: they told me, and ſo did a Gentleman of the Houſe of Commons, how much there was in the Plot, which, if I had had an hand in it, would certainly make me fly for it. I have ever heard when a Man is accus'd or ſuſpected of a Crime, Flight is a great Sign of Guilt; and that it is often ask'd of the Jury, tho there be no certain poſitive Evidence of the Fact, whether a Man fled or no? As that is a Sign of Guilt, ſo remaining is a Sign of Innocency. If then after notice I come to Town, and ſuffer myſelf to be taken; if after Impriſonment and Accuſation, I refuſe my Pardon, and yet had been guilty, I ought to die for my Folly as well as my Crime.

My Lords, 'tis a great Offence to commit Treaſon, and a great Addition to continue obſtinate, when upon Acknowledgment a Man can ſave his Life; nay, my Lords, if I ſhould have refus'd theſe Offers, and yet known myſelf guilty, I had at the ſame time been guilty of one of the greateſt Sins in the World, as being the Cauſe of my own Death. And as I hold, next to Treaſon, Murder the greateſt Sin, ſo I hold of all Murders Self-murder to be the greateſt: nay, I do not think any Man living can pardon that Sin of Murder. And I do profeſs to your Lordſhips, in the Preſence of Almighty God, that if I could immediately, by the Death of this impudent Fellow *Dugdale*, who hath done me ſo much wrong, make myſelf the greateſt Man in the World, that is or ever was, I profeſs before God I would not. I cannot ſay my Charity is ſo great, but that I ſhould be glad to ſee him ſuffer thoſe Puniſhments the Law can inflict upon him for his Crimes; but his Death I would not have. Blood is ſo great a Crime, and I know every Man is careful of giving his Voice in the Caſe of Blood, I ſhould be very cautious myſelf; and if I were a Judge, I would rather ſave twenty guilty, than condemn one innocent. I bleſs God I have not the leaſt Deſire of the Death of any Man, and would not for all the world have innocent Blood lie upon me.

I beg your Lordſhips Pardon that I have troubled you thus long: I ſhall now, as well as I can, apply myſelf to my particular Defence. I do, my Lords, before I can go on to it, deſire I may have ſuch Depoſitions as have been taken againſt me, and the liberty to look upon your Journal-Book, when I have occaſion. I do particularly deſire the Depoſitions of *Oates*, upon which I was committed by my Lord Chief Juſtice; the two Depoſitions of *Stephen Dugdale*, taken at *Stafford* before two Juſtices of the Peace, Mr. *Lane*, and Mr. *Vernon*; I deſire the Depoſitions taken before, I think it was Mr. *Warcup* and Sir *William Poultney*, or ſome other two Juſtices, which was made by *Turberville*; and then I ſhall compare their Teſtimonies together, and I hope ſhall give you a clear Account that they are perjured Perſons. How without theſe to go on to my juſt Defence, I cannot well tell.

L. H. S. What do you ſay to it, Gentlemen? you hear what my Lord prays.

Sir *F. Win.* The Witneſſes are here, and have been heard *viva voce*. As we cannot uſe any of the Depoſitions of which he ſpeaks, ſo no more can they be uſed by him.

L. H. S. If I underſtand my Lord aright, this is the thing he deſires: ſays he, You have brought Witneſſes againſt me *viva voce*, they have been examined here, and they have been examined elſewhere, and their Depoſitions are upon Record; I deſire to confront what they have ſaid here, with what they have ſaid contrary in other Places.

Mr. Serj. *Mayn.* If there be any thing expreſs'd by my Lord, wherein they have contradicted themſelves, and produce that Depoſition, he may do that; but to deſire to have all the Depoſitions that have been made by our Witneſſes, is a ſtrange Requeſt. When there is occaſion to uſe them upon any particular Point, he may produce them if he can.

L. H. S. Can you object why my Lord ſhould not have Copies of any thing that is upon the Journal,

Journal and Depoſitions that are ſworn before a Magiſtrate, which may be of uſe to him?

Sir *W. Jones.* My Lords, we do not object againſt it; but, my Lords, I think it is out of time to deſire it. What was ſworn, and is entred in your Lordſhips Journal, was ſworn above two Years ſince. My Lord, or any Man elſe, might repair to them; they are Matters of Record, and for ought we know, were never deny'd to any, eſpecially if they deſir'd it in the Houſe: but after two Years time, and after three Weeks time given to prepare for this Tryal, when my Lord could not but know what Witneſſes would be examined before your Lordſhips, for him to come now and deſire ſuch and ſuch Depoſitions may be produc'd, which if by Law he might be allow'd to do, he might have done before, is to no other purpoſe, under favour, but to gain time, and to cauſe our Evidence to be forgotten; and therefore we moſt humbly pray it may not be admitted: my Lords, I think it is an unuſual thing. My Lords, the Judges are near your Lordſhips, I ſuppoſe they will inform your Lordſhips. If a Man be tryed at the Aſſizes, for him to deſire a Copy of the Informations remaining in Court, by which he may except againſt the Witneſſes, is what the Court does not uſe to grant. But if your Lordſhips Proceedings vary from the common Proceedings of other Courts, then I reſort to what I ſaid before, Whether your Lordſhips will think this a proper time, when he might have had it in the Parliament that was firſt diſſolved, and then in the Parliament that was laſt diſſolved. Now to deſire thoſe Copies at this time, is to put off the Cauſe for that which perhaps he cannot be furniſh'd with in a day or two.

Sir *F. Win.* I would add but one word, if your Lordſhips pleaſe to give me leave. My Lords, You have the learned Judges near you, who will inform you, whether ever, when a Man was accuſed of a Capital Offence, and the Evidence againſt him had been fully heard by the Court and by himſelf, he was admitted to require from the Proſecutors the Copies of Examinations formerly taken before other Perſons. Does my Lord intend to have time to peruſe thoſe Examinations, and to have the Copies of them, that he may conſult in private with his Counſel to find out Exceptions, and with his Witneſſes to make them good? My Lords, I muſt ſay, that in my ſhort Experience (and I have attended a conſiderable time upon the greateſt Court for Tryal of Offenders) I never heard ſuch a thing ask'd by a Priſoner, either at the Bar of the King's Bench, or at the Aſſizes. I ſpeak with all the Tenderneſs imaginable, becauſe we are in a matter of Blood; and God forbid but the Lord at the Bar ſhould have true and equal Juſtice done him. But if I take my Lord right, this ſeems but an Artifice to delay the Tryal, of which it is our Duty to be very cautious. Indeed I have ſeen the Judges, upon Tryal of a Criminal, call for the Depoſitions or Informations from the Clerk, or the Juſtice of the Peace who took them, and caus'd them to be read; but for a Priſoner to call for Examinations at the Bar from the Proſecutors, *& ex debita Juſtitia*, to demand them, is a thing, which as it never has been, ſo I think will not be admitted at this time, eſpecially when we are now almoſt at the end of the Cauſe. And with all Modeſty and Submiſſion to your Lordſhips, I look upon it as a very ſtrange and unreaſonable Demand.

L. H. S. My Lord *Stafford*, What is the reaſon your Lordſhip had not all this while Copies of the Journal, which is that you now ask?

L. *Staf.* I ſhall not undertake that I am able to give your Lordſhips a reaſon for it, becauſe I think wherein I have been miſtaken as to point of Time, your Lordſhips will not tie me up to that. But this Gentleman that ſpoke laſt is not acquainted with me, and does not know me; for I have no deſire to go back, or to put off this Tryal: But if it cannot be done to-day, I am as guilty to-morrow as I am to-day; and I deſire no more than what he ſays hath been done in the like Caſes. I do deſire, my Lord, the Informations and Depoſitions of *Dugdale*, *Oates*, and *Turberville* may be produced and read, and I will make Obſervations upon them in my Defence. I deſire thoſe Affidavits may be brought.

L. H. S. Affidavits taken when and where?

L. *Staf.* Of Dr. *Oates*, that was read in your Lordſhips Houſe, I heard it.

L. H. S. Let us underſtand your Lordſhip's Demands, that when my Lords are withdrawn, I may know what Queſtions to put to them, and acquaint them with your Deſires: The one is the Journal of the Lords Houſe, which is always before their Lordſhips, and you might have had Copies long ſince. The next thing you ask is an Affidavit of *Dugdale*; if this Affidavit is entred into the Journal, that ſupplies your Demands; if it be not entred there, where ſhall we find it?

L. *Staf.* I do not know.

L. H. S. Does your Lordſhip think all this matter muſt ſtay till we can find a looſe Affidavit, that we know not where 'tis fil'd?

L. *Staf.* I know it was before the Council, and I believe my Accuſers have it; I deſire the Gentlemen of the Houſe of Commons may produce it.

Sir *J. Trevor.* I have ſeen none, nor have none.

L. *Staf.* The one was taken the 24th of *December* this time two Year, and the other the 29th.

L. H. S. My Lord, will your Lordſhip give me leave to tell you, you ought to be provided with ſome particular Exception, and not to make your Demand in general. If your Lordſhip will ſay *Dugdale* did ſwear ſuch and ſuch things, which are contrary to what he now affirms, we know what to make of it; but to hunt after an Affidavit that we know not where to find, to pick ſomething out of it, that I do not underſtand.

L. *Staff.* I appeal to my Lord of *Eſſex*, and my Lord *Bridgewater*, whether they did not examine me the firſt time upon one or two Affidavits of *Dugdale*.

L. H. S. Suppoſe it be not to be found, my Lord?

L. *Staf.* Then I muſt have Patience, and ſubmit.

L. H. S. Can you tell wherein he ſwore quite blank contrary to what he ſwears now?

L. *Staf.* My Lord, I conceive it was never denied before; but your Lordſhips may do what you pleaſe.

L. H. S. Well, my Lord, let us go on to the next. The Affidavits of *Dugdale*, if they be entred on the Journal, may be ready; if not, then I ſhall acquaint their Lordſhips, and they will direct what is fit in the Caſe.

L. *Staf.* Then there is the Affidavit of *Oates* before my Lord Chief Juſtice, upon which I was committed; the next Day, which was Friday, it was read in your Lordſhips Houſe.

L. H. S.

L. H. S. I believe that it is entred upon the Journal, and ſo will be ready to be uſed.

L. Staff. I do hope to make it evidently appear thereby that he is forſworn. I deſire two Affidavits more that were taken before the Juſtices of the Peace of *Middleſex*, who examined Mr. *Turberville* twice.

L. H. S. What Juſtice of the Peace?

L. Staff. Mr. *Warcupp*, Sir *William Poultney*, and Sir *Thomas Stringer*. I deſire I may not be miſunderſtood, I do not deſire to have them to inſtruct my Counſel, or adviſe with them upon them, but I cannot make my Defence without them.

L. H. S. Thoſe are voluntary extrajudicial Affidavits, that no body is bound to keep.

L. Staff. They were ſpoken of in the Votes of the Houſe of Commons.

L. H. S. What ſay you Gentlemen to it?

Sir *F. Win.* My Lords, becauſe my Lord at the Bar is pleaſed to inſinuate, as if we knew where thoſe Affidavits are which he ſeems to deſire, and becauſe your Lordſhip was pleaſed to ſay that the Commons in Parliament are the Grand-Jury of the Kingdom, I deſire to ſay one thing, That certainly it will not be required from us to produce and publiſh the ſeveral Facts and Circumſtances that induced us to impeach him, if it ſhall be demanded by the Priſoner at the Bar.

L. H. S. I wiſh you would anſwer the Queſtion, and not argue upon it, whether thoſe Affidavits of *Turberville* may not be produc'd; for 'tis my Lord's Exception againſt your Witneſſes, that he ſwears ſeveral ways; and by thoſe Affidavits of *Turberville*, he intends to diſprove him in what he hath ſaid to-day.

Sir *Fr. Win.* My Lords, the Houſe of Commons never adminiſter an Oath, and therefore it is not to be ſaid to us, but my Lord *Stafford* muſt go to the particular Offices where they are to be found.

L. H. S. I do not ask you where my Lord ſhould find them, but whether if they can be found, you can object any thing why they ſhould not be produced and read.

Mr. Ser. *Mayn.* When they are produced, we will give an anſwer.

L. Staff. My Lords, I am informed this is the Subſtance of the Affidavit, That *Turberville* did ſwear before two Juſtices of the Peace, whether they be of the Houſe of Commons, or no, I can't tell, That he ſpake with me at *Doway*, and in *Paris*, in the Years 73 and 76, and now he ſays 72 and 75, I am informed, my Lords: and I appeal to the Houſe of Commons, they are all Perſons of Honour and Worth (if my Information be miſtaken, I beg their pardon and yours for't) whether he did not mend it after he had ſworn it.

L. H. S. Are theſe all you do demand?

L. Staff. Yes, my Lords. Whether this was true or no, I don't know, it is what I have been told; I appeal to the Houſe of Commons (who are all worthy Perſons, I do not believe I have an Enemy among them) they know whether I ſpeak true or no.

L. H. S. When will your Lordſhip be ready to make your Defence?

L. Staff. As ſoon as ever I have them, I will not ſtay a minute, a moment, an inſtant; I deſire not to ſhew my Counſel, nor any one, for my Tryal is a thing that I have long deſired; therefore I would not be miſtaken, as if I would put off the Cauſe. I am innocent, and ſhall be ſo while I live, and hope I ſhall make it appear ſo. I beg, if this be a Matter of Law whether I may have them or not, that my Counſel be heard to it.

L. H. S. This is a Matter of Fact.

L. Staff. I inſiſt upon it as things without which I cannot make my Defence: I am innocent, and I ſuppoſe not one of the Houſe of Commons, nor one of your Lordſhips, will debar me of that by which I may make my Innocency appear.

L. H. S. You cannot know my Lords Pleaſure till they are withdrawn.

Sir *Will. Jones.* Before your Lordſhips withdraw, I hope you will pleaſe to hear us a few Words, which we think may be for the Service of this Court. My Lords, what Evidence is before your Lordſhips, 'tis in your Lordſhips Pleaſure what of that you ſhall pleaſe to communicate to my Lord *Stafford*; but for this Evidence he ſpeaks of, as remaining in our hands, and which he takes upon himſelf to appeal to us for, admits of another Conſideration. My Lords, if we were conſcious of any thing in theſe Affidavits that were for my Lord's advantage, and knew where they were, we would readily produce them; but for my ſelf, I muſt anſwer, and I think my Companions will ſay ſo too, that we do not know where theſe Affidavits are, nor of any Variation in thoſe Affidavits from what is now ſworn: but whatever they were, they were taken for the Information of the Houſe of Commons, who are the Proſecutors in this Cauſe, and who are no Judges. Now if my Lord will bring any Witneſs that will ſay this Witneſs of ours did before a Juſtice of Peace depoſe ſo and ſo, and ſays the contrary now, there might be then juſt Reaſons to look after theſe Affidavits, and to have them produced; but upon a bare Imagination that there is a Variance, where in truth there is none, and the Truth may otherwiſe be known; to deſire that theſe Affidavits that never were before you ſhould be produc'd, whether ſuch a Suggeſtion is to be admitted, I humbly ſubmit to your Lordſhips conſideration.

L. Staff. My Lords, if theſe Gentlemen that are the Managers for the Houſe of Commons will aver to your Lordſhips, that there is no Variation in them, I will ſubmit to them and be quiet: if they will ſay it was not debated in the Houſe, whether he ſhould amend or no.

L. H. S. Look you, he puts it upon you ſo far, Gentlemen, that if you will take it upon you to aver that there is no Variation between thoſe Affidavits upon which you grounded your Impeachment, and the Evidence you have given upon the Tryal of your Impeachment, he will not give you the trouble.

L. Staff. I beſeech you let me ſay one word: My Lords, I have been thus long a Priſoner, I was as far from being proceeded againſt now, as any of the reſt of the Lords in the *Tower*, till *Turberville* came in with his Diſcovery; and I believe I am now called the ſooner (which I am glad of, and I give the Gentlemen thanks for it) upon the Affidavit of *Turberville*; I deſire that Affidavit. And tho it be true, the Houſe of Commons give no Oath, yet they appointed two Members of the Houſe, that were Juſtices of the Peace of *Middleſex*, to take it upon Oath, and he deſired the next day to amend it; and I put my ſelf upon them, whether this be not true.

L. H. S. What ſay you, Sir, to it?

Sir *W. Jones.* My Lord, I cannot anſwer, becauſe I don't hear.

L. Staff. My Lords, I ſay this, I do obſerve that Mr. *Turberville* (whoſe Face I never ſaw in my Life, that

that I know of, till to-day, nor never ſpoke a word to him, and I ſhall prove that no Servant that ever I had ſee him) did depoſe (for the purpoſe) to-day, that he was in the Years 73 and 76 in ſuch and ſuch Places, and that he did ſpeak with me at *Doway* and *Paris*; and to-morrow recollecting his Notes, he found he was miſtaken in his Affidavit that he had made before, and deſired to mend it, and brought it to the Years 72 and 75: there was ſome Debate in the Houſe about it, whether they ſhould permit him to mend it; I appeal to all the Gentlemen, whether it were not ſo.

L. H. S. Your Labour is to have two Affidavits, that you do preſume will do your Buſineſs in order to the finding out a Variety of Time of his being at *Doway* or at *Paris*: That which does preſs your Lordſhip we know in *Turberville*'s Evidence, is, That at *Paris*, in the Room below of your Lodging, you encouraged him to kill the King, and you were to have met him at *Diep* to know his mind, but you came not, and he went away; if you have it in the Affidavit quite contrary to this, you ſay ſomewhat.

L. Staff. My Lords, I beſeech you, it preſſes me, and every Man in *England*, not to be run down by a Fellow that forſwears himſelf; for him to ſwear one thing to-day, and another thing to-morrow, is Perjury.

L. H. S. What ſay you to it, Gentlemen?

Sir *Will. Jones.* What was done in the Houſe of Commons, it does not become any of us that are Members to diſcloſe: But I have heard, and will admit it, that in the Depoſitions the Witneſs made before a Juſtice of Peace, there was a Year put down, which he going home, and upon ſight of Letters and Papers, finding it to be miſtaken; he comes the next day, and deſires to alter it: if this be for my Lord's ſervice, we ſhall grant it.

L. H. S. What ſay you, my Lord, now?

L. Staff. I do ſay, my Lord, I am informed by what I have heard curſorily, (for I have not ſeen one of the Houſe of Commons before the Day of my Tryal) that tho in his ſecond Depoſition he named the Years 72 and 75, yet I can prove him perjured as to what he hath ſworn here to-day.

L. H. S. Since 'tis inſiſted upon, Gentlemen, that there is a Variety in the laſt Depoſition from what he ſwore at firſt, what can you ſay why he ſhould not have the Avail of his Exception?

Sir *Will. Jones.* My Lords, whether your Lordſhips will think fit to conſider by what ways and means the Houſe of Commons informed themſelves, in order to Impeachments, I ſubmit to you; and for thoſe things that ſtill remain in the hands of the Commons, I ſuppoſe you will be pleaſed to conſider how you can ſend for them to inform you. We would not be miſtaken in the matter; let not any one that hears us think that we are conſcious there is the leaſt Variation, nay we are confident if the thing were produced, it would turn to my Lord's prejudice; but what is done in this caſe, may be a Precedent for the future, and therefore we cannot without reſorting to the Houſe conſent to deliver any thing the Houſe took for their Information. Therefore if your Lordſhips ſtand upon it, and incline to have it done, we muſt reſort to the Houſe to ask their leave whether we ſhall do it or no.

L. H. S. I cannot tell what my Lords will incline to do; but I deſire when you are gone back, you will conſider how far it will make the matter eaſy to my Lord.

Sir *Will. Jones.* My Lords, we can give no anſwer to that till we have attended our Houſe.

Mr. Ser. *Maynard.* I deſire your Lordſhips to conſider what a piece of Cunning he hath put upon both Houſes, to paſs by his vilifying our Witneſſes, which I may ſay was not comely. But if he makes any Queſtion, it muſt be put to the Houſes upon ſuppoſition to be a Queſtion, and ſo he would bring things only to this iſſue to put off the Cauſe for to-day. He ought to put that which might probably be ſomething of a Queſtion. Let him inſtance in Particulars, and make out his Evidence, not feign things to put off the Cauſe, for ought I ſee 'tis to no other end, and 'tis a jeſuitical Trick I think.

L. Staff. I feign nothing; I have been told this that I ſpeak here, and I deſire it may be proved.

L. H. S. If you are bound up ſo that you cannot conſent, I can't help it.

Mr. Serj. *Maynard.* Let him put the Fact, my Lords, and not ſuppoſe and imagine things, and then raiſe Queſtions.

L. H. S. It is uſual in theſe Caſes for the Gentlemen of the Houſe of Commons to ſtay till the Lords are withdrawn, and expect their Lordſhip's Reſolution; perhaps they may ſo order it that you need not go back.

Sir *Will. Jones.* I deſire before your Lordſhips withdraw, that it may be taken notice of by your Lordſhips, that for the Matter of the Variation of the Year we do admit it. My Lord is not pleaſed to mention any other particular Matter of the Affidavit, but only ſays in general that it is contrary to what he ſays to-day; if my Lord would tell us wherein, perhaps we ſhould admit it, or anſwer it, or take it into further conſideration: but to make ſo general an Allegation, and give your Lordſhips no particular Account, we ſubmit whether ſuch a Suggeſtion ought to be regarded.

L. H. S. Is there any further Variation, beſides the Variation of the Year?

L. Staff. I cannot ſay there is, my Lord, I do not know it; but I do really believe in my Conſcience there is, from what I have heard: but however I inſiſt upon it, and demand your Judgment.

Sir *Fr. Win.* My Lords, I humbly deſire one Word as to the Objection that hath been made, that he hath prayed your Lordſhips to grant him the ſight of ſuch and ſuch Papers. The Nature of this Cauſe, my Lords, we know is ſuch, that there was never the like number of Papers known, as to the general Plot; and my Lord that is the Priſoner at the Bar, may as well demand to-morrow ſuch a particular Paper, and the next day another, that he hath heard of in the general Plot: and where will the end of this be? So that if the thing be granted upon the Variation of the Time that it was immediately rectified, and he cannot produce any Grounds that may ſatisfy your Lordſhips why he ſhould have that Paper; you may as well ſuffer him to demand any other Paper after, and ſo never end the Cauſe.

L. H. S. Your Lordſhip hath been told, and you ſhall find it, that you ſhall have as fair and equal an Hearing as is poſſible, and nothing ſhall be deny'd you that is juſt and reaſonable to ſave your Life, or make your Defence. But pray, my Lord, for ſo much as is upon the Journal, which you may reſort unto, you may eaſily know what Anſwer my Lords will give to that; but for this other thing, if it be only the Variety you alledge of the Time and the Year, and you do deſire it to look for other Exceptions, and you pray the Help of the Lords to ſee ſuch a Paper, that you make inquiry after other Varieties, do you think they are to help you to find out Exceptions to the Witneſſes?

L. Staff. I do not deſire their Lordſhips to help me to find out Exceptions; but I have told your Lordſhips of one Exception to the Affidavit, which

theſe Gentlemen acknowledge to be true; and the other Affidavit is, that he ſwears I ſpoke to him at *Doway* in the Year 72 or 73, which I can diſprove: and then I ſay, he ſwearing ſeveral things falſe, he is no credible Witneſs.

L. H. S. 'Tis admitted to your Lordſhip that he did miſtake the Time.

L. Staff. It is admitted that he ſaid he ſpoke to me at *Doway*.

L. H. S. How very eaſy a matter were it to expedite this Proceſs, by allowing the Priſoner his Demand in this particular!

Sir *Will. Jones.* I never ſaw it, and a great many of the Managers ſay they never ſaw it.

L. Staff. Theſe Gentlemen ſay I did it to put off the Cauſe, I am far from it; for tho I am in a Condition very unfit to manage my Defence, faint and weak with ſpeaking ſo long, and hardly able to ſpeak any more, yet I deſire to finiſh this night; and if I ſee it now, it will be enough, I ſhall not deſire to have a Copy to adviſe with my Counſel, or any body elſe.

L. H. S Pray Gentlemen of the Houſe of Commons will you obſerve my Lord, as weary as he is, would make an end of the Matter preſently, if you would but ſend for the Affidavit.

Mr. *Foley.* My Lords, it is not in our hands here; if the Houſe of Commons will order it, it may be done, we cannot order it of our ſelves.

Mr. *Powle.* My Lords, this is a Paper that does properly belong to the Houſe, and I do think, that none of us here that are Managers for this Tryal, will undertake it ſhall be delivered without reſorting to the Houſe for their Opinion: for tho I do verily believe, and am fully perſuaded, that what this noble Lord at the Bar does object, will not appear to be ſo; for I think there is not any thing of my Lord *Stafford*'s ſpeaking with this Witneſs at *Doway* mention'd therein: yet how far the Precedents of this may reach in other Caſes, I think is worthy the Conſideration of the Houſe. And we cannot preſume to offer any thing in it to your Lordſhips, until you be pleas'd to give us leave to go and reſort thither.

Then the Lords withdrew, and after an hour and a half's ſpace returned, and Proclamation was made for Silence.

L. H. S. My Lord Viſcount *Stafford*, my Lords have conſidered of the Demands you made, and my Lords upon the Debate of the Reaſons of your Demands, are come to this Reſolution: Your Lordſhip did demand in the firſt place, that you might have a ſight of the Journal, and have the Papers lodged in the Houſe of Peers; my Lords take notice that this Demand which your Lordſhip now makes, is a Demand that was granted you long ago, about two Years ſince; you have an Order entred upon the Books, that your Lordſhip ſhould have Copies of every thing in that Houſe, and if your Lordſhip have not taken out Copies, and if any thing is miſſing to your Lordſhip that is yet there extant, 'tis your Lordſhip's fault. However, my Lords will command their Journals to be brought hither, that your Lordſhip may make that uſe of them that may be of moſt profit to you. For the other Demand touching the Affidavit ſuppoſed to be taken from *Turberville* by the Juſtices of the Peace, that my Lords, upon Conſideration had, do find that there is no Obligation at all upon them as a Court, to concern themſelves in that matter. And therefore my Lords have made no order in that point, but your Lordſhip muſt come provided as well as you can, and the Court can do no more to help you in it. For the reſt, my Lords did take notice that your Lordſhip ſaid before they were withdrawn, that you found your ſelf very faint and weary, and that you were much ſpent in Diſcourſe, and tired with what already you have done. My Lords are extremely willing to give your Lordſhip all the Favour and Accommodation poſſible, for the recollecting your ſelf, therefore my Lords will not now put you upon it, to go on to make your defence, but will give you time till to-morrow.

L. Staff. I humbly give your Lordſhips thanks for your Kindneſs and Favour to me; but here I profeſs, and call Almighty God to witneſs, rather than I would have it thought I am willing to put it off, I would have ſunk down dead at the Bar. But, my Lords, there was another Demand that I made: Your Lordſhips ſay I ſhall have Copies of all the Journals, and that you cannot help me to the Affidavit of *Turberville*, I ſubmit to it without ſaying one word more: but I deſire that I may have brought hither to-morrow the Journals, and other Papers in the Lords Houſe; but I deſire alſo the two Affidavits of *Dugdale*, taken the one the 24th, the other the 29th of *December* following, which Depoſitions were taken before Mr. *Lane* and Mr. *Vernon*, in *Stafford* Town, when *Dugdale* was in Priſon.

L. H. S. Look you, my Lord, this is all under the ſame Rule: What Evidence ſoever there is before the Court of Peers, that you ſhall have; whatſoever Evidence is not in that Court, you ought to come provided of: the Court is not to ſtay, nor to help you to Evidence.

L. Staff. My Lord, I beg your pardon, *Dugdale* made an Affidavit then, and ſays the clean contrary now; I deſire nothing but Juſtice, and I am ſure I ſhall have all Juſtice from your Lordſhips.

L. H. S. Produce it, and alledge what you will for your ſelf, it ſhall be heard.

L. Staff. How then ſhall I be able to make my Defence, if I have not thoſe Papers, which I humbly conceive by the Law ought to be brought? Theſe Gentlemen of the Houſe of Commons ſay, that I could not have *Turberville*'s Affidavit, becauſe it was in the Houſe, and they could not give it without conſent of the Houſe; but this was examined before a Juſtice of Peace, and returned to the Council: ſure I ſhall have that. I was examined by my Lord of *Eſſex*, and my Lord of *Bridgwater*, upon that Affidavit twice, I think, therefore that is material and neceſſary; and I know your Lordſhips would not have me come to defend my ſelf without Weapons.

L. H. S. My Lord *Stafford*, I do beſeech your Lordſhip to be a little better informed in your own Buſineſs. You have leave to make uſe of the Journal, and all Papers that are entred there; the Clerks ſay *Dugdale*'s Oath is entred there.

L. Staff. Is the 24th of *December* there?

Clerk. It is there.

L. H. S. Pray my Lord do not put the Court upon Interrogatories, but come provided as well as you can.

L. Staff. If it be entred on the Journal-Book, I deſire not the Original, I am very well ſatisfy'd.

L. H. S. Will you be ready to go on to-morrow, my Lord?

L. *Staf.* I will with all my heart.

L. H. S. 'Tis too late, Gentlemen, to go on to-night, we muſt adjourn till to-morrow.

L. *Staf.* My Lords, I had ſo much to write laſt night, that I had very little Sleep; I deſire I may not come till Ten.

L. H. S. My Lord, I am not able to hear you, I take as much pains to come near you as I can.

L. Staff.

L. Staff. I had a great deal to write laſt night, I ſay, and I want ſome Sleep; I deſire I may not come till Ten.

L. H. S. Will you be ready by Ten a-clock to-morrow?

L. Staff. I will be ready by Ten.

L. H. S. I will move my Lords when they are withdrawn, to adjourn till Ten to-morrow. But my Lord *Stafford*, I do not know how your Lordſhip is provided, or how you look after your own Buſineſs. If you have not had Copies of the Journal all this while, 'tis you are in the fault. A great deal of it is in Print, you may ſend your Sollicitor to the Clerk of the Parliament, and take Copies of what you have need of. I give you notice of it, that if you come unprovided, you may know it is your own fault.

L. Staff. I do acknowledge I have Copies of the Journal-Book, I think of all; but I do not find any thing of *Dugdale*'s ſecond Depoſition there.

L. H. S. Here is that of the 24th of *December*, that you ask after; ſend your Sollicitor, and then you ſhall have a Copy out of the Journal of it.

L. Staff. I aſſure your Lordſhip I will be ready to-morrow, if I can get thoſe Copies.

L. H. S. My Lords will give you as much Eaſe, and all the Accommodations that are fit.

L. Staff. Then to-morrow I will be ready by Ten a-clock, if your Lordſhips pleaſe; only I would deſire your Lordſhips to take notice that theſe Gentlemen of the Houſe of Commons do acknowledge that *Turberville* ſwore one day to one Year, and the next day to another.

L. H. S. My Lord *Stafford*, you ſay you can be ready to-morrow at Ten a-clock; are you ſure you can be ready then?

L. Staff. I ſay, my Lords, this, I ſhall not be ſo ready as I ſhall be next day; but I aſſure your Lordſhips, I will rather ſink down in the Place where I am, if you think fit, than put off the Tryal.

L. H. S. Look you Gentlemen of the Houſe of Commons, in a Caſe of this Conſequence, and of this vital Importance to a Man as this is, where is the Inconvenience if there ſhould be a day's reſpite, and the Court ſhould adjourn till Friday, if my Lords be moved in it? I make no direction, but what Inconvenience will be in it? Will it not be every way as well?

Sir *Will. Jones.* My Lords, your Lordſhips do not expect from us to give our Conſent to put off the Tryal.

L. H. S. I ask only what Inconvenience it is?

Sir *Will. Jones.* Your Lordſhips are the Judges, and will do as you find it reaſonable; but this I ſay, it is very unuſual, and ſcarce to be precedented, that when the Proſecutors have given an Evidence, the Priſoner ſhould have time, a further conſiderable time, to give his Anſwer to it. The Priſoner knows before-hand the general Scope and Drift of the Evidence; therefore for him to have time till to-morrow, is a Favour: but to have more than that, even a whole Day to intervene, is very unuſual.

L. H. S. If that be all, and the Matter depend upon what is uſual, I do venture with my Lords leave to inform you, that my Lord of *Strafford* had two days time after the Proſecution to give his Anſwer to what was ſaid againſt him.

Sir *Will. Jones.* That was an Evidence of twenty eight Articles, this but upon two Heads; and that was after a long Examination of many Days.

L. Staff. My Lords, I had prepared my ſelf for my Tryal as well as I could, and had written down a few things that I intended to ſay; and I profeſs before God, as I am a Man, and as I am a Chriſtian, of all I intended to ſay: I have in a manner made uſe of very few Words; but as to what I had to ſay upon Evidence, I was forced to lay all aſide, becauſe I wanted theſe Papers. I have not eaten to-day, and being forced to lay aſide all that I had written, I ſhall need a whole day to write; however, I ſubmit my ſelf to your Lordſhips in that matter.

L. H. S. My Lord, if it will be equal to your Lordſhip, and your Lordſhip will be as ready to-morrow as another day, this Court will be more ready.

L. Staff. I aſſure your Lordſhips, if your Lordſhips do give me another Day, I will not debate with my Counſel any one thing upon the Papers I have asked.

L. H. S. Pray, my Lord, will you be pleaſed to make your demand to my Lords, who are your Judges, by what time you will be content to be foreclоſed.

L. Staff. My Lords, if you will give me till Friday, I ſhall be ready to give my Evidence, and I will bring Witneſſes ſufficient I hope to prove my Innocency.

Sir *Will. Jones.* My Lords we do not preſume at all to offer our Conſent to what time the Court ſhall be adjourned——

L. H. S. No, we do not ask your Conſent.

Sir *Will. Jones.* And I hope your Lordſhips will not ask the Priſoner's Conſent, nor do it by his Direction.

L. H. S. De morte hominis non eſt cunctatio longa.

Sir *Will. Jones.* But we muſt deſire your Lordſhips, as we are entruſted by the Houſe of Commons to manage this Tryal, to take notice, that as we do not expect your Lordſhips ſhould take the Meaſures from our Deſires, much leſs do we expect you ſhould do it at the only inſtance of the Priſoner. 'Tis a great Advantage to this Lord to chuſe his own time when he will pleaſe to anſwer our Evidence. We do know very well, that in this caſe there have been Attempts to ſuborn Witneſſes, and that we ſhall prove in due time, and Attempts to deſtroy Witneſſes too; ſo that there hath been too much time loſt already, and I think to-morrow is a very convenient time for him to make his Anſwer. And I muſt obſerve to your Lordſhips, that the Priſoner hath gained his end of not making his Anſwer this day, by raiſing an Objection, which in my Thoughts carried no great weight in it; though when it was made, your Lordſhips were pleaſed to adjourn upon it: but ſeeing he hath got his Point of deferring the making anſwer till to-morrow, there can be no reaſon he ſhould gain a further day, ſince the Depoſitions may be ready by to-morrow as well as by the next day. And therefore we deſire your Lordſhips will be pleaſed to go on in the Tryal to-morrow.

L. H. S. You ſhall know their Lordſhips Pleaſure when they are withdrawn. Is it your Lordſhips Pleaſure that we ſhould adjourn?

Lords. Ay, ay.

L. H. S. This Houſe is adjourned into the Parliament-Chamber.

So the Lords withdrew in their Order, and the Commons went back to their Houſe, and Mr. Speaker reſum'd the Chair.

A Meſſage was ſent from the Lords by Sir *Timothy Baldwyn*, and Sir *Samuel Clark*.

Mr. Speaker, *The Lords have ſent us to acquaint this Houſe, that they have order'd the Priſoner* William *Viſcount* Stafford, *to be brought to the Bar in* Weſtminſter-Hall *to-morrow Morning at Ten of the Clock.*

And then the Commons adjourned to Eight of the Clock next Morning.

The Third Day.

Thurſday, *December* 2. 1680.

AT the Hour of Ten in the Morning, the Lords adjourned into *Weſtminſter-Hall*, and returned in their former Order into the Court there erected; and Mr. Speaker having left the Chair, the Commons were ſeated as before. The Court being ſat, Proclamation for Silence was made, and the Lieutenant of the *Tower* commanded to bring his Priſoner to the Bar; which being done, the Lord High Steward ſpake to him as followeth:

L. H. S. My Lord *Stafford*, this is the time appointed to hear what your Lordſhip hath to ſay in your Defence, and to call your Witneſſes.

Sir *W. Jones.* My Lords, Yeſterday my Lord Viſcount *Stafford* was pleas'd to make mention of an Affidavit of Mr. *Turberville* taken before two Juſtices of the Peace, wherein he was pleas'd to ſay there was ſome Amendment made; and ſo indeed we did then acknowledge there was. But he had a deſire to ſee it, notwithſtanding our Acknowledgment, becauſe he was informed that that which *Turberville* ſwore then, differ'd from what *Turberville* ſwore yeſterday. My Lords, at that time we had not the Affidavit, nor was it proper for us to produce it, for indeed it remain'd in the Juſtice of Peace's hands that took it: but now that his Lordſhip may have full Satisfaction, and not only his Lordſhip, but alſo all that are preſent at this Tryal, I do inform his Lordſhip, that the Affidavit is in the hands of a Member of the Houſe of Commons, Sir *Will. Poultney* by Name; and if his Lordſhip pleaſe, he may have it produc'd, and make what uſe he can of it.

L. H. S. It is extreme honourably and worthily done of the Houſe of Commons; and my Lord hath no manner of Exception left him.

L. *Staf.* My Lords, if I ſhall have occaſion to uſe it, I ſhall call for it; but I would firſt ſay ſomething to your Lordſhips: My Lords, I firſt give your Lordſhips thanks for granting me the liberty to come ſo late to-day; I have had a little Sleep upon it. Your Lordſhips heard yeſterday, when you had Dr. *Oates* at the Bar, the firſt thing that he ſaid, as I remember, was, to deſire you would be pleaſed to leave him to his own Method: I beg of your Lordſhips the ſame Favour, that I may begin with the one or the other Witneſſes, or with Matter of Law, as I pleaſe.

L. H. S. God forbid but you ſhould take your own Method in your Defence.

L. *Staf.* In order to which, I deſire firſt Mr. *Turberville* may come to the Bar.

L. H. S. Do you call *Turberville*, my Lord?

L. *Staf.* Yes, my Lord, I do.

L. H. S. He is there, what ſay you to him?

L. *Staf.* My Lords, I will ask him but one Queſtion, and I hope I ſhall have occaſion to ask him no more: When was the laſt time that he ſpoke with me?

L. H. S. Mr. *Turberville*, I think I hear right, I do not know: My Lord *Stafford* asks when was the laſt time you ſpoke with his Lordſhip?

Mr. *Tur.* It was in *November* 1675.

L. Staff. I have very much to ſay againſt his Evidence; but I hope your Lordſhips will not think him any Evidence at all againſt me, or any body elſe. But I deſire your Judgment, whether I be not within the Compaſs of the Time limited by the Statute.

Mr. Serj. *Mayn.* Expreſs yourſelf, my Lord, for we do not underſtand you.

L. Staff. I cannot ſay more than I do: the Time which the Statute limits is ſix Months, but this is five Years; I deſire the Statute may be read.

L. H. S. What Statute, my Lord?

L. Staff. The Statute of the 13th of this King.

L. H. S. If your Lordſhip pleaſes you ſhall have it read: But your Lordſhip does not obſerve, you are proſecuted and impeached of High-Treaſon upon the Statute of the 25th of *Edward* III. not upon the Statute of the 13th of this King, made for the Safety of the King's Perſon, which limits the Proſecution of ſome Offences to be within ſix Months; but the Proſecution for Treaſon may be at any time.

L. Staff. Does your Lordſhip ſay it may be at any time?

L. H. S. Yes, my Lord.

L. Staff. This truly does very much ſurprize me, tho I am wholly ignorant in Matters of Law. My Lords, I have ever heard that no Man can be proſecuted by that Statute, but within ſo many Days, in one part of it in thirty Days, in another ſix Months; and I deſire your Lordſhips that the Statute may be read.

L. H. S. If your Lordſhip pleaſe the Statute ſhall be read; if your Lordſhip deſires the Clauſe of the Statute of the 13th of this King, which limits the Proſecution to be within ſix Months, that ſhall be read. But I conceive your Lordſhip is not accus'd upon that Statute.

L. Staff. I beſeech your Lordſhips, I may know whether I am proſecuted upon the Statute of the 13th of this King, or upon what other Statute.

L. H. S. What ſay the worthy Gentlemen of the Houſe of Commons: Is my Lord proſecuted upon the Statute of the 13th of this King?

Mr. Serj. *Mayn.* Not at all, my Lord; he is not proſecuted upon that Statute, but upon the Common Law, and the 25th of *Edward* III. which was only declarative of the Common Law.

L. Staff. This is a Point of Law.

Sir *W. Jones.* What is the Point of Law?

L. Staff. Whether I can be proſecuted after ſo many Days.

L. H. S. The Law is very clear. If you were proſecuted upon the 13th of this King for any leſs Offence than Treaſon, you could not be proſecuted after ſix Months; but if you be proſecuted for Treaſon either upon the 25th of *Edward* III. or the 13th of *Car.* II. there is no time limited, and God forbid there ſhould.

L. Staff. I beſeech your Lordſhips Judgment, whether there be not a Statute, I think 'tis in the Reign of *Edward* VI. that ſets the time, after which no Man ſhall be proſecuted for any thing of Treaſon. I deſire a quarter of an Hour's time to look into the Statute.

L. H. S. What ſay you, Gentlemen?

L. Staff. Pray, my Lord, let me read the Statute of *Edward* VI.

Mr.

*

Mr. Serj. *Mayn.* We know not of any ſuch Statute.

L. Staff. I will not ſay there is, but I will ſay I cannot read if there be not.

L. H. S. Pray, Gentlemen of the Houſe of Commons, my Lord does ſuppoſe he has ſome kind of Objection in Law to make, which he cannot make out of himſelf; will it be amiſs to let his Counſel make and propoſe the Queſtion for him?

Sir *W. Jones.* My Lords, we rather would have my Lord propoſe the Objection; for your Lordſhips know, till a Matter of Law is propos'd, he cannot be admitted to have Counſel. If he deſires time to recollect himſelf about the Objection, we can't oppoſe it. But we deſire that he may propoſe the Objection; and after, if it be any Doubt in Matter of Law, your Lordſhips will aſſign him Counſel to be heard to ſpeak to it.

Sir *F. Win.* This would be a way for a Priſoner to have the Advantage of Counſel, when they ought not to be allowed it; for 'tis but to ſay, he hath ſome Doubt which he cannot propoſe himſelf, and ſo let in his Counſel to make Objections for him. If any Queſtion of Law do ariſe, and that Queſtion is ſtated, you will allow the Priſoner Counſel to argue it: but at this rate he may make the like Pretences in every part of his Defence, and ſo obtain that Counſel ſhall manage his whole Defence for him.

L. H. S. I ſuppoſe my Lord does intend an Objection as to the Time of the Proſecution, but he does not know how to make it. He ſuppoſes he is proſecuted after the ſix Months, which he thinks is the Time limited for the Proſecution. But I pray, my Lord *Stafford*, will your Lordſhip take time to recollect yourſelf, and make an Objection fit for Counſel to be heard upon, and you ſhall have it.

L. Staff. I beſeech you I may have the Statute-Book with me, for I have none myſelf, my Lord.

Sir *W. Jones.* With all our hearts, we do not oppoſe it.

Then my Lord withdrew into the Room provided for him, and within a quarter of an Hour return'd.

L. H. S. Say, my Lord.

L. Staff. My Lords, I do confeſs I have been very much miſtaken ever ſince I was firſt committed to the *Tower:* For I did conceive that they would have proceeded, as I thought I was impeach'd, upon the Statute of the 13th of this King. I humbly deſire your Lordſhips Judgment, whether I ought or no to be proſecuted upon that Statue?

L. H. S. The Gentlemen have told you already: They proſecute you upon the Statute of 25 *Ed.* III. and upon the Common Law.

L. Staff. And they lay aſide that Statute.

L. H. S. What Statute?

L. Staff. The 13th of this King.

L. H. S. What ſay you, Gentlemen, once more?

Sir *F. Win.* My Lords, we have declar'd already to his Lordſhip; and if my Lord had look'd well upon the Articles of Impeachment, he could not have put that Queſtion, but would have found himſelf impeach'd for Treaſon at the Common Law, declared by the 25th of *Edward* III.

L. Staff. So then they lay that aſide of the 13th of this King?

Mr. Serj. *Mayn.* We do not mention any Statute, but we mention the Crime; and that Crime is againſt the Common Law, declared by the Statute, to wit, the attempting the King's Death, and the Subverſion of the Government.

L. *Staf.* My Lords, there is no doubt but the attempting the King's Death is a great and heinous Crime; but, my Lords, I do not find that in the Impeachment there is any Overt-Act at all. And whether I ſhall anſwer to a Treaſon not prov'd by any Overt-Act ſworn by two Witneſſes, I ſubmit to your Lordſhips. But, my Lords, becauſe your Lordſhips and the Houſe of Commons may not think that I propoſe theſe things out of a deſire of Delay; if your Lordſhips pleaſe it may be ſaved to me, with all other Points of Law, I will go on to my Proofs.

L. H. S. Yes, all theſe things ſhall be ſav'd to you; pray let us hear your Evidence.

L. *Staf.* Since your Lordſhips have granted me that, be pleas'd to give me leave to go to my Evidence; and I begin with *Stephen Dugdale.*

L. H. S. Set up *Dugdale.*

L. *Staff.* Will your Lordſhips pleaſe I may have Pen, Ink, and Paper?

L. H. S. By all means, my Lord. [Which was given him.]

L. *Staff.* May it pleaſe your Lordſhips, *Stephen Dugdale* ſaid, if I underſtand him right (and I ask him again) that he knew ſomething of the Plot fifteen or ſixteen Years ago?

L. H. S. What ſay you, Mr. *Dugdale*, you hear the Queſtion? Did not you ſay you knew of the Plot fifteen or ſixteen Years ago?

Mr. *Dugd.* I did ſay it, and did explain my Meaning in it. I did ſay there was among us ſuch a Preparation to be made againſt the King died, of Arms and Money, that neither ſhould be wanting.

L. *Staff.* I beſeech your Lordſhip to ask what Proportion of Arms was to be provided.

L. H. S. What Proportion of Arms was to be provided?

Mr. *Dugd.* I never heard it nominated how many abſolutely. I have heard of ſome Numbers. I heard of late of 30000 that were to be rais'd beyond Sea: what the whole Number in *England* was, I have forgot; but I think I have heard Mr. *Gavan*, and ſome of the Prieſts ſay, that if there was occaſion they ſhould have at leaſt 200000 to aſſiſt them, that was of Men; and I ſuppoſe they had Arms as well as Men.

L. *Staff.* My Lords, if this were true which he ſays Mr. *Gavan* ſaid, that they were 200000, I deſire to know what Men he meant, what Religion they muſt be of.

L. H. S. What Religion were they of, that were to come in and help?

Mr. *Dugd.* He did not name them at that time; but I underſtood them, and ſo I apprehend the Company would, that they were *Roman* Catholicks.

L. *Staf.* 'Tis a ſtrange thing that there ſhould be 200000 Catholicks rais'd, when there are not 20000 in *England* that can bear Arms.

L. H. S. Good my Lord, they might come from beyond Sea, and ſo they might be ſo many *Roman* Catholicks, tho there were not ſo many in *England.*

Mr. Serj. *Mayn.* And he ſays not they were *Roman* Catholicks, but he heard ſo.

Mr. *Treby.* There might be ſo many *Roman* Catholicks, and ſuch as ſhould be with them.

L. *Staf.* Did he hear fifteen or ſixteen Years ago that I was to be one among them?

L. H. S.

L. H. S. Anſwer that Queſtion: Did you hear then that my Lord *Stafford* was to be one among them?

Mr. *Dugd.* I cannot remember that I did, my Lord.

L. *Staf.* Then, my Lords, I make this uſe of it: He tells you of a Plot ſixteen Years ago, that 200000 Men in Arms were ready againſt the King's Death——

Mr. *Dugd.* I did not ſay ſo, my Lords; I deſire I may be underſtood aright——

L. *Staf.* You ſay you heard ſo.

Mr. *Dugd.* I ſpeak as to the Number of Men, what I heard of late at the Conſults and Meetings within theſe two Years.

L. *Staf.* But I ſpeak of ſixteen Years ago, what Number of Men was there to be rais'd?

Mr. *Dugd.* My Lords, it was a general Word that was amongſt us, That we muſt be provided againſt that time, againſt the Death of the King, but no Number at all.

L. *Staf.* This, my Lords, under favour, I conceive does not concern me. He tells you there was ſuch a thing; it might be ſo, or it might not be ſo; I am not concern'd in it, then 'tis out of doors as to what concerns me: I conceive otherwiſe, if the Gentlemen conceive otherwiſe, they will ſay ſo. Then, my Lords, the next thing is, How long ago it is ſince I firſt ſpake to him about this Plot? and I beſeech your Lordſhip he may mention Time and Place.

L. H. S. You hear the Queſtion, Mr. *Dugdale.*

Mr. *Dugd.* The firſt time, to my beſt Remembrance——

L. *Staf.* I beſeech you, my Lords, let us have no Remembrance, but let him ſwear poſitively.

L. H. S. There is no mortal Man can ſwear otherwiſe than according to his Remembrance.

L. *Staf.* When a Man's Life and Honour, and all he hath is at ſtake, and indeed in conſequence every Man in *England* is concerned if they ſwear not poſitively, but ſtill ſay, As I remember; who can make a Defence?

L. H. S. Mr. *Dugdale*, go on and ſay as near as as you can, and be as particular as you can, upon your Oath.

Mr. *Dugd.* That which I can poſitively affirm, is, It was about *Auguſt* or *September* 78.

L. *Staf.* He ſaid yeſterday it was in the latter end of *Auguſt* or the beginning of *September*, which are two Months. I beſeech you what does he mean by the latter end of *Auguſt?* How long before the end of *Auguſt?*

L. H. S. How long was it before the laſt Day in *Auguſt?*

Mr. *Dugd.* My Lords, I will not be poſitive; but it was either in one Month or the other: I did not keep a Diary, or elſe I would give your Lordſhips Satisfaction.

L. *Staf.* I beſeech your Lordſhips he may poſitively ſay whether in *Auguſt*, or not in *Auguſt*; or whether in *September*, or not in *September.*

Mr. *Dugd.* I dare not venture to ſwear that, I dare not do it.

L. *Staf.* Then ſaving my Exceptions to the Incertainty of that afterwards, I would ask him what Day was it in *September* that I ſpoke to him.

Mr. *Dugd.* I remember one was either the 20th or 21ſt of *September* 78.

L. *Staf.* My Lords, he ſays the 20th or 21ſt; does he ſay that was the firſt time he ſpoke with me?

Sir *J. Trev.* No, no.

L. *Staf.* I beſeech you, my Lords, they may not anſwer the Queſtions, but the Witneſſes: they cry, No, no.

L. H. S. My Lord, you ſhall certainly have an Anſwer to all the Queſtions you will ask.

L. *Staf.* But when I ask, they anſwer for them; I would know whether that is the Courſe or no?

L. H. S. Do not diſquiet your ſelf for any thing that is ſaid about you; you ſhall have a fair Hearing.

L. *Staf.* But, my Lords, I cannot but be diſquieted when I hear theſe learned Gentlemen make Anſwers to my Queſtions for the Witneſſes.

L. H. S. Mr. *Dugdale*, was the 20th or the 21ſt of *September*, you ſpeak of, the firſt time that you ſpoke to my Lord *Stafford*?

Mr. *Dugdale.* No, my Lords, it was not.

L. *Staf.* Pray, my Lords, what Day was it then I ſpoke firſt to him?

L. H. S. What was the Day you firſt ſpoke to my Lord?

Mr. *Dugd.* Truly, my Lords, I cannot remember ſo well as to tell you.

L. H. S. Do you remember when my Lord came to *Tixall?*

Mr. *Dugd.* I remember one Sunday in particular; but I cannot tell what Day of the Month it was.

L. H. S. Do you remember my Lord *Stafford* at *Tixall*, in Company with my Lord *Aſton* and Father *Evers?*

Mr. *Dugdale.* Yes, I do.

L. H. S. Do you remember that any Diſcourſe paſſed between them?

Mr. *Dugd.* Yes, I do.

L. H. S. Was that before or after the 21ſt of *September?*

Mr. *Dugd.* Both before and after.

L. *Staf.* My Lords, he ſays there was a Conſult at *Tixall*, where ſuch and ſuch were preſent, and the King's Death determin'd; I ask when was that?

Mr. *Dugd.* That was in *September*, I cannot ſay poſitively the Day; but in *September*, or the latter end of *Auguſt.*

L. Staff. My Lords, I muſt acquieſce and ſubmit to your Lordſhips to do what you pleaſe; but if he does not name Times nor Places, how can I make my Defence? I deſire he may ſay poſitively within five Days of the one or of the other; and, my Lords, I will put it upon that, if he ſay five Days before the end of *Auguſt*, or five Days in the beginning of *September*, which one would think is ſpace enough, that is ten Days time.

L. H. S. My Lords do obſerve how far Mr. *Dugdale* goes, and that he is no further poſitive than he does expreſs himſelf.

L. Staff. I beſeech your Lordſhips, I preſs this, becauſe it concerns me very much, that he may be poſitive within five Days over or under.

L. H. S. Can you remember whether it were within five Days of the one or of the other?

Mr. *Dugd.* Truly, my Lords, I cannot be poſitive; if I had not made a particular Remark upon that of the 20th or the 21ſt, I could not have remembred that; for I did not then intend to reveal the Plot, or elſe I could have given you Satisfaction in that.

L. H. S. My Lord, your Lordſhip hath an Anſwer to it; he cannot ſpeak more poſitively to it than he does.

L. Staff. I beſeech you then, how is it poſſible I can make my Defence?

Mr.

Mr. *Dugd.* My Lords, I kept no Journal; if I had, I would be more poſitive.

L. Staff. He ſays it was the latter end of *Auguſt*, or the beginning of *September*; I deſire he will ſay whether it was the laſt Week in *Auguſt*, or the firſt Week in *September*.

L. H. S. He anſwers he cannot tell; your Lordſhip muſt make what advantage you can of that Anſwer.

L. Staff. I can make no advantage of it, unleſs he does ſpeak poſitively to the time. My Lords, I beſeech you I may know what is the end of *Auguſt* and the beginning of *September?*

L. H. S. My Lord, I hear you not.

L. Staff. If a Man ſays the beginning of *June* I was at ſuch a Place, how many Days is the beginning, and how many Days the end of a Month? How much time will your Lordſhips underſtand the meaning of that to be? I am concern'd extremely in the point of time, for it is that which the whole Buſineſs depends upon, I mean as to this Man.

L. H. S. My Lord, go on with your Evidence; I know not how to give you an anſwer, what Judgment my Lords will make of it, or how much they will underſtand by it, till they are withdrawn: they obſerve how much your Lordſhip inſiſts upon it, and will hear what the worthy Gentlemen of the Houſe of Commons will anſwer to it.

L. Staff. My Lords, my whole Buſineſs with this Fellow is concerned in a poſitive Anſwer to this Queſtion; I give him, I think, reaſonable time to confine himſelf to.

L. H. S. What ſay you to the 20th or 21ſt of *September*, my Lord?

L. Staff. My Lords, I ſhall give a clear Anſwer to that anon; but I am extremely concerned in this, to know whether it was in *Auguſt* or *September*.

L. H. S. My Lord, if your Lordſhip be concerned never ſo much at that, the Witneſs can ſwear no more than he can ſwear. He ſays about the latter end of *Auguſt*, or the beginning of *September*; will your Lordſhip ſtand ſtill for that?

L. Staff. Well then, I will go on as well as I can: As for the matter of the 20th or 21ſt of *September*, I beſeech your Lordſhips I may ask *Dugdale* one Queſtion, whether at the Tryal of Sir *George Wakeman*, or the five Jeſuits, he did not ſay the Conſult was in *Auguſt*; if he deny it, I ſhall prove it.

L. H. S. Mr. *Dugdale*, my Lord asks whether at the Tryal of *Wakeman*, or of the five Jeſuits, you did not ſay it was in *Auguſt*?

Mr. *Dugd.* My Lords, I did name there was a Conſult at *Boſcobel* in *Auguſt*, but I do not remember that I did name my Lord *Stafford* in any Conſult in *Auguſt* poſitively; but, as I ſay now, the latter end of *Auguſt*, or the beginning of *September*. But I did name that there was a Conſult at *Boſcobel* in *Auguſt* 78.

L. Staff. My Lords, he did ſay I was at the Conſult in *Auguſt*.

Mr. *Dugd.* I did not ſay my Lord *Stafford* was there, I don't charge him in it; and if any ſuch thing was printed, I have wrong done me.

L. *Staff.* Then he ſays he had nothing to do with me till the latter end of *Auguſt*, or the beginning of *September*. My Lords, I beſeech your Lordſhips to ask him, whether in Sir *George Wakeman*'s Tryal he did not ſay, he was to receive Orders from me in *June* or *July*, when I came into the Country.

L. H. S. Did not you ſay at Sir *George Wakeman*'s Tryal, That you were to receive Orders from my Lord *Stafford* in *June* or *July*, when he came into the Country?

Mr. *Dugd.* My Lord, I ſubmit to your Lordſhip, and the reſt of my Lords here, whether, when that Queſtion was ask'd by my Lord *Stafford*, I did not ſay, That the firſt time I entred into Correſpondency with the Conſulters, they told me, my Lord was to come down then, and I ſhould receive Orders from him. I had heard of my Lord *Stafford* before, but not to enter into any Conſults with him, till he came down the latter end of that Summer.

L. *Staf.* I beſeech your Lordſhips pardon me; I deſire him to anſwer poſitively, whether at the Tryal of Sir *George Wakeman*, he did not ſay he was to receive Orders from me in *June* or *July*, when I came into the Country.

L. H. S. Did you ſay ſo at Sir *George Wakeman*'s Tryal?

Mr. *Dugd.* I believe I did ſay ſo; for I had it from others, and not my Lord *Stafford* himſelf.

L. *Staf.* My Lords, in *June* or *July* I was not in the Country.

L. H. S. He ſays you were to come down, not that you did come down.

L. *Staf.* If you will let him do thus, there is no Man ſafe: I ſhall begin the Tragedy, and Millions will follow. He ſwore at the Tryal of Sir *George Wakeman*, or that of thoſe other Perſons, That there was a Conſult at my Lord *Aſton*'s at *Tixall*, where I was one, in *Auguſt*.

Mr. *Dugd.* My Lords, I did not ſwear ſo; but in *Auguſt* or *September*, or one of them, as now I ſwear.

L. *Staf.* I ſhall prove it by the Book, and Witneſſes that were there.

Mr. *Dugd.* Then they did me wrong by printing it; for I never ſaid of your Lordſhip otherwiſe than I do now.

L. *Staff.* I deſire my Witneſſes may be call'd to prove it, for I conceive it is very material. My Lords, does he deny it?

Mr. *Dugd.* I do ſay there was a Conſult at *Tixall* in *Auguſt*; but I did not charge your Lordſhip poſitively to be there then, nor with more than I do now.

L. *Staf.* I think you did, and I have Witneſſes to prove it. And 'tis impoſſible for any Man living to defend himſelf, if Perſons ſhall ſwear as they ſuppoſe, think, or remember. I tell your Lordſhips I was not there all the Month of *Auguſt*.

L. H. S. Does your Lordſhip intend to call any Witneſſes?

L. *Staf.* My Lords, I thought I had more Witneſſes than I have. But I have two here, if your Lordſhips will hear them, that he did ſwear I was at *Tixall* in *Auguſt*.

L. H. S. Who are they?

L. *Staf.* My Daughter *Wincheſter* for one, and a Lady that is my Kinſwoman for another.

L. H. S. Let them ſtand up, they are not to be ſworn. You don't except againſt them, Gentlemen?

Sir *W. Jones.* No, let him prove what he can.

L. Marchioneſs of *Wincheſter.* He did ſwear that he was to receive his Orders from——

L. H. S. Madam, your Ladyſhip is not upon your Oath; but you are under all the Obligations of Truth and Honour in the world.

L. March.

L. March. *Winch.* My Lords, by the Grace of God I will not ſpeak an untrue Word.

Sir *W. Jones.* We deſire to know this Lady's Name.

L. *Staf.* It is my Daughter *Wincheſter.*

L. March. *Winch.* This *Stephen Dugdale* did ſay at the Tryal of Sir *George Wakeman*, That he was to receive Orders from my Lord in *June* or *July*, when he was to come down; and that my Lord was at a Conſult at *Tixall* in *Auguſt.*

L. H. S. Did he ſay poſitively in *Auguſt*, or in *Auguſt* and *September.*

L. March. *Winch.* No, he did not name *September.*

Mr. *Dugd.* My Lords, I might ſay my Lord was to come down then; but not that ever I ſaid he was there, but as now.

L. H. S. But ſhe ſays you did not name *September.*

L. *Staf.* Here is another Lady.

Sir *W. Jones.* Who is ſhe, my Lord?

L. *Staf.* Mrs. *Howard*, Daughter to Sir *George Blount*, and married to Mr. *Howard*, a Kinſman of mine; ſhe is now a Widow.

Mrs. *Howard.* My Lords, at the Tryal of Sir *George Wakeman*, *Dugdale* was asked to be poſitive in the Month my Lord *Stafford* came down; and he ſaid, he came down in *June* or *July*; but he ſaid the Conſult was in *Auguſt*, wherein my Lord *Stafford* was.

L. H. S. That Lady likewiſe ſays the ſame, That you would not be poſitive as to *June* or *July*; but as to *Auguſt*, you were poſitive that my Lord was there.

Mr. *Dugd.* No, my Lords, I only ſaid, In *Auguſt* there was a Conſult; and in *June* or *July* my Lord was to come down.

Mrs. *Howard.* I do aſſure you we came to that Tryal on purpoſe to obſerve every Word he ſaid about my Lord *Stafford*, and we have kept it in our Memories ever ſince.

L. H. S. What do you ſay, Mr. *Dugdale*, to it?

Mr. *Dugd.* I ſuppoſe there was a great many more at that Tryal than thoſe two worthy Ladies; and I ſuppoſe ſome of them may remember I ſaid no more than I do now. I ſaid then, my Lord was to come down at that time, and ſo I ſaid ſeveral times, but not poſitively, that he was there till the end of *Auguſt*, or the beginning of *September.*

L. *Staf.* My Lords, I do poſitively aver, here are two Witneſſes that ſay, he ſwore I was there at the Conſult in *Auguſt.* Now it concerns me to prove that I was not there in *Auguſt*, ſince he ſaid abſolutely I was there in *Auguſt*; and I aſſure you I can prove I was not there all the whole Month. In the beginning of *Auguſt* I came from *London*, from my own Houſe; on Tueſday or Wedneſday the 6th of *Auguſt*, I went to my Lord *Bellaſis*'s, and that Night I went to *George Porter*'s; the next Night I went onwards towards *Bath:* when I was there, I went over and ſtaid with my Noble Lord the Marquiſs of *Worceſter*; there I ſtaid two or three Days, and I went thence to another Place hard by there; and then I came back again to *Bath*, and went back again afterwards to my Lord's Houſe; and the firſt or ſecond of *September*, I went from my Lord's Houſe to *London.* Then if this be acknowledged, I need ſay no more; if not, I'll prove it by ſufficient Witneſſes: So then I was not there the whole Month of *Auguſt*, and the beginning of *September* he ſays he ſpoke with me. I was not there till the 12th of *September.* Now I beſeech your Lordſhips how that could poſſibly be the beginning of *September.* I ſubmit to you, Whether then he be a Witneſs fit to be heard, that ſhall ſwear poſitively what hath no colour of Truth in it, I alſo leave to you. And if they object I was not where I ſay I was in *Auguſt*, I will prove it. And for the 20th and 21ſt of *September*, I do own ſomething of that, and I ſhall prove to your Lordſhip what it was.

L. H. S. Call what Witneſſes you pleaſe, my Lord.

L. Staff. My Daughter proves when I went out of Town.

L. March. *Winch.* My Lords, it was on a Tueſday my Father went to my Lord *Bellaſis*'s, he dined there, and then went on to *George Porter*'s.

L. Staf. That I was at *Bath*, I ſhall call Witneſſes.

L. H. S. My Lord, you ſhould prove when you firſt came to *Tixall*, my Lord *Aſton*'s.

L. Staf. Will that ſatisfy your Lordſhip?

L. H. S. Me! 'Tis not me you are to ſatisfy, but my Lords, and the Gentlemen of the Houſe of Commons.

L. Staff. Then I do own to your Lordſhips, I came the firſt time the 12th of *September* to *Tixall.*

L. H. S. That was the firſt Day you were there?

L. Staf. That Year, my Lord, it was.

Sir *Will. Jones.* Prove it.

L. Staf. Does he deny that, my Lords?

L. H. S. Do you deny that my Lord came firſt to *Tixall* the 12th of *September?* or do you know he was there before?

Mr. *Dugd.* My Lords, I have poſitively ſpoke to no Day, but only to the 21ſt or 20th of *September.*

L. Staf. Where is my Lord Marquiſs of *Worceſter*'s Servant?

L. H. S. My Lord *Stafford*, it will be beſt for your Lordſhip to produce all the Witneſſes you have, and not to leave any thing undone that you can prove.

L. Staf. But I beſeech your Lordſhips I may ask one Queſtion; If I ſhall name any of the Houſe of Peers as my Witneſſes, does that exempt them from being Judges?

L. H. S. No, my Lord. If your Lordſhip have any Witneſſes among any of my Lords here, they may very well teſtify for you, and yet remain ſtill in the Capacity of your Judges; for my Lord of *Strafford* had a great many Witneſſes that were Peers.

Sir *John Trevor.* We do not oppoſe it, my Lords.

L. H. S. My Lord, call your Witneſſes.

L. Staf. There is no Place appointed for them, and therefore I could not have them ready now; I have ſent for them; I have a throng of them.

L. H. S. They will open the way, and we will ſtay for them.

L. Staf. My Lords, I deſire, that as yeſterday, when the Witneſſes were ſworn againſt me, mine did not hear what they ſaid, ſo I deſire when my Witneſſes come, theirs may not be preſent.

L. H. S. My Lord, with your Lordſhip's Pardon, it was not well done that your Witneſſes were not there; but if Witneſſes be to confront one another, ſhall they not hear what one another ſay?

L. Staff. My Lords, I am ſo clear in every thing, I will diſpute no little matters.

Then my Lord's Witneſs ſtood up.

L. H. S. What is this Man's Name you call now, my Lord?

L. Staff. Indeed my Lord I don't know.

Witneſs.

Witneſs. My Name is *Bonny*, my Lords.

L. H. S. Does your Lordſhip call this Man?

L. Staff. Yes, my Lords.

L. H. S. You are not upon your Oath, but you are to look that a ſtrict account will be taken of what you ſay.

Mr. *Foley.* My Lords, we deſire to know where this Witneſs lives?

Bonny. I live in *Exeter-Street*, by *Exeter-Exchange.*

L. Staff. I declare it, I know him not: but I am told he can witneſs for me.

L. H. S. Your Chriſtian Name?

Bonny. Thomas.

L. H. S. What Profeſſion are you of?

Bonny. I live as Clerk of the Kitchin to my Lord Marquiſs of *Worceſter.*

Mr. *Foley.* What Religion are you of?

Bonny. A Proteſtant, one of the Church of *England.*

L. Staff. My Lords, I humbly move your Lordſhips, when I asked Mr. *Smith* the firſt day, where he was made a Prieſt, the Gentleman ſaid, he was not bound to anſwer any thing againſt himſelf that might make him criminal. I deſire that the Queſtion may not be put to my Witneſſes what Religion they are of.

L. H. S. The Gentleman will not offer to ask any Queſtion that may make a Man accuſe himſelf; but my Lord, a Papiſt or not Papiſt is not ſo penal as a Prieſt or no Prieſt.

Mr. *Foley.* To acknowledge a Man's ſelf a Papiſt, is not to make him a Criminal.

L. H. S. What does your Lordſhip call this Witneſs for?

L. Staff. To prove when I was at my Lord Marquiſs of *Worceſter*'s.

L. H. S. What ſay you; when was my Lord *Stafford* at my Lord Marquiſs of *Worceſter*'s?

Bonny. In *Auguſt* 78.

L. H. S. Do you remember it perfectly?

Bonny. Very well.

L. H. S. What Day of *Auguſt?*

Bonny. The 17th of *Auguſt*, which my Lord Marquiſs keeps as his Wedding-Day every year, and the Gentlemen of the Country are invited thither. My Lord *Stafford* was then at *Bath*, and my Lord Marquiſs was pleaſed to ſend his Coach for him, to be preſent there that day; there he ſtaid that day and the next day, and then return'd on Monday. And in the ſame Month, the 31ſt of *Auguſt*, my Lord came again from *Bath* to *Badminton*, my Lord Marquiſs of *Worceſter*'s, and upon the Monday after returned for *London.*

L. H. S. That was the beginning of *September?*

Bonny. Yes, the 2d he went to *London.*

L. H. S. Will you ask him, Gentlemen, any Queſtions?

Managers. No, my Lords.

L. H. S. Call another Witneſs then.

(Who ſtood up.)

L. H. S. What is this Man's Name?

Witneſs. Thomas.

L. H. S. Thomas what?

Witneſs. Thomas White.

L. H. S. Where do you live?

White. I live with my Lord Marquiſs of *Worceſter* at *Badminton.*

L. H. S. What do you ſay?

White. My Lords——

Lord Marquiſs of Worceſter. My Lord Steward, I have only this to ſay, my Lord *Stafford* deſired that his Witneſſes might not be asked what Religion they were of, but I deſire all my Servants may be asked, for I keep none but Proteſtants.

L. H. S. What Religion are you of?

White. A Proteſtant.

L. Staff. My Lords, I did not require it for them, I know my Lord keeps none but Proteſtants; but I asked it for others of my Witneſſes, that may come, and be ſtartled at it.

L. H. S. What ſay you, when was my Lord *Stafford* at my Lord Marquiſs of *Worceſter*'s Houſe?

White. The 17th of *Auguſt*, 78; I fetched him from *Bath*, being my Lord's Wedding-Day.

L. H. S. You fetched him?

White. Yes, my Lords.

L. H. S. What Place do you ſerve my Lord Marquiſs in?

White. As Coachman.

L. H. S. Was he there afterwards?

White. Yes, he was, but I can't remember the Day; only this being a remarkable Day, I can remember it.

L. H. S. Did you carry my Lord from thence towards *London?*

White. Yes, I did.

L. H. S. When was that?

White. The ſecond of *September*, to the beſt of my remembrance.

L. H. S. Gentlemen, will you ask him any Queſtions?

Managers. No.

L. Staff. I think this is ſo clear, I ſhall not need to trouble your Lordſhips further with more Witneſſes.

L. H. S. Call whom you pleaſe, my Lord, and as many as you think fit, they ſhall be heard.

L. Staff. One more then, my Lords.

(Who ſtood up.)

L. H. S. What is your Name?

Witneſs. Richard Bevan.

L. H. S. Who do you live with?

Bevan. I am Groom to my Lord Marquiſs of *Worceſter.*

L. H. S. What Religion are you of?

Bevan. A Proteſtant.

L. H. S. Do you remember when my Lord *Stafford* was at the Marquiſs of *Worceſter*'s Houſe?

Bevan. Yes, I do.

L. H. S. What time was it?

Bevan. The 17th of *Auguſt.*

L. H. S. Do you remember any other Day?

Bevan. No, my Lord; but he was there that Day.

L. H. S. Will you ask him any Queſtions?

Managers. No, my Lords.

L. Staff. My Lords, if your Lordſhips pleaſe, I deſire my Lord Marquiſs of *Worceſter* may tell your Lordſhips whether his Men have ſaid true or no.

L. Marq. of Worceſt. My Lords, I do remember, that my Lord *Stafford* was pleaſed to do me the honour to come upon my Wedding-Day from the *Bath*, and dine with me, as moſt Perſons of Quality that are of my Acquaintance, and happen to be at the *Bath* at that time, are pleaſed to do; and as moſt of the Gentlemen of the Country, within ſuch a diſtance, do alſo. (And that Day is the 17th of *Auguſt.*) I think he was there once or twice after, from the *Bath*, but I cannot tell preciſely the Days; but that particular Day I remember, becauſe it was my Wedding-Day.

L. H. S. Can your Lordſhip remember when my Lord *Stafford* went to *London?*

L. Marq. of Worceſt. Truly I cannot tell that, my Lords.

L. H. S. Did you not after that lend my Lord your Coach?

L. Marq. of Worceſt. Yes, I did, to carry him as far as *Sandy-lane*, on the Road to *London*; but the particular Day I remember not: but one of the Perſons examined (who was then my Clerk of the Kitchin) muſt needs know, becauſe he books every day who is in the Houſe, and therefore I believe what he has ſaid is true.

L. Staff. Stephen Dugdale I deſire may come again. I conceive I have made it plain to your Lordſhips, that *Stephen Dugdale* did ſwear, That in *Auguſt* there was a Conſult at my Lord *Aſton*'s, where I was; and I conceive it is alſo clear that in *Auguſt* I was not there: and then if it were the beginning of *September*, that could not be neither; for I came not down to *Tixall* till the 12th. I beſeech you to ask him when I offer'd him the five hundred Pounds to kill the King, I think he ſays it was the 20th or 21ſt.

L. H. S. What was the time my Lord offered you the five hundred Pound?

Mr. *Dugd.* It was about that time, the 20th or 21ſt of *September*, to my remembrance.

L. Staff. He ſaid poſitively before, it was one of thoſe two days; I beſeech your Lordſhip to ask him where it was.

L. H. S. Where was that Offer made?

Mr. *Dugd.* In my Lord's Lodging-Chamber at *Tixall*.

L. Staff. Then one Queſtion more, I deſire your Lordſhip to ask him what Day the Race was at *Etching*-Hill between Sir *John Crew*'s Man and *Lazingby*.

Mr. *Dugd.* If it pleaſe your Lordſhip, I do conceive it was about that time.

L. Staff. I pray he may anſwer poſitively, for if you pleaſe I will tell you how it was. It is very true, the 20th of *September* this Fellow was in my Chamber, and I ſhall trouble your Lordſhips with ſome little Diſcourſe about it, and my Reaſons why: Firſt, I beſeech your Lordſhips to permit me to let you know, that this Fellow did ſerve my Lord *Aſton* in the quality of a Bailiff. And I never thought him to be an honeſt Man, he was a mean Servant, and when the other Servants waited but till the ſecond Courſe came in, he ſtaid till the Coach-man and the Groom went to dinner, and eat with them. I profeſs before God it is true as that the Sun ſhines, I have often and often, I cannot tell how many times, when I have been very dry at my Lord's Table, and ſeen him by me, not called for Drink; I did deteſt him as ſo mean a Knave, that I often refuſed to take Drink at his hands: And now for me to offer this Fellow five hundred pounds——

L. H. S. I think your Lordſhip ſays he was Bailiff to my Lord *Aſton?*

L. Staff. But I knew him to be an errant Knave, and a great Gameſter at Races and ſuch things.

L. H. S. My Lord would you have offered five hundred Pounds to an honeſt Man to kill the King?

Mr. Ser. *Mayn.* You ſaid you never ſaw him.

L. Staff. I ſaid I had ſeen him, but now I did not know him by his Perriwig.

L. H. S. Did you not know him, my Lord?

L. Staff. No, my Lords, I profeſs I did not.

L. H. S. Why, your Lordſhip was a going to ſhew that the Race at *Etching*-Hill was upon the 20th of *September*; and your Lordſhip confeſſes, that he did ſpeak with you on the 20th of *September* in your Chamber; and *Dugdale* ſays, this Day was the very Offer made him of five hundred Pounds to kill the King. What do you ſay *Dugdale*, were you at the Race?

Mr. *Dugd.* Yes, I was with my Lord at the Race?

L. H. S. Did my Lord ſpeak with you before he went, or after?

Mr. *Dugd.* Before.

L. H. S. That Morning in his Chamber?

Mr. *Dugd.* Yes, it was that very Morning, before he went to the Race.

L. Staff. I do own, my Lord, thus far, he was in my Chamber that Morning; but, my Lord, I can prove what I ſay to you: My Lords, that 20th of *September* in the Morning, I was in my Bed, and there comes a Servant of mine that hath ſerved me twelve or fourteen Years, and he comes in to me, and ſays, Yonder is *Stephen Dugdale* very deſirous to go to this Race. It ſeems he ſays he went along with me to this Race.

Mr. *Dugd.* I ſay I went either before or after, or when you went to the Race, for I was with you at the Race.

L. H. S. Whether he went with you, or no, is not the point, but whether he was in your Chamber at that time.

L. Staff. 'Tis the point, for he ſaid juſt now, he went with me, as I apprehended him. But I tell your Lordſhips, my Servant came and told me, *Stephen Dugdale* deſires that you will ask my Lord *Aſton* leave that he may go before to the Race; my Lord is angry with him already for his meddling in Races, and he dare not ask himſelf. My Lords, I was a little concerned in the Race, for I had betted ſome Money; and I thought with my ſelf, ſhould I ask my Lord *Aſton* leave for him to go, my Lord will not deny me, but perhaps will take it ill to be asked, ſo I was not over-willing to do it. But I bid my Servant call him in, and when he came I asked him ſome fooliſh Queſtions about the Race, as who he thought would win, and the like; but I told him I would get leave of my Lord for him. My Lords, I did go to my Lord *Aſton*, and told him, My Lord, I am ſending my Servant before to the Place of the Race, but I am afraid he does not well know the way, ſhall *Stephen Dugdale* go along with him? my Lord gave him leave to go. But, my Lords, I dreſſed me, and did not ſpeak one tittle more to this *Dugdale*, but he went before, and I was hardly or but juſt dreſt when he was gone.

L. H. S. I pray, my Lord, was your Lordſhip at no time alone with him in your Chamber?

L. Staff. No, never ſiuce I was born, never in all my Life.

L. H. S. No, my Lord!

L. Staff. He ſays my Servants uſed to come for him, I profeſs it is all falſe.

L. H. S. What ſay you to that, Mr. *Dugdale?*

Mr. *Dugd.* My Lords, I was in my Chamber, and buſy when my Lord ſent for me that Morning, and it was either by his Page or one that waits on him in his Chamber; I went to my Lord, and the Page was in the Chamber, and he ordered him to go out.

L Staff. I declare and aver to your Lordſhips he was in the Hall, or the next Room, and deſired to come in.

L. H. S. Where is the Page?

L. Staff. This Fellow was but a poor Boy, found at the Door, then he was a Threſher, and now a Witneſs for the King.

(Then my Lord Stafford*'s Man ſtood up.)*

L. H. S. What is your Name?

Witneſs.

Witneſs. My Name is *Nicholas Furneſe.*

L. H. S. Do you remember the Day of the Race at *Etching*-Hill?

Furneſe. Yes, I do, my Lords.

L. H. S. Do you remember *Dugdale* was in your Lord's Chamber that Morning.

Furneſe. Yes, I do.

L. H. S. Do you remember whether your Lord did bid you go out or no?

Furneſe. No, he did not.

L. H. S. Were you there all the while *Dugdale* was there?

Furneſe. Yes, my Lords, I was.

L. Staff. Pray, my Lords, ask him whether I ſent for *Dugdale*, or he deſired to ſpeak to me.

L. H. S. Did my Lord ſend for *Dugdale*, or did he come to you to ſpeak to my Lord for him?

Furneſe. No, *Dugdale* ſpoke to me firſt.

L. H. S. What did he ſay to you, pray?

Furneſe. My Lords, about Eight or Nine of the clock in the Morning I came to go to my Lord's Chamber, and I came through my Lord *Aſton*'s Hall; and coming through, I met Mr. *Dugdale* coming to me, and ſaid, he had one Favour to deſire of me. He ſaid he would fain go to the Race, but ſaid he I do not know how to go, for my Lord is very angry with me, and if I ſhould ask him, he would be worſe, for he is diſpleaſed that I have meddled ſo far in theſe Matters already; therefore I deſire ſome means may be uſed that I may go, and I deſire that you would ſpeak to my Lord to get leave for me to go: for Mr. *Fox* is there, and hath a great deal of Money in his hands, and divers People will give Money to bett, and ſo it will be a great Loſs and Prejudice to me not to go. So I did promiſe him, my Lords, and I went into my Lord's Chamber, and told him; and when I had ſpoke to my Lord, my Lord bid him come in. And when he came in, my Lord asked him ſeveral Queſtions about the Race: my Lord asked him what hopes he had, for he ſaid, a great deal of Money was laid by ſeveral People; he reply'd, he could win, but he wanted Money to bett: ſays my Lord, I will bett twenty Pound for *Staffordſhire* ſake tho I were ſure to loſe. And then after ſome Diſcourſe to that purpoſe, my Lord told him, he would ſpeak to his Lord. After my Lord was dreſt, he went out of his Chamber, and went to my Lord *Aſton*, to ask him leave for *Dugdale*; and my Lord bid me make my ſelf ready to go to the Race. About Nine or Ten of the clock I was ready to go, and coming down the Back-ſtairs, my Lord met me: Go, ſays he, to *Etching*-Hill, and ſee what Betts there are, and take *Stephen Dugdale* with you to ſhew you the way; for I have asked his Lord leave for him to go. So *Stephen Dugdale* went along with me to the Stable, and took out his Horſe; mine was not ready, but I overtook him in half a Mile, and it was Eleven of the clock e'er we were at *Ridgely*. I asked him ſome Queſtions about one Mr. *Gerard*; and I think about Twelve of the clock we were at the Race, and I ſtaid till One with him and Mr. *Fox*, who was a Party concerned in the Race, and there were ſeveral Betts laid. I was watchful when my Lord ſhould come, leſt he ſhould want me; ſo I left them, and went to the Room where my Lord was to dine; and when I went to my Lord, I left him betting. About Two of the clock the Lords and Gentlemen all went to dinner (that were there) and when we had half dined, betwixt Two and Three, *Dugdale* came in, and we asked him how the Wagers went; he ſaid he would bett Gold to Silver, if he had it, but he had betted away all his Money, I know not how much. So there was a Gentleman that was Servant to my Lord *Aſton*, one *George Hobſon* by Name, he lent him two Guineas and odd Money, and I lent him ſome forty or fifty Shillings out of my own Pocket, which I told him, I would not lend, unleſs he would give it me at the Hill again, before the Race begun, becauſe I was fearful my Lord ſhould go to *Stafford* again from my Lord *Aſton*'s that night. About Four or Five a-clock I went up to the Race, and demanded my Money, and he paid it me before the Race begun, and after the Race was done I loſt him. My Lord went home, and I waited on him: This was about Five or Six, and about the Midway towards my Lord *Aſton*'s Houſe, he went into the Coach, and I got on horſeback, and we got home about Six or Seven of the clock, as I ſuppoſe. But at night after Supper I inquired for *Dugdale*, how he took his loſings, and how he did after it: They told me, he was gone to Bed, ſo I ſaw him no more that Night. The next Morning, my Lord bid me come betimes, for he would go to *Stafford* that Morning, where we dined, at Mr. *Abden*'s, and from thence took our way to go to my Lord's own Houſe.

L. Staff. Now, my Lords, if you pleaſe to ask this Boy whether I bid him go and call *Dugdale* to me, and leave him there.

L. H. S. My Lord *Stafford* did bid you, Mr. *Furneſe*, go and dreſs your ſelf, and make you ready for the Race; did you not leave *Dugdale* behind you in the Chamber when you went to dreſs your ſelf?

Furneſe. No, my Lord, *Dugdale* was gone thence; and my Lord was gone too, before me, to my Lord *Aſton*'s.

L. H. S. I ſtill ask you the Queſtion, (you are upon an Obligation very great, as much as if you were upon your Oath) Whether you were in my Lord's Chamber before *Dugdale* came in, and ſtaid till after he went out?

L. Staf. And whether I bid him go out or no?

L. H. S. Were you there before *Dugdale* went in?

Furneſe. He went along with me in; I conducted him in.

L. H. S. Did you ſtay all the while *Dugdale* was there?

Furneſe. As near as I remember, I ſtaid there all the while.

L. Staf. Ask him poſitively.

Furneſe. Yes, my Lords, I was there all the while *Dugdale* ſtaid; but I cannot ſay poſitively how long it was.

L. H. S. Mr. *Dugdale*, you are upon your Oath; he ſays he came in along with you, and you went out of the Chamber before him, and he was there all the while you were there.

Mr. *Dugdale.* My Lords, I am not poſitive which of my Lord's Servants it was that came for me; but one it was. But when I came into the Chamber to my Lord, my Lord was getting up, and he charged them both to go forth, and the Room was clear, and I ſaw no body.

L. Staf. My Lords, ask my Man.

Furneſe. My Lord never bid me go forth that Day, nor any elſe in my Life, when any was in the Room.

Mr. Dugdale. My Lords, if it pleaſe your Lordſhips, Mr. *Furneſe* was pleaſed to ſay I would bett Gold to Silver; but in that he was miſtaken, for the Odds was quite ſix to four againſt us.

L. H. S. Well, we are not upon the Race now, or the Wagers laid there. But, Gentlemen of the

Houſe of Commons, will you ask this Man any Queſtions?

Sir *William Jones.* No, my Lords, we have none to ask.

Sir *Thomas Lee.* We deſire to know where he lives now, what Countryman he is, and what Religion he is of.

L. H. S. Whom do you ſerve now?

Furneſe. My Lord *Stafford.*

L. H. S. Do you live with him ſtill?

Furneſe. Yes, I do, and have done this fourteen Years.

L. H. S. What Countryman are you?

Furneſe. A *Dutch*-Man.

L. H. S. Where born?

Furneſe. At *Bruſſels.*

Sir Francis Winnington. We would ask him what Perſuaſion or Religion he is of.

L. H. S. You may be ſure of what Anſwer you ſhall have.

Furneſe. I am a *Roman* Catholick.

L. Staf. That is as good as a *Jew.*

Mr. Treby. The Queſtion is not intended for any harm, not with any purpoſe to criminate him; 'tis only in regard of his Credit in this matter.

L. H. S. Call another Witneſs, my Lord.

L. Staf. Where is *George Leigh?* (*Who ſtood up.*)

L. H. S. How old are you?

Leigh. I am about fifteen or ſixteen.

L. *Staf.* My Lords, I believe he is eighteen or nineteen.

Mr. Treby. Whoſe Servant is he?

L. Staf. He is my Servant; he hath ſerved me ſeven or eight Years.

L. H. S. What does your Lordſhip call him for?

L. Staf. To tell you whether I bid my Servants to go out when *Dugdale* came in, and whether ever he ſaw *Dugdale* and I alone.

L. H. S. George Leigh, how long have you lived with my Lord *Stafford?*

Leigh. Seven Years the 10th of *June* laſt.

L. H. S. Why then you were but nine Years old when you came to him?

Leigh. No, my Lords, I think I was not.

L. H. S. Do you remember when my Lord *Stafford* was at *Tixall?*

Leigh. I do not remember the Month very well.

L. H. S. Do you remember the Time of the Race at *Etching-Hill?*

Leigh. I do not remember the Day; but I was at it.

L. H. S. Did Mr. *Dugdale* come into your Lord's Chamber that Morning?

Leigh. I do not remember he was there that very Morning.

L. Staf. Be pleaſed to ask him whether ever I bid him go out of my Chamber when *Dugdale* was there.

L. H. S. Did you ever ſee *Dugdale* any other Morning in your Lord's Chamber?

Leigh. My Lords, I think not; I am not certain: He was there one Morning, and it was about a Race; but I am not certain what Race it was, whether it was two Boys ran, or two Men.

L. H. S. Did your Lord bid you go out of his Chamber?

Leigh. No, my Lords.

L. Staf. Dugdale ſays I often ſent him for him; pray ask him that Queſtion.

L. H. S. My Lord, this Boy does not remember that *Dugdale* at all was at your Chamber that time of the Race at *Etching-Hill*; ſo that it is not material to the Thing in queſtion.

L. Staf. Yes, my Lords, *Dugdale* told your Lordſhips yeſterday that I ſent this Boy often for him.

L. H. S. Did ever this Boy come for you?

Mr. Dugdale. Yes, he hath, I am ſure, come to my Chamber for me to go to my Lord.

L. H. S. Were you ſent for by my Lord more than once?

Mr. Dugdale. Yes, ſeveral times.

L. H. S. Before or after the Race?

Mr. Dugdale. Both before the Race, and after the Race.

L. H. S. By whom were you ſent for?

Mr. Dugdale. Sometimes by the Gentleman that was laſt examined, and ſometimes by this Boy.

L. H. S. Did you ever come from my Lord *Stafford* to bid *Dugdale* come to him?

Leigh. My Lords, I do not remember that ever I did.

L. H. S. 'Tis an hard thing to remember ſo long.

L. Staf. If ever he came once to me, and was alone with me, I will be content to acknowledge all this to be true. Pray ask the other Man if ever I ſent him for him.

L. H. S. He did teſtify before, that he came with him that Day to your Lordſhip's Chamber.

L. Staf. That Day, my Lords: But he ſays, other Days I ſent for him.

L. H. S. Call *Furneſe* again. (*Who ſtood up.*) *Furneſe,* did my Lord *Stafford* ever ſend you for *Dugdale,* either before or after the Race?

Furneſe. Never, my Lords, to his Chamber.

L. H. S. Did he ever in his Life ſend you to Mr. *Dugdale,* to ſpeak with him, as you remember?

Furneſe. Never, my Lords.

L. *Staf.* He was, my Lords, ſuch a Fellow, I could not endure he ſhould come near me; ſuch an impudent lying Fellow.

L. H. S. Have you any more Witneſſes, my Lord?

L. Staf. Yes, a great many.

L. H. S. Call them all, I pray.

L. Staff. My Lords, I hope you think I would not be ſo great and impudent a Fool to employ ſuch a Fellow as this, who not long after run away from my Lord *Aſton*'s.

L. H. S. Who did?

L. Staff. Stephen Dugdale. And for that, if you pleaſe, I would call ſome Witneſſes.

L. H. S. Call *Furneſe* again. (*Who ſtood up.*) Did you ever ſee *Dugdale* and my Lord *Stafford* together?

Furneſe. Never in my Life.

L. H. S. Why you ſaw them together that Morning you brought him to the Chamber.

(*Then the Auditory laughed.*)

Furneſe. Never alone.

L. Staf. I did not think I was in a Cock-Pit, or a Play-Houſe. But if your Lordſhips pleaſe to let me call my Witneſſes, to prove that *Dugdale* ran away from my Lord *Aſton,* I ſhall call for that *Thomas Sawyer.* (*Who ſtood up.*)

L. H. S. What is your Name?

Witneſs. Sawyer.

L. H. S. Your Chriſtian Name.

Witneſs. Thomas.

L. H. S. Who do you live withal?

Sawyer. My Lord *Aſton.*

L. H. S. Where do you live?

Sawyer. At *Tixall.*

L. H. S. Are you my Lord *Aſton*'s Servant?

Sawyer. Yes.

L. H. S. How long have you been ſo?

Sawyer. Six Years, and ever ſince *Michaelmas.*

L. H. S. What have you to ſay?

Sawyer.

Sawyer. As to *Dugdale*'s Reputation, I have this to ſay, How that he went from my Lord *Aſton*'s for Debt, and was taken by the Watch at *Heywood*.

L. H. S. When was that?

Sawyer. The latter end of *November*, or the beginning of *December*.

L. H. S. What Year?

Sawyer. (78.)

L. H. S. Then the Family broke up.

Sawyer. And coming thither, and being taken by the Watch, he was brought by the Juſtices to *Tixall*; and after the Juſtices had been with my Lord, their Reſolution was to carry him to the Goal. So coming to *Tixall*, where *Dugdale* was at an Ale-Houſe, he deſired me to go to my Lord, and deſire him that he would own him as his Servant, for he was ſo much in Debt, that he ſhould elſe be undone for ever. In the mean time Mr. *Philips*, the Parſon of the Town, had been with my Lord, (for *Dugdale* had deſired him to go to him alſo) and he asking me whither I was going; ſaid I, I am going to my Lord from *Dugdale*, to deſire him to own him as his Servant. Said he, I have been with my Lord juſt now, and he ſaid, he will not own him as his Servant; it was his own Act and Deed. So Mr. *Philips* and I came back to him, and told him. So he ſat down in the Chair, and then roſe up again, and ſwore, He would be revenged of my Lord *Aſton*, if ever it lay in his power.

L. H. S. You never heard him ſay he would be revenged of my Lord *Stafford*, did you?

Sawyer. No, of my Lord *Aſton*. Then another time, being at *Stafford*, he owed me twenty nine Pounds, and he was under the Serjeant's hands; and then he promiſed me from time to time he would pay me, and did not keep his Word. This was three or four Days before he begun to peach. He bid me come ſuch a Day, and he would pay me part of the Money; and when I came thither, he told me it was reported that he ſhould be a Peacher; and that there was a Speech, how that he ſhould have two hundred Pounds for informing that there were fourteen Prieſts in the Country: But he takes a Glaſs of Drink, and, *Thomas*, ſays he, by God, I wiſh this may be my Damnation and my Poiſon, if I know of any Plot, or any Prieſts.

L. H. S. Was not he a Papiſt then?

Sawyer. I cannot abſolutely tell that, whether he was or no.

L. H. S. Do you know one Father *Evers*?

Sawyer. My Lords, I have ſeen him.

L. H. S. Hath he never been at *Tixall*?

Sawyer. Yes, my Lords, I have ſeen him there.

L. H. S. And have not you ſeen *Dugdale* in his Company?

Sawyer. Yes, I have.

L. H. S. Did not you at *Tixall* think *Dugdale* a ſtout able Fellow?

Sawyer. No, he never was accounted to be ſo.

L. H. S. Then I ask you, if you thought him an honeſt Man, or a rich Man?

Sawyer. No, truly, my Lords: For I'll tell you more than that; My Lord *Aſton* imployed him to be his Bailiff, and receive his Rents, and to pay Workmen their Wages, which he received every Saturday. And my Lord *Aſton* did account with him, where he did ſet his Hand to receive the poor Workmens Wages according to their Bills, when they had not been paid ſome of them whole Years, and half Years, and Quarters. And they came and cried to my Lord, that they were not paid. And thereupon *Dugdale* did ſay, that one of them had demanded more of my Lord than was his due; for he ſaid he had reckon'd ſuch a Day with him, and paid him ſo much Money; which Man ſaid he was not that Day at *Tixall*: And ſo he hindered him of part of his Money.

L. H. S. Did you ever know that *Dugdale* did forſwear himſelf?

Sawyer. That I do not know, my Lords. I did hear he was concerned in a Race, about which there was a Tryal and a Diſpute which had won. This I have heard by Report.

Sir *Fran. Win.* Speak your own Knowledge, not Reports.

L. H. S. I ask you, do you remember the Day when my Lord *Stafford* came to *Tixall*?

Sawyer. He came on the 12th Day of the Month.

L. H. S. What, *September*?

Sawyer. Yes, the 12th of *September*.

L. H. S. Did you ever ſee *Dugdale* in the Company of my Lord *Stafford*, while he was at *Tixall*?

Sawyer. No, never in the Houſe; but at the Race, he hath come into the Parlour.

Mr. Treby. You had Diſcourſe with *Dugdale*: You ſay he took a Glaſs, and drank, and wiſhed it might be his Poiſon. Was not Father *Evers* that time at my Lord *Aſton*'s?

Sawyer. Not as I know of, my Lords.

Mr. Treby. Was he not commonly there?

Sawyer. Yes.

Mr. *Treby.* If he were, Mr. *Dugdale* muſt know it; and how then could he take a Glaſs, and wiſh it were Poiſon, if he knew where any Prieſt was, ſince it was apparent he knew where that Prieſt was? 'Tis moſt improbable Mr. *Dugdale* ſhould ſay thus!

Sawyer. My Lords, this was three or four Days e'er he confeſſed any thing he knew of his Knowledge.

Mr. *Treby.* What Perſuaſion of Religion are you?

Sawyer. Of the Church of *England*.

Mr. Ser. *Mayn.* Pray, my Lords, ask him one Queſtion; he ſays *Dugdale* went away from my Lord *Aſton*'s, was not there a Speech of a Plot (at that time) that was diſcovered?

Sawyer. Yes, that I heard.

Sir *Fr. Win.* My Lords, I would ask him one Queſtion more: Was there no Diſcourſe of the Death of a Juſtice of Peace that was ſaid to be killed in *London* about that time?

Sawyer. To my beſt remembrance, as I heard, there was.

Mr. *Dugd.* My Lords, if your Lordſhips pleaſe that I ſhould call Witneſſes to confront him now, or afterwards?

Sir *Will. Jones.* Not now; ſtay till your time comes.

L. Staff. Then call *Philips*. (*Who ſtood up.*)

L. H. S. What is your Name, Sir?

Witneſs. Ralph Philips.

L. H. S. What are you, a Clergyman?

Mr. *Philips.* Yes.

L. H. S. Are you beneficed?

Mr. *Philips.* Yes, my Lord.

L. H. S. Where?

Mr. *Philips.* At *Tixall*, my Lord.

L. H. S. You are a Perſon that knows the Obligation that lies upon you to give a true Teſtimony; what can you ſay of Mr. *Dugdale*?

Mr. *Philips.* My Lords, I have very little to ſay concerning *Stephen Dugdale* as to any thing of the Plot,

Plot, but in reference to what he ſhould relate concerning Mr. *Sambridge* and me in the Narrative which he depoſed upon the Tryal of Sir *George Wakeman*: He ſaid then he did receive a Letter concerning the Death of Sir *Edmondbury Godfrey*, which was dated the 12th of *October*, as I remember; and that he did communicate the Letter to Mr. *Sambridge* and me immediately the next *Tueſday*: whereas I will aſſure you, my Lords, I never heard neither by Letter nor Word of Mouth from him nor any other, till it was publickly known.

L. H. S. You did not live in my Lord *Aſton*'s Houſe, did you?

Mr. *Philips*. No, my Lords.

Sir *Will. Jones*. We know not what he ſays, we deſire to underſtand what he means.

L. H. S. He takes notice that *Dugdale* at the Tryal of Sir *George Wakeman* did depoſe touching a Letter dated the 12th of *October*, which ſhould come down to *Tixall*, intimating the Death of Sir *Edmondbury Godfrey*, and that he did communicate that with the Parſon of *Tixall* and another; which Parſon comes now to ſay, he did communicate no ſuch Matter to him.

Sir *Will. Jones*. We deſire to ask him whether he was preſent at that Tryal, and heard him ſay ſo?

Mr. *Philips*. I was not preſent at the Tryal, but if the Narrative of the Tryal be Truth, he did ſay ſo.

L. H. S. So then, you only come to diſprove what is printed that *Dugdale* ſhould ſay.

Mr. *Philips*. Then I leave it to your Judgments, whether what he ſaid in the Narrative of that Tryal do concur with the Truth.

L. *Staf.* I deſire then to ask him whether *Stephen Dugdale* did not run away from my Lord *Aſton*'s, and would have him go to my Lord to own him for his Servant.

L. H. S. What do you know of *Dugdale*'s running away?

Mr. *Philips*. I know nothing at all of that, my Lords.

L. *Staf.* Whether he did ſpeak to him to own him for his Servant when he was in the Juſtices hands?

L. H. S. Can you ſay any thing touching the Credit of *Dugdale?*

Mr. *Philips*. I have nothing to ſay concerning *Dugdale*'s Credit.

L. H. S. Did you know him?

Mr. *Philips*. Yes, ever ſince I came to *Tixall*.

L. H. S. How long is that?

Mr. *Philips*. About fourteen Years.

L. H. S. What Reputation had he in the Country? Was he looked upon as one that would perjure himſelf?

Mr. *Philips*. I never knew any thing of that.

L. H. S. Was he thought a ſtout Man?

Mr. *Philips*. He was in good repute with ſome, and indifferent with others.

L. H. S. Will you call any more Witneſſes, my Lord?

L. *Staf.* I would only ask him one Queſtion; whether he did go to my Lord *Aſton* from *Dugdale* to know if he would own him for his Servant.

L. H. S. What ſay you, Sir, did you?

Mr. *Philips*. Yes, my Lords, he knows very well I did; he did requeſt me to go to him. My Lord *Aſton* I was loth to go to, becauſe I had no Familiarity with him, nor Intereſt in him; but he did requeſt and urge me ſo much, that I did go by much Motives and Perſuaſions from him, and I did ſpeak to my Lord: ſo I told him the Meſſage I had was from Mr. *Dugdale*, who would requeſt of my Lord that he would own him for his Servant; for if he did not, he knew not what to do with himſelf; but if he did, he might be free from the Goal and from the Oaths, and eſcape the Troubles that were upon him. So my Lord reply'd to me, 'tis his own Act and Deed, and I have nothing to do with him, and let the Juſtices do what they will with him; which were Sir *Walter Bagott*, and Mr. *Kinnerſley*.

Mr. *Foley*. We deſire to know whether he heard any Diſcourſe about a Plot at that time, or no?

Mr. *Philips*. Truly, my Lords, I heard a Talk of a Plot, but not at that time.

Mr. *Foley*. My Lords, I deſire to know if he took Mr. *Dugdale* for a Perſon that might be in the Plot, if there was any ſuch thing?

Mr. *Philips*. I cannot tell how to anſwer that, 'tis a hard Queſtion; I am not ſo intimately acquainted with Perſons whoſe Secrets are not repoſed in me.

L. *Staf.* The next Witneſs I deſire may be (with the leave of the Gentlemen of the Houſe of Commons) Sir *Walter Bagott*, I did deſire him to be here.

Sir *Will. Jones*. There he is, we do not oppoſe it.

L. H. S. Is it your Lordſhip's pleaſure that Sir *Walter Bagott* be heard in his Place?

Lords. Yes.

Sir *Walter Bagott*.

L. H. S. What would you ask Sir *Walter*, my Lord?

L. *Staff.* My Lords, I deſire to ask Sir *Walter Bagott*, whether he did not apprehend *Dugdale*, and upon what account it was?

L. H. S. Sir *Walter Bagott*, my Lord deſires to know of you, whether you did apprehend *Dugdale*, and upon what account?

Sir *Walter Bagott*. My Lords, Mr. *Dugdale* was taken at an unſeaſonable time of Night, and brought to me the next morning by the Watch, as the other Witneſſes have told your Lordſhips. And I took him away to *Stafford*, where there were ſeveral other Juſtices of the Peace; there we offered him the Oaths of Allegiance and Supremacy, which he took. After the taking of theſe Oaths, we told him, that he was a likely Man to know ſomething of the Plot, and it was a very proper time for him to diſcover it to us that were Juſtices: he at that time did deny the Knowledge of it, that is all I can ſay.

L. *Staf.* I deſire Sir *Walter Bagott* may be asked whether he did not go to my Lord *Aſton*, to ſee whether he would own *Dugdale* as his Servant.

L. H. S. Did you ask my Lord *Aſton* to own him for his Servant.

Sir *W. Bagott*. Yes, I did: for my Lord's Houſe being in the way to *Stafford*, whither I was going, I called upon him to know if Mr. *Dugdale* were his Servant: he told me he was no Servant of his, and he would not receive him; upon which I and another Juſtice of the Peace that was with me, took him to *Stafford*. The occaſion of our meeting there, was to ſummon in the Militia, upon an Alarm of the Papiſts being riſen in *Derbyſhire*.

L. Staff. I make this uſe of it, my Lords, that my Lord *Aſton* would not receive him: and if my *Aſton* had known he had been in the Plot, and could have diſcovered him, he would not have diſobliged him.

L. H. S. Nay, he ſays more than that, which you don't hear; he ſays, when they examined him, they gave him the Oaths of Allegiance and Supremacy, and then told him he would do well to diſcover his Knowledge of the Plot, and then he did not own any thing he knew; nay, he deny'd it.

Mr.

Mr. *Foley*. Did he deny the knowing of it?

Sir *Wal. Bag*. Yes, he did then.

Sir *F. Win*. He was not reſolved to diſcover at that time.

Mr. Serj. *Mayn*. We deſire Sir *Walter Bagott* may be ask'd whether he examined him upon his Oath, or no.

Sir *W. Bag*. No, I did not.

Mr. Serj. *Mayn*. But had they then juſt given him the Oaths of Allegiance and Supremacy?

Sir *W. Bag*. Yes, my Lords, we gave him thoſe Oaths, and thoſe only.

L. Staff. Then Mr. *Kinnerſley*, if you pleaſe. (*Who ſtood up.*) Be pleaſed to ask this worthy Gentleman what he knows about *Dugdale*'s going from my Lord *Aſton*.

L. H. S. Firſt let us know this Gentleman.

L. Staff. His Name is *Kinnerſley*.

Mr. *Kin*. What Queſtions would your Lordſhip ask me?

L. Staff. What you know about *Dugdale*'s going from my Lord *Aſton*.

L. H. S. Mr. *Kinnerſley*, we muſt know your Chriſtian Name.

Mr. *Kin. Thomas*.

L. H. S. Do you know Mr. *Dugdale?*

Mr. *Kin*. My Lords, I was not acquainted with Mr. *Dugdale*, till Sir *Brian Broughton*, Sir *Walter Bagott*, and I and others gave him the Oaths of Allegiance and Supremacy, the latter end of *November*, or the beginning of *December*; I did not take notice exactly of the time.

L. H. S. What Year?

Mr. *Kin*. 78.

L. H. S. Well, Sir, go on.

Mr. *Kin*. When he had taken the Oaths of Allegiance and Supremacy, I ask'd him if he knew any Treaſon or Conſpiracy againſt the King, telling him it was a ſeaſonable time to declare it. He told me he knew of none. This is all I know, and all the Diſcourſe that I remember we had with Mr. *Dugdale*.

Mr. Serj. *Mayn*. Pray why did you ask him that Queſtion?

Mr. *Kin*. The Plot was then newly broken out.

Mr. Serj. *Mayn*. Why did you ask him ſo particularly?

Mr. *Treby*. Why did you think Mr. *Dugdale* concerned in it?

Mr. *Kin*. Becauſe we heard he was a Papiſt, and my Lord *Aſton*'s Servant.

L. Staff. Then I deſire Sir *Thomas Whitgrave* may be examined. (*Who ſtood up.*)

L. H. S. What ſay you to Sir *Thomas Whitgrave*, my Lord?

L. *Staf*. Will your Lordſhips pleaſe to ask Sir *Tho. Whitgrave*, whether he did not examine *Dugdale* about the Plot, and what he ſaid at that time.

Sir *Tho. Whitgrave*. My Lords, I came to *Stafford* the latter end of *November*, or the beginning of *December*, I am not certain which; but I think it was this time two Years. The Deputy-Lieutenants met about the Militia of the County. They told me that Mr. *Dugdale* was in Town, and was under an Arreſt: the occaſion of his coming to Town, was his Refuſal of the Oaths of Allegiance and Supremacy, which he had ſince taken. I propos'd to them the ſending for him, for I thought this was a fit Opportunity to get ſomething of him about the Plot. They ſeemed to approve of what I ſaid; but withal, I told them it was not good to ſend for him till the Evening late, that the People of the Town might not take notice of his coming. At night we did ſend for him, and the Gentlemen deſired that I would examine him at the end of the Table: ſo I called him up, and told him, I was ſorry he was fallen into that Misfortune to be arreſted, and that Mr. Mayor had not dealt well with him or us to take that advantage of him; that now he had taken the Oaths, I look'd upon him as one of us, and would do him any Kindneſs I could. He ſaid, Truly for his part, he was born a Proteſtant, and of Proteſtant Parents; and it was his Misfortune to fall into the Houſes of Papiſts, but he never lik'd their Religion. I then told him, Sir, you may do your ſelf a kindneſs, ſerve God, and oblige your King and Country: I am very confident you know of this horrid Plot; pray do not ſtifle your Conſcience with any Oath of Secrecy, but let it come out. Many, I told him, ſtrain'd their Conſciences to ſerve their Intereſts; but you may clear your Conſcience, and at the ſame time promote your true Intereſt. He reply'd, As he hop'd to be ſav'd he knew nothing of it. And this is as much as I know of the Matter.

L. H. S. Do you ask him any Queſtions, Gentlemen?

Manag. No, my Lord.

L. *Staf*. My Lords, I ſhall humbly move your Lordſhips now, that you will pleaſe to take notice, this Fellow *Dugdale* hath endeavour'd to perſuade People to ſwear againſt me falſly, and offer'd them Money for it. In order to the Proof of which, I deſire your Lordſhips would call *John Morrall*, *Samuel Holt*, and *William Robinſon*.

(*Then* Robinſon *ſtood up.*)

L. *Staf*. This Man I never ſaw before in my Life.

L. H. S. What is your Name?

Witneſs. Robinſon.

L. H. S. What is your Chriſtian Name?

Robinſon. William.

L. H. S. Where do you live?

Robin. In *Worceſterſtire* now.

L. H. S. With whom?

Robin. With myſelf now.

L. H. S. Do you know *Dugdale?*

Sir *F. Win*. We deſire he may give you an account what Profeſſion he is of.

Robin. An Upholſterer.

Sir *F. Win*. How long hath he liv'd in *Worceſterſhire*, and in what Place there?

Robin. I have lived half a year in *Worceſterſhire*, half a mile beyond *Worceſter*.

Sir *F. Win*. And whether he follows that Trade or Profeſſion now, or no?

Robin. No, I do not follow it now.

Sir *F. Win*. What do you live upon, and how?

Robin. I live of myſelf now?

L. H. S. How is that?

Robin. Of my own Money.

Mr. *Hambden*. We deſire to know whether this Man was a Servant to my Lady *Gerard*, or no.

Robin. Never.

Mr. *Hamb*. Or to my Lord *Gerard* of *Gerards-Bromley?*

Robin. Never, not an hired Servant, my Lords.

Mr. *Foley*. Were you a Voluntier Servant, or what were you?

Mr. *Treby*. Did you work at any time there for my Lord or Lady *Gerard?*

Robin. No.

L. H. S. How came you to live there?

Robin.

Robin. I went over from a Cocking out of *Cheſhire*.

L. H. S. How long were you there?

Robin. Three Weeks or a Month.

L. H. S. What was your Employment there?

Robin. Nothing at all; I followed no Employment.

Mr. *Treby.* What kind of Servant were you then?

L. H. S. Come, do you know *Dugdale*?

Robin. Yes.

L. H. S. How long have you known him?

Robin. I have known him about five Years.

L. H. S. What ſay you to him?

Robin. I ſay, I met Mr. *Dugdale* about Midſummer was twelvemonth, in *London*, about *Charing-Croſs*, and he carried me to the *Harp* and *Ball*, and gave me Beer and Mum, and ſuch as the Houſe did afford, and treated me; and ask'd me what made me ſo dejected and caſt down. I told him I was not well; I was poorer than I us'd to be. He told me again, I ſhould not want any Money that he had; and if I would pleaſe to be rul'd by him, and do what he would have me, he would furniſh me with Money. And he took his Handkerchief out of his Pocket, and bid me, if I wanted, take Money there. I took none; but told him, I would not meddle nor make with any thing that Night. Then he told me he could furniſh me with Money, and put me in a way to get Money, if I would come in as an Evidence againſt my Lord *Stafford*.

L. *Staf.* Be pleaſed to ask him, for I never ſaw the Man before, nor heard of him till laſt Week, what he ſhould ſay againſt me, and whether he knew me, or not.

L. H. S. Did he tell you what you ſhould ſay againſt my Lord *Stafford*?

Robin. Nothing at all, my Lords.

L. *Staf.* Did he ſay any thing, or nothing? Or did he ask whether he knew me or not?

L. H. S. Did you tell him you knew my Lord *Stafford*?

Robin. No, if it pleaſe you, I told him I did not know him.

L. H. S. And after you ſaid you did not know him, he offered you Money to ſwear againſt him, did he?

Robin. Yes, my Lords, he did ſo, to come in as an Evidence againſt him.

L. *Staf.* Will your Lordſhips pleaſe to ask how much Money there was in the Handkerchief?

L. H. S. How much Money was in the Handkerchief?

Robin. I believe there might be eight, or nine, or ten Pounds.

L. H. S. Did he offer you all the Money, or bid you take ſome?

Robin. He bid me take ſome.

L. H. S. Did he make any Agreement with you for what you ſhould take?

Robin. No, not at all, my Lords.

Mr. *Foley.* Did he ſee *Dugdale* any more, or was there an end of it then?

Robin. No, I ſaw him no more.

L. H. S. Will you ask him any more Queſtions?

Sir *W. Jones.* We ſhall have occaſion to ſpeak of him (we deſire him not to go away) when our time comes.

(*Then another Witneſs ſtood up.*)

L. H. S. What is your Name?

Witneſs. John Morrall.

L. H. S. What are you?

Morrall. A Barber.

L. H. S. Where do you live?

Mor. At *Ridgeley*.

L. H. S. Where is that?

Mor. In *Staffordſhire*, within ſix Miles of *Stafford*.

L. H. S. What do you ask him?

L. Staff. Whether *Dugdale* did not perſuade him to ſwear againſt ſome of the Lords in the *Tower*?

L. H. S. Do you know *Dugdale*?

Mor. Yes, my Lords; I have known him twelve or thirteen Years.

L. H. S. What can you ſay againſt him?

Mor. My Lords, this Mr. *Dugdale* the 6th of *Auguſt* laſt was twelvemonth ſent for me to the *White Horſe* in *Ridgeley*; and there, when I came to him, he told me I knew as much of the Plot as he. I told him I was innocent of the thing. He ſwore God damn him, that I knew as much as he. Then I told him, if he knew no more than I did, he knew no more than my Lord Mayor's great Horſe did. Then he took me aſide: Come, ſays he, you are a poor Man, and live poorly, I can put you in a way whereby you may live gallantly; I will give you 50 *l.* in hand, if ſo be you will do ſo and ſo, and 50 *l.* more when the thing is done.

L. H. S. What do you mean by ſo and ſo?

Mor. To ſwear againſt Mr. *Howard*, Sir *James Symons*, and ſeveral other Gentlemen of the Country.

L. H. S. Did he offer you any Money to ſwear againſt my Lord *Stafford*?

Mor. No, I did not hear him mention any thing of him.

L. H. S. But he offer'd you Money to ſwear againſt *Symons* and *Howard*?

Mor. Yes, my Lord; and *Herbert Aſton*, my Lord *Aſton*'s Kinſman.

L. H. S. What were you to ſwear?

Mor. That they were at ſuch a Meeting at Mr. *Herbert Aſton*'s, upon the Conſpiracy of the Plot.

L. H. S. Will you ask him any thing?

Man. No, ſet him by.

(*Then another Witneſs ſtood up.*)

L. H. S. What is your Name?

Witneſs. Samuel Holt.

L. H. S. What Profeſſion are you of?

L. Staff. Pray, my Lords, ask him whether *Dugdale* would perſwade him to ſwear that which he knew not.

L. H. S. What Profeſſion are you of?

Holt. A Proteſtant of the Church of *England*.

L. H. S. What Trade?

Holt. A Blackſmith.

L. H. S. Where do yo live?

Holt. At *Tixall*.

L. H. S. Are you my Lord *Aſton*'s Servant?

Holt. No, my Lords.

L. H. S. What ſay you?

Holt. My Lords, he ſent a Man and a Horſe for me to *Stafford* to the *Star*——

L. H. S. Who did?

Holt. Mr. *Dugdale* did. And there I waited upon him a good while. At length he came and told me he muſt ſpeak with me privately: ſo he told me, if I would ſwear that *Walter Moor* carried *Evers* away, he would give me 40 *l.* And he bid me not be afraid to ſwear, for fear of my Lord *Aſton*; for he would hire me an Horſe, and get me to *London*, and place me, that where I got one Shilling, I ſhould get five.

L. H. S. Did you know *Evers*?

Holt. Yes, my Lords, I have ſeen him:

L. H. S.

L. H. S. Do you know when he went away from *Tixall?*

Holt. No, my Lords.

L. H. S. What elſe can you ſay?

Holt. Nothing elſe.

L. H. S. Will you ask him any Queſtions, Gentlemen?

Manag. No.

L. Staff. The next thing I go upon, is, that *Stephen Dugdale*, at the Tryal of the five Jeſuits, ſwore, That he acquainted *Sambidge* with the Letter about the Death of Sir *Edmondbury Godfrey*, the Monday or Tueſday after, which Mr. *Sambidge* denies. And in order to that, I call Mr. *Sambidge*; but if your Lordſhips pleaſe, I ſhall firſt prove that he ſwore it then. Where is Mr. *Lydcott?* (*Who ſtood up.*) I deſire to ask him whether *Dugdale* did ſwear at the Tryal of the five Jeſuits, that he acquainted Mr. *Sambidge* with the Letter about the Death of Sir *Edmondbury Godfrey*.

L. H. S. You, Fellow!

Witneſs. My Lord.

L. H. S. What is your Name?

Witn. John Lydcott.

L. H. S. How do you live?

Lydcott. I am a Fellow of *King's College* in *Cambridge.*

L. H. S. What do you come to ſay?

Lyd. I don't know, my Lords, what my Lord will ask me.

Sir *W. Jones.* My Lords, before you enter into the Examination of this Man, we deſire to ask him a Queſtion or two.

Mr. Serj. *Mayn.* Whoſe Servant are you, or were you lately?

Lyd. I am a Fellow of *King's College.*

Mr. Serj. *Mayn.* But whom did you ſerve lately? Were you never Secretary to a Lord?

Lyd. Yes, I was.

Mr. Serj. *Mayn.* To what Lord?

Lyd. To my Lord *Caſtlemain*, Sir.

L. H. S. What Religion are you of?

Lyd. Of the Church of *England*, and always was; nay, I can't ſay always, for I was bred up a Preſbyterian: my Father was a Colonel under *Monk.*

L. Staff. Mr. *Lydcott*, I ask whether you did not hear Mr. *Dugdale* ſwear at the Tryal of the five Jeſuits.

Mr. Serj. *Mayn.* I deſire one Favour, my Lords: my Lord *Stafford* asks Queſtions to lead the Witneſſes; pray let him ask his Queſtions more generally.

L. H. S. You ſay you are a Proteſtant?

Lyd. Yes, my Lords.

L. H. S. When did you laſt receive the Sacrament?

Lyd. When I was laſt at *Cambridge* —— No, not ſo; for it is not above a Year ago that I was there.

L. H. S. When then did you receive the Sacrament?

Lyd. I do not exactly remember, my Lords.

L. H. S. My Lord, I would be glad to know what is the Queſtion your Lordſhip calls him for, that your Lordſhip may not ask the Queſtion, but by me.

L. Staff. My Lords, I deſire to know (for my part I know not what his Anſwer will be) whether he did hear, at the Tryal of the five Jeſuits, *Dugdale* ſwear he had communicated the News of Sir *Edmondbury Godfrey*'s Death, which was on the Saturday, on the Tueſday after to any People, and to whom.

L. H. S. Were you at the Tryal of the five Jeſuits?

Lyd. Yes, I was.

L. H. S. Did you hear *Dugdale* ſwear there, and give his Teſtimony?

Lyd. Yes, I did.

L. H. S. Do you remember what *Dugdale* ſwore then?

Lyd. Very well.

L. H. S. What was it?

Lyd. My Lords, Mr. *Dugdale* ſpoke of a Letter that came down to my Lord *Aſton*'s on the Monday, and he imparted it on the Tueſday after, at an Alehouſe, to one Mr. *Sambidge*, and Mr. *Philips:* this was alſo at Sir *George Wakeman*'s Tryal, which I took notice of more particularly, becauſe I had occaſion to take ſome Notes there.

L. H. S. What uſe do you make of this, my Lord?

L. *Staf.* If that be allow'd to be ſo, then I will call no more Witneſſes; otherwiſe I have more.

L. H. S. Call them all.

L. *Staf.* Then call Mr. *Charles Gifford.*

Mr. Serj. *Mayn.* Pray, my Lords, give me leave to ask this young Scholar one Queſtion before he goes. By whoſe Commendation or Means did you come into that College?

Lyd. By Election from *Eaton.*

Mr. Ser. *Mayn.* Who promoted you?

Lyd. One Mr. *Doyley*, now Senior Fellow of *King's College*; it was his Election.

Sir *F. Win.* My Lords, I would ask him one Queſtion. He ſays he went to take Notes; by whoſe Direction did he go to take Notes at Sir *George Wakeman*'s Tryal?

Lyd. It was for my own Curioſity.

L. H. S. Friend, 'tis all one as if you were upon your Oath, and as penal to you: By whoſe Direction did you go?

Lyd. It was partly my own Curioſity, and partly to ſee what Evidence was againſt my Lord; for my Lord *Caſtlemain* thought himſelf concerned as well as others, and therefore deſired me to go.

Sir *F. Win.* Now it is out.

Sir *W. Jones.* It was done like a Secretary.

L. H. S. Had you ever that Curioſity before?

Lyd. Yes, I'll aſſure your Lordſhips, I had a great Curioſity to hear it.

L. H. S. Were you at any other Tryal?

Lyd. Yes, at the five Jeſuits Tryal, and *Langhorn*'s.

(*Then another Witneſs ſtood up.*)

L. H. S. What is your Name?

Witneſs. Charles Gifford.

L. *Staf.* Ask him whether he did not hear at the Tryal of the five Jeſuits, or Sir *George Wakeman*, *Dugdale* ſay, that he did communicate that Letter to ſome People, I name not who, the Tueſday after?

L. H. S. Were you at the Tryal of the five Jeſuits?

Gifford. Yes, my Lords.

L. H. S. Did you take Notes?

Gif. Yes, my Lords, I was ſummoned there as an Evidence; I had occaſion of being there, both at the five Jeſuits Tryal, and *Wakeman*'s and *Langhorn*'s.

L. H. S. You took Notes you ſay?

Gif. Yes, I did.

L. H. S. What do you remember that Mr. *Dugdale* did then ſwear?

Gif. I remember at the five Jeſuits Tryal, he did ſwear he received a Letter ſent to *Evers*, which he intercepted, and it ſpoke of the Death of a Juſtice of Peace; and he returned anſwer to *Evers* again, he would be hang'd if it did not ſpoil the Buſineſs. And he ſaid farther, he could not hold, but went to an Alehouſe, and there he did impart it. But then he did ſay there was one that could teſtify and make out what he ſaid: Upon which he call'd Mr. *Chetwyn*, who depos'd much to the ſame purpoſe. And then at Sir *George Wakeman*'s Tryal he did poſitively declare, that he ſpoke of it at an Alehouſe to a Miniſter, Parſon *Philips*, and my Lord *Aſton*'s Kinſman.

L. H. S. What is his Name?

Gif. Mr. *Sambidge*.

L. *Staf.* Well, my Lords, I have no more to ſay to him: but I conceive by this 'tis plain, that *Dugdale* did then ſay, he had communicated it to Mr. *Philips* and Mr. *Sambidge*. I ſhall call Mr. *Sambidge* to give you an account.

(*Mr.* Sambidge *ſtood up.*)

L. *Staf.* Be pleaſed to ask him whether he did hear Mr. *Dugdale* ſay on the Tueſday, that Sir *Edmondbury Godfrey* was murdered the Saturday before.

L. H. S. You hear the Queſtion, anſwer it.

Mr. *Samb.* Who muſt I ſpeak to?

L. Staff. He is very deaf, and very old, my Lords.

[*Then the Black Rod was ſent to be near him, to put the Queſtion to him.*]

Black Rod. What would you have him ask'd, my Lord?

L. Staff. Whether Mr. *Dugdale* did tell him on the Tueſday, that Sir *Edmondbury Godfrey* was murder'd the Saturday before.

Black Rod. Did Mr. *Dugdale* tell you of the Tueſday, that Sir *Edmondbury Godfrey* was murdered the Saturday before?

Mr. *Samb.* No, my Lords, he never told me any ſuch thing, I take it upon my Salvation. I never heard it till Friday or Saturday he was found at *Bury-Hill*.

L. Staff. Ask him if he were with *Dugdale* at the Alehouſe the Tueſday before.

Mr. *Samb.* *Dugdale* never ſpoke any ſuch thing to me.

L. H. S. Were not you with him at the Alehouſe?

Mr. *Samb.* No.

L. H. S. Not on Monday.

Mr. *Samb.* No.

L. H. S. Nor on Tueſday?

Mr. *Samb.* No.

L. H. S. Nor Wedneſday?

Mr. *Samb.* Not as I know of.

Sir *W. Jones.* We ſhall prove he was.

L. Staff. Pray ask him what Reputation *Dugdale* hath in the Country.

Mr. *Samb.* Oh, the wickedeſt Man that ever liv'd upon the face of the Earth: I know great part of it myſelf; and a hundred and a hundred of People will ſay as much.

L. H. S. What Religion are you of?

Mr. *Samb.* I was never a Papiſt in my Life, nor ever a Fanatick.

L. H. S. What do you know of *Dugdale* in particular, that is ill.

Mr. *Samb.* Yes, my Lords, I'll tell you; he was a very abuſive Man, eſpecially to the Clergy, and moſt eſpecially to Mr. *Philips*, with whom I boarded. My Lord *Aſton*, that is dead, came and told me of it. Said I, You are miſinformed, for this *Dugdale* is a Knave and a Rogue, and all the Country rings of him for his Wickedneſs. Upon which, he cites me into *Litchfield* Court for defaming him; and he entertains all the Proctors, that I could not get one to put in my Anſwer: but before the Day came, he diſcharg'd the Court, and never appeared; for we had that againſt him that he durſt not appear.

L. H. S. What Particulars do you know?

Mr. *Samb.* He ſaid the Clergy of *England* was a lewd Clergy, and a pack of Rogues.

L. H. S. Gentlemen of the Houſe of Commons, will you ask him any Queſtions?

Manag. No.

L. H. S. Hath my Lord no more to ſay to him?

L. Staff. No, my Lords.

L. H. S. My Lord *Stafford*, go on: Hath your Lordſhip done with *Dugdale*, or have you any more Witneſſes?

L. *Staff.* No, my Lords; I have a great deal more to ſay to him.

L. H. S. Go on then.

L. *Staff.* My Lords, I conceive by this, 'tis prov'd to your Lordſhips, that *Dugdale* did at that Tryal declare, he had acquainted Mr. *Sambidge* and Mr. *Philips* with the Letter about the Death of Sir *Edmondbury Godfrey*, the Tueſday after he was murder'd. And I conceive I have prov'd to your Lordſhips, by their denying it, that he did not tell them ſo; and ſo he is forſworn in that. I ſhould now have humbly deſired your Lordſhips, that you will pleaſe to call *William Day*; but upon asking the Queſtion, I find he is not yet come to Town, and ſo I ſhall not trouble your Lordſhips with him: I deſire that *Thomas Sawyer* may be call'd again.

(*Who ſtood up.*)

L. *Staf.* Pray be pleas'd to ask him, whether he did not hear *Dugdale* wiſh he might be damn'd, if he knew any thing of the Plot.

L. H. S. He ſaid that before.

L. *Staff.* Then I beg your Lordſhips pardon, I ſhall not call him again.

L. H. S. Go on, my Lord.

L. *Staff.* My Lords, there are a great many other Witneſſes which I could call; but it is to no purpoſe, and ſo I ſhall call no more as to *Dugdale*. I conceive upon the whole Matter, his Reputation and Credit are gone; for he is forſworn before the Juſtices of Peace, in that he ſaid there was no Plot, and wiſh'd he might be damn'd if he knew of any Plot. I conceive 'tis alſo prov'd, that upon the twentieth of *September*, when he ſays, I did communicate with him about the King's Death, he was only then with me upon his own Deſire, and my Servants were by: there was nothing diſcourſed of, but about the Foot-Race. And likewiſe, as to what he ſwore in *Auguſt*, that I was at ſuch a Meeting at *Tixall*, he is forſworn, for I was not there; and ſo I hope that Witneſs is laid aſide, no Creature will give any Credit to him, neither your Lordſhips nor the Houſe of Commons.

L. H. S. Have you done with Mr. *Dugdale*?

L. *Staf.* Yes, my Lords.

L. H. S. Whom will you proceed againſt next?

L. *Staff.* Dr. *Oates*.

L. H. S. Call Dr. *Oates*.

L. *Staf.* Only give me leave to ſay one thing, my Lords, that you were pleaſed to ſay, I ſhould have Copies of the two Depoſitions of the twenty-fourth and twenty-ninth of *December*: And I had one to enquire, but cannot find that of the twenty-ninth. (*Then Dr.* Oates *ſtood up.*)

L. H. S.

L. H. S. What ſay you to Dr. *Oates*, my Lord?

L. *Staf.* This Dr. *Oates*, if your Lordſhips pleaſe, I deſire may be ask'd, when was the firſt time he ever ſaw me in his Life.

L. H. S. When was the firſt time, Dr. *Oates*, you ſaw my Lord *Stafford?*

Dr. *Oates.* My Lords, the firſt time I ſaw this Gentleman at the Bar, was, as near as I remember, at Mr. *Fenwick*'s.

L. H. S. That was in *Drury-lane?*

Dr. *Oates.* Yes, my Lords.

L. H. S. When was that?

Dr. *Oates.* That was, as near as I remember, in *June.*

L. H. S. Was it that time the Commiſſion you ſpoke of was delivered?

Dr. *Oates.* Yes, my Lords.

L. H. S. Did you ſee that Commiſſion?

Dr. *Oates.* Yes, my Lords.

L. H. S. Did you read it?

Dr. *Oates.* Yes, my Lords.

L. H. S. From whom was it?

Dr. *Oates.* I cannot be poſitive as to that; but, as near as I remember, it was ſign'd as the reſt was ſign'd.

L. H. S. How was that?

Dr. *Oates. Johannes Paulus Oliva.*

L. H. S. You read it?

Dr. *Oates.* Yes, I did, my Lords.

L. H. S. It was a Commiſſion to be Paymaſter of the Army, was it not?

Dr. *Oates.* Yes, it was.

L. H. S. And it was delivered to my Lord?

Dr. *Oates.* Yes, it was.

L. H. S. By the Name of Mr. *Howard* of *Effingham?*

Dr. *Oates.* Yes, my Lords.

L. H. S. What ſays your Lordſhip to this?

L. *Staf.* What is it poſſible for me to ſay againſt this? I declare to your Lordſhips, in the Preſence of God, I never ſaw the Man in my Life. I never went by any Name, ſince I had the honour of being a Peer, but by the Name of *Stafford.* I never heard of Mr. *Fenwick* the Jeſuit, nor by the Name *Thompſon*, till this Plot was diſcovered, and he taken. This you may believe, or not, if you pleaſe; but this is as true as I am alive. My Lords, I deſire I may have out of the Journals the Depoſition on which I was committed.

L. H. S. Turn to the Journal.

L. *Staf.* It was read, as I remember, Friday 25. *Octob.* 78.

Then the Clerk turned to the Journal, and read.

Die Veneris 25° die Octobris 1678.

Clerk. THE Lord Viſcount *Stafford* acquainted the Houſe, That he was informed that there was a Warrant iſſued out from the Lord Chief Juſtice of *England* to apprehend him, which he thought fit to acquaint their Lordſhips with, and ſubmitted himſelf to their Lordſhips Judgment.

The Lord Chief Juſtice being preſent, was commanded to give the Houſe an account of the Buſineſs; who ſaid, That laſt Night, about nine of the Clock, he receiv'd a Letter from the Speaker of the Houſe of Commons, dated from the Speaker's Chair, to come to the Houſe of Commons about Buſineſs of great Concernment. Accordingly he attended the Houſe of Commons, where the Speaker told him, That the Houſe of Commons had receiv'd Accuſations of High Treaſon againſt five Lords, and ſome Gentlemen, and deſir'd him to iſſue out his Warrants for their Apprehenſion. The Perſons were, the Earl of *Powis*, Viſcount *Stafford*, the Lord *Arundel* of *Warder*, the Lord *Peters*, and the Lord *Bellaſis.* And upon this he iſſued out his Warrants for their Apprehenſion, having taken the Examination of *Titus Oates* upon Oath. That the Earl of *Pewis* and the Lord *Arundel* were brought to him this Morning in Cuſtody; and he advis'd them to render themſelves to the *Gatehouſe*, where now they are.

Upon this the Examination of *Oates* was read, whereby it did appear, that the Lord Viſcount *Stafford* was charg'd to be in a Conſpiracy of Treaſon againſt the King.

The Lord Viſcount *Stafford* deny'd the Fact, and after this withdrew. And after a while the Houſe was inform'd that his Lordſhip would render himſelf to the Lord Chief Juſtice.

L. H. S. This is all that is in the Journal.

L. *Staf.* Then, my Lords, if your Lordſhips pleaſe to remember, all of you that were there, that I was accuſed by Dr. *Oates*, whoſe Depoſitions I deſire to ſee, taken before my Lord Chief Juſtice, that he had ſeen Letters of mine written to *Fenwick*, *Harcourt*, and ſome others, three or four Jeſuits, in which I was conſenting to the Plot; that I had ſent my Son to *Lisbon*, yet I would be as kind to the Jeſuits as before, tho there was ſome Difference between us. Theſe Affidavits I deſire to ſee, which, as I take it, were read before your Lordſhips that Day.

L. H. S. The Affidavit was taken by my Lord Chief Juſtice in the Houſe of Commons, where he did attend them upon their Summons: I know not if the Original were read in the Houſe of Lords, or the Copy; but it ſeems it is not entred into the Lords Journal: but your Lordſhip had an Order to take Copies of all things you would have demanded; and if you would not, I cannot tell what to ſay to it.

L. Staff. Truly I could not take a Copy, becauſe I did not know where it was. I deſire my Lord Chief Juſtice may be ask'd where it is; that is all I deſire, and I will then go on.

L. H. S. I think Dr. *Oates* does ſay at this time that he had ſeen Letters of your Lordſhip's, offering your Correſpondence and Aſſiſtance.

L. Staff. If Dr. *Oates* will own he ſaid no more than is in that Affidavit, I am content.

L. H. S. Have you any Copy of your own Examination, Dr. *Oates?*

Dr. *Oates.* Yes, my Lords, I think I have it here.

L. H. S. Marry, that is very well; produce it then. Do you oppoſe it, Gentlemen?

Manag. No, we agree; we deſire the Truth may come out.

Then Dr. *Oates* looking amongſt his Papers, drew out one, and offer'd it to the Court.

L. H. S. Is that a true Copy of your firſt Examination?

Dr. *Oates.* My Lords, I will not ſwear it, but it was given me for a true Copy.

L. H. S. By whom was it given you?

Dr. *Oates.* I can't remember now, 'tis two Years ago.

Sir *W. Jones.* Unleſs we know whence it comes, or what Authority it hath, we cannot conſent it ſhould be read.

L. H. S. Had you it from my Lord Chief Juſtice, or any Servant of his?

Dr. *Oates.* I cannot tell whether Sir *Charles Harbord* gave it me, or no.

Sir *F. Win.* My Lords, Sir *Charles Harbord* might be of the Committee of Examinations; but the Examination for which my Lord ask'd, was not in the Committee nor before the Houſe: My Lord Chief Juſtice retired out of the Houſe, *& virtute Officii* took it. Now it was very fair in Mr. *Oates* to produce it; but yet in point of Evidence, if he will not ſwear it to be a true Copy, or give an account how he came by it, we cannot allow it to be read.

L. H. S. My Lord *Stafford*, 'tis you that want this Paper, you deſire to have the Benefit of the Examination that was taken of Mr. *Oates*, and therefore you muſt produce a Copy of it.

L. Staff. My Lords, I could never get it.

L. H. S. 'Tis not entred in our Journal, nor is it to be trac'd, we know not where it is: You have had time enough to look after it. You are now offered by *Oates* himſelf a Copy that was given him for a true Copy, tho he can't ſwear by whom. Are you content that ſhall be read, if the Gentlemen will admit it?

L. *Staff.* By what I gueſs of Dr *Oates.* (I know him not) he would not give in a Copy of an Examination, unleſs it were true; if it be true, I know not what ſhould hinder the reading of it: but as far as concerns me, I deſire it may be read.

L. H. S. You do conſent, and will you Gentlemen permit it?

Mr. Serj. *Mayn.* We do not know whence it comes; we cannot admit it, unleſs *Oates* ſays 'tis true.

Sir *W. Jones.* My Lords, it hath been long in the Doctor's Poſſeſſion, he hath read it over, he can't ſay 'tis a true Copy; but I deſire to ask him whether all in that Writing be true, and whether he did ſwear what is in that Writing.

L. H. S. If your Lordſhips pleaſe thus, and you Gentlemen of the Houſe of Commons, the beſt way to have an Anſwer to this Queſtion is, that it may be read *de bene eſſe.*

Sir *F. Win.* Pray, my Lords, let him read it over to himſelf privately, and then let us know whether he can ſwear the ſame things that are in that Paper. (*Which Dr.* Oates *began to do.*)

Dr. *Oates.* Your Lordſhips ask only as to my Lord *Stafford?*

L. H. S. My Lord deſires no more, but pray read it over all, and give your Anſwer to all; for that Queſtion, may be, will be ask'd in other Caſes, and 'tis fit you ſhould be provided for it. (*Which he did.*)

L. H. S. What ſay you, Doctor?

Dr. *Oates.* My Lords, I do verily believe I did ſwear the Contents of that Paper.

L. *Staf.* My Lords, I do not oppoſe the reading of that Paper; but I have here a Copy of ſomething in the Journal, and do not ſtand upon my Memory; but I think upon the viewing of it now, there is ſomething in the Copies of the Journal.

Clerks. We cannot find it.

L. *Staf.* Then read this Paper.

L. H. S. Will you have this Copy of the Examination read, or not?

L. *Staf.* Yes, my Lords.

Clerk. *The Examination of* Titus Oates *Clerk, taken before us*———

L. H. S. When was that?

Clerk. The 24th of *October* 1678.

L. H. S. That was read the 25th, the next Day, in the Houſe of Lords.

The Examination of Titus Oates *Clerk, taken by us this 24th of* October, 1678.

THis Examinant ſaith, That in the Month of *May* laſt, this Examinant ſaw a Patent under the Seal of the Father-General of the Society of *Jeſus* at *Rome*, call'd *Johannes Paulus Oliva*, at the Chamber of Mr. *Langhorn*, wherein it was expreſs'd, That by virtue of a Breve from the Pope, he did conſtitute the Lord *Arundel* of *Warder* Lord High Chancellor of *England*, which Patent was ſent to the Lord *Arundel* of *Warder* by a Meſſenger, who was the Son of Mr. *Langhorn.* And this Examinant ſaith, That he ſaw a Letter ſubſcribed by the Lord *Arundel* of *Warder*, as he believes, wherein the Lord *Arundel* did acknowledge the Receipt of the ſaid Patent, and accepted of the ſame, and promis'd to anſwer the Expectation of the Society.

This Examinant ſaith, That in *June* laſt he ſaw the like Patent, wherein the Lord *Powis* was conſtituted Lord Treaſurer of *England*, which Patent was carried by one *Parſons*, Secretary to the Lord *Powis*, from one *Saunders*'s Houſe in *Weldſtreet*, to be delivered to the Lord *Powis*, and at the Delivery of the Patent 300*l.* was paid by *Parſons* to *Fenwick* and *Ireland*, to carry on the Deſign of the Jeſuits, which was to raiſe a Rebellion in the three Kingdoms, and to deſtroy the King.

In the Month of *July* this Examinant ſaw a Letter ſubſcribed *Powis*, and directed to *Fenwick*, wherein his Lordſhip did acknowledge the Receipt of the ſaid Patent, and did accept of the ſame, and ſaid he had three hundred Men and Horſe ready for the Deſign, and that his Lordſhip would venture his Life and Fortune in the Affair.

In the Month of *Auguſt* laſt this Examinant ſaw a Letter directed to Mr. *Langhorn* by the outſide, but within to the Society of the Jeſuits, wherein Sir *William Godolphin* acknowledged he had receiv'd the like Patent to be Lord Privy-Seal, and had accepted thereof; and in *July* 1677, this Examinant ſaw the ſame in the hands of the Archbiſhop of *Tuam*, at *Madrid* in *Spain.*

This Examinant ſaith, that in *July* laſt Mr. *Coleman* acknowledged and confeſſed to *Fenwick*, in this Examinant's Preſence, that he had receiv'd the like Patent to be Secretary of State, and that it was a good Exchange.

This Examinant ſaith, that in *May*, *June*, *July*, and *Auguſt* laſt, this Examinant ſaw ſeveral Letters ſign'd *Stafford*, whereby it appeared that the Lord *Stafford* was in this Conſpiracy againſt his Majeſty, and that he had returned ſeveral Sums of Money to the Jeſuits to carry on the Deſign; the Letters were directed to *Fenwick* and *Ireland*: and in *Auguſt* laſt this Examinant ſaw another Letter directed to the ſame Perſons, ſign'd *Stafford*, wherein my Lord writ, that altho he had ſent his Son to *Lisbon*, yet he would be never the worſe Friend to the Jeſuits; and this Examinant conceiveth the reaſon of that Letter was, becauſe there was then a Difference between the *Engliſh* College at *Lisbon* and the Jeſuits. In *July* laſt this Examinant ſaw in the hands of *Fenwick* a Commiſſion directed to the Lord *Bellaſis*, from the Perſon aforeſaid, to be Lord General of the Army to be raiſed in *England* againſt his Majeſty; and in *July* this Examinant ſaw a Letter from my Lord, directed to *Fenwick*, wherein his Lordſhip acknowledged the Receipt of the Commiſſion, and

and thanked the Society for the ſame, and that he accepted the ſame, and would do what in him lay to anſwer their Expectations.

In *May* laſt this Examinant ſaw a Patent in the hands of Mr. *Langhorn*, to make my Lord *Peters* Lieutenant-General of the Army; and in *June* laſt this Examinant did hear my Lord *Peters*, in the preſence of Mr. *Longworth* his Confeſſor, acknowledge the Receipt of the ſame, and that he accepted thereof, and his Confeſſor wiſh'd him much Joy thereof.

L. Staff. My Lords, If this be own'd for Truth that he ſwore, then I proceed upon the Evidence of that.

L. H. S. Without allowing it to be a true Copy, Dr. *Oates* at the Bar does ſwear what is ſaid there is true.

L. Staff. Then he ſays there, he ſaw Letters ſign'd by me to *Fenwick* and others, I do humbly deſire to know whether that be Evidence or no, that a Man ſays he ſaw Letters, and does not ſay he knew them to be my Hand, nor what the Letters were in particular, nothing that he did prove of it. I muſt appeal to your Lordſhips, to all my Lords, to my Lord High Steward, and the reſt that were of the Council at that time, Whether Dr. *Oates* did not poſitively name ſome, and left me out at the Council-Table? And whether Dr. *Oates* did not ſay there was no Lord concerned in the Plot, and whether ſome of my Lords did not ſay ſo, and told ſome other Lords of it, from whom I had it? And in order to this I deſire Sir *Philip Lloyd* may be examined; and if he did not know of my being in it, then he hath ſince forſworn himſelf.

L. H. S. My Lord, I know not where you are, nor what you are about: Are you objecting againſt *Oates* upon any Evidence out of the Journal?

L. *Staff.* My Lords, I go upon this that hath been read.

L. H. S. Pray, my Lord, produce your Witneſſes that did hear him ſay any thing, and take your Advantage of it.

L. Staff. I call Sir *Philip Lloyd.*

L. H. S. Where is Sir *Philip Lloyd?*

L. Staff. My Lords, I do not know; I think he is here, I hope he will come.

Then he appeared amongſt the Members of the Houſe of Commons, and was called to the Bar amongſt the other Witneſſes, and ſtood up.

L. H. S. What does your Lordſhip ask Sir *Philip Lloyd?*

L. Staff. Whether he was not by when Dr. *Oates* was ask'd, if there were any Lords concerned in the Plot, and he ſaid, No; and whether he did not tell me ſo a day or two before I was committed, in the Prince's Lodgings?

L. H. S. What ſay you Sir *Philip Lloyd*, did you ever hear Dr. *Oates* deny upon his Oath, that ever he heard of any Lords that were concerned in the Plot?

Sir *Philip Lloyd.* My Lords, truly I cannot remember any ſuch thing: If my Lord put me in mind of any particular Circumſtance or Time, I may recollect it: I muſt confeſs I think I have heard ſuch a thing rumour'd; but I am ſo unfortunate I cannot remember any thing poſitively of it.

L. Staff. He did tell me ſo I am ſure.

Sir *Philip Lloyd.* Truly, my Lords, I would be glad to remember any thing to juſtify the Truth; but I cannot remember this.

L. Staff. But whether it were ſo or no, your Lordſhips that were of the Council can tell.

L. H. S. My Lord, I do not know. Your Lordſhip cannot be refus'd, if you preſs it, to ask any of the Lords of the Council, if they remember any ſuch thing that did paſs there; but if I were there or in the Council, I deal plainly with your Lordſhip, I cannot ſay that there was any ſuch thing ſaid.

L. *Staff.* If there be any here that were there beſides, I deſire they may be ask'd.

L. H. S. If your Lordſhip will call upon any other of my Lords that were there, they will tell you.

L. Staff. I don't know who were there, I can't call them.

L. H. S. You may ask any of the Lords of the Council, who were there that time Dr. *Oates* was examined.

Lord Marq. of *Worceſter.* My Lords, I was not at the Council then; but I heard it, not there indeed, but as a general Report abroad.

L. Staff. I deſire my Lord Privy-Seal may tell what he knows of it.

Lord Privy-Seal. What is it your Lordſhip would know of me?

L. Staff. Whether *Oates* did not ſay he had no more to accuſe?

Lord Privy Seal. Where, my Lord?

L. Staff. At the Council-Table.

Lord Privy Seal. 'Tis a very hard thing for me to charge my Memory with all the Queſtions at an Examination; we uſe to refer to the Examinations themſelves: I have ſeen ſome Examinations, I wiſh all were ſo, wherein the Queſtions are put down as well as the Anſwer; and I cannot charge my Memory that he ſaid he had no more to accuſe.

L. Staff. I deſire then all the Lords of the Council that are here to ſay whether or no he was not ask'd this Queſtion particularly by my Lord Chancellor, (and I deſire particularly his Lordſhip would ſay whether he can't remember it) Whether he had any thing to ſay againſt ſome Lords? and he anſwer'd, they were to know of it, but God forbid he ſhould accuſe them.

L. H. S. When ſhould that be?

L. *Staff.* My Lords, I can't ſay the Day, for I was not in Town. But I deſire to ask whether you did not ask him upon the firſt Diſcovery of the Plot, whether he had any thing to ſay againſt ſome Lords?

L. H. S. Do you deſire to know whether I asked him this Queſtion, If he had any thing to ſay againſt ſome Lords?

L. *Staff.* I do not ſay poſitively your Lordſhip, but whether that Queſtion was not ask'd him?

L. H. S. Certainly I ſhould never ask any ſuch Queſtion of any man alive. I might ask in general of any Lord, but not of ſome.

L. *Staff.* Some or other Lords it was.

L. H. S. I don't remember it; and 'tis impoſſible for any Man living to remember what Queſtions he did ask two or three Years ago upon an Examination.

L. *Staff.* I deſire I may have leave to ask the Earl of *Berkley* a Queſtion.

L. H. S. What is it you would ask him?

L. *Staff.* My Lords, I humbly ask his Lordſhip, whether he did not hear Dr. *Oates* ſay, after he had accuſed ſome Perſons before the Council, that he had no more to accuſe?

Earl of *Berkley.* My Lords, I had the honour to be of the Privy-Council about the time of the Diſcovery of the Plot; but I do not remember that I heard Dr. *Oates* ſay any ſuch thing there.

L. Staf. Or in the Houſe of Lords; for I may miſtake. And therefore I deſire my Lord of *Berkley* would declare what he heard Dr. *Oates* ſay before the Houſe of Lords.

Earl of *Berkley.* Yes, my Lords; in the Lords Houſe I will tell your Lordſhips what I remember. My Lord Chancellor, to the beſt of my remembrance, did ask Dr. *Oates*, at the Bar of the Houſe, this Queſtion——My Lords deſire to know if you can accuſe any other Perſon or Perſons, of what Quality ſoever, and you are incouraged by their Lordſhips to accuſe them: His Anſwer was—— My Lords, I have no more to accuſe in relation to *England*, but in relation to *Ireland* I have.

L. H. S. That was after he had accuſed your Lordſhip, my Lord *Stafford.*

Sir *Will. Jones.* We pray, my Lords, we may have the favour to ask that very Honourable Lord, at what time Dr. *Oates* ſaid this, for the ſatisfaction of thoſe that are preſent.

Earl of *Berkley.* My Lords, it was after Dr. *Oates* had accuſed my Lord *Stafford*, but before he had accuſed the Queen.

L. Staff. I beſeech you, my Lords, to mark it (and I am very glad of it) he ſaid he had no more to accuſe in relation to *England*, and yet after that he accuſed the Queen.

L. H. S. My Lord, then the beſt Account of it will be on the Journal, the Queſtion and Anſwer is entred there.

Die Jovis 31 die Octobr. 1678.

Poſt Meridiem.

Titus Oates being at the Bar, is directed to proceed in giving an account of the Commiſſions given to ſeveral Lords, and other Perſons for Offices Civil and Military.

Upon which he proceeded in a particular Narrative thereof, with ſome Circumſtances tending to make out the truth thereof, and then was commanded to withdraw, but ſtay without.

Then upon conſideration had hereof, the Lord Chancellor, by Directions of the Houſe, cauſed him to be called in again, and told him, that the Lords expect not his entring into particular Circumſtances, but if there be particular Perſons concerned, of what Quality ſoever they be, the Houſe expected he ſhould name them; but he named none but thoſe he had mentioned in his Narrative, nor could name no other Perſon.

L. Staf. Then, my Lords, he ſaid, he knew no Perſons more than he had diſcovered; and after, did he not accuſe the Queen, and ſeveral others? if he ſaid true, then he knew no body more; if not, he is forſworn.

Sir *Will. Jones.* Pray prove he did accuſe the Queen.

L. Staff. He did ſo in the Council, and he is clearly perjured in that, and ſo not to be believed. And I ſay beſides, after that Dr. *Oates* had conſulted with himſelf, and poſſibly with ſome others, what his Narrative ſhould be, and what he ſhould accuſe Perſons of, and did only accuſe me of ſeeing ſome Letters ſigned *Stafford*, and now he comes to give Evidence, he knows more of my having a Commiſſion. After this rate, it may be he may know a great deal more to-morrow, when he hath invented it: and 'tis a great Sign he did not know of any more, if he did know of that; for I never had any Correſpondence with the Jeſuits, nor any Buſineſs tranſacted with them theſe twenty four or twenty five Years. Indeed at *Ghent* the *Engliſh* Jeſuits were deſired to do a little thing for me, and they refuſed it me; it was to ſend over a Man that was to be a Witneſs in a Suit I had beyond Sea: And I never writ one Letter to a Jeſuit ſince, nor he to me, that I know of, nor never had to do with them that I know of. I never heard of *Fenwick*'s Name, nor *Harcourt*'s, till I heard of the Plot; nor of *Johnſon* nor *Thompſon*, Jeſuits: and if any can prove it, I will acknowledge my ſelf guilty of all that is ſaid againſt me. And for that Dr. *Oates* at firſt ſaid, he only ſaw Letters of mine, and after comes and accuſes me of a Commiſſion, I appeal to your Lordſhips if there can be any Truth or Belief in him. I cannot ſay more than what I have ſaid already, and I do challenge Dr. *Oates*, at the Day of Judgment, to ſay, if ever he ſaw me in his life till I was committed; or if I did ever go by any Name, but that of *Stafford*, I will be content to die immediately. If I had gone by the Name of *Howard*, I need not be aſhamed of it; for 'tis a Name good enough to be owned. I know there is a worthy Gentleman that bears the Name of *Howard* of *Effingham*, but I never did. If your Lordſhips pleaſe to let me ask Mr. *Dugdale* one Queſtion.

L.H.S. Call *Dugdale* again. (*Who appear'd.*) What ſay you to him my Lord?

L. Staf. I deſire to ask *Dugdale*, whether he did not, in his Depoſitions before Mr. *Lane* and Mr. *Vernon*, ſwear, that the 20th of *October* I offered him 500 *l.* to kill the King?

Mr. *Dugd.* No, *September.*

L. Staf. Ay, *September*,

Mr. *Dugd.* Yes, I think I did make that Depoſition before Captain *Lane.* I am certain I did, that my Lord *Stafford* the 20th or 21ſt of *September* offered me 500 *l.*

L. Staff. Then did not he ſay preſently upon this, he went to Mr. *Evers*'s Chamber?

L. H. S. He ſays ſo now.

Mr. *Dugd.* My Lords, I am not certain it was the ſame Day, it was as ſoon as I could have opportunity, it was preſently after.

L. Staf. Did he not ſay he told *Evers* what I ſaid to him, and he did not underſtand the Meaning of it?

Mr. *Dugd.* I did ſay ſo to Mr. *Evers*, I did ask Mr. *Evers* what my Lord *Stafford*'s meaning was, whether his Intention was true or no to do as he ſaid, and whether my Lord was in that condition, as to be able to perform his Promiſe, for I feared Payment of the Money; and he told me, *Harcourt* and the reſt of the Jeſuits would furniſh it.

L. H. S. So he ſaid Yeſterday.

L. Staf. Then ask him if he did not ſay, the beginning of *September* I met him at *Tixall*, and I ſpake to him about ſuch a Buſineſs.

Mr. *Dugd.* My Lords, I did ſay to the beſt of my remembrance it was about that time, the latter end of *Auguſt*, or the beginning of *September*, I would not be poſitive, nor could not, to five days.

L. Staf. No, I think not to 5000. Then I asked him this Queſtion, whether he did not preſently upon that, when I told him about the Deſign, go to Mr. *Evers*, and ask'd what it meant?

L. H. S. He ſaid ſo but now, he went to *Evers* and asked what you meant.

L. Staf. I beſeech you I may be underſtood, Whether he did not ſay in the beginning of *September*, which was before the 20th or 21ſt in the Journal?

L. H. S.

L. H. S. Is it in the Journal?
L. Staf. Yes.
L. H. S. Why then, read it.

Die Sabbati 28 *Decembris* 1678.

The Earl of *Eſſex* acquainted the Houſe, that he had received an Information out of the Country of very great Concernment, which was read as followeth.

Staffordſh. *December* 24. 1678.

The Information of Stephen Dugdale *Gent. late Servant to the Lord* Aſton *of* Tixall, *concerning the Plot againſt our Sovereign Lord the King, as followeth.*

1. THis Informant ſaith, that preſently after one *Howard*, Almoner to the Queen, went beyond the Seas, he was told by *George Hobſon* (Servant to the ſaid Lord *Aſton*) that there was a Deſign then intended for the Reformation of the Government to the *Romiſh* Religion.

2. He informeth, that in the beginning of *September* 1678, he met in *Tixall*, nigh the Lord's Gates, the Lord *Stafford*, who ſaid to this Informant it was ſaid that they were troubled, for that they could not ſay their Prayers but in a hid manner, but ſuddenly there would be a Reformation to the *Romiſh* Religion; and if there was but a good Succeſs, they ſhould enjoy their Religion. And upon the 20th Day of *September* laſt, the ſaid Lord *Stafford* told this Informant that there was a Deſign in hand, and if this Informant would undertake the Deſign, he ſhould have a good Reward, and make himſelf famous.

3. Upon the aforeſaid Day, immediately after, this Informant went into the Chamber of Mr. *Francis Urie*, alias *Evers*, (a Jeſuit) in *Tixall-Hall*, and ask'd him what the Lord *Stafford* meant by thoſe Words; and after he had made him to ſwear Secrecy upon his Knees, he told him he might be a Perſon employed in the Work, and have a good Reward that would make him famous: and then he told him he muſt be inſtrumental with others in taking away the King's Life; and that it ſhould be done by ſhooting or otherwiſe. And that this Informant need not to fear, for the Pope had excommunicated the King, and that all that were excommunicated by him were Hereticks, and they might kill them, and be canoniz'd for Saints in ſo doing.

4. The Informant ſaith, that the ſaid *Evers* and *Hobſon* both ſaid, that the Deſign was as well to kill the Duke of *Monmouth* as the King.

5. That *George North* (Nephew to *Pickering*, and Servant to the Lord *Aſton*) lately told this Informant, that they had taken his Uncle (meaning *Pickering*) and put him into *Newgate*; and thought the King deſerved ſuch an execrable Death as was intended him, becauſe of his Whoring and Debauchery.

6. That Mr. *Evers* ſaid, Mr. *Bennyfield* had a Pacquet of Letters deliver'd to him from the *Poſt-houſe*, which he fear'd the Lord Treaſurer had notice of, and therefore he deliver'd them to the Duke of *York*, and the Duke delivered them to the King, and that the King gave them to the Treaſurer, after he had read them; but that the King did not believe them, and therefore it was happy, or elſe the Plot had been diſcovered.

7. That he had received many Pacquets of Letters for *Evers*, ſome of which this Informant broke up, and found them to be and tend to the Eſtabliſhment of the *Romiſh* Religion, *&c.*

8. That he had receiv'd ſeveral Sums of Money himſelf, and knew of divers others that were employ'd to put forth Money, which was and is for the Jeſuits Uſe.

Stephen Dugdale.

Taken upon Oath the 24*th Day of* December 1678. *before us,*

Tho. Lane,
J. Vernon.

L. Staf. My Lords, I find by this here, that preſently after one *Howard* Almoner to the Queen went over, *George Hobſon*, Servant to my Lord *Aſton*, told *Dugdale* there was a Deſign to reform the Government, *&c.* I beſeech your Lordſhips I may ask him, how long after he went over this Diſcourſe was.

Mr. *Dugdale.* I do not ſay I knew *George Hobſon* before he came to be a Servant to my Lord *Aſton*, which was in the Year 78; but that this was only a Diſcourſe to me, that the Plot had been ſo long carrying on.

L. Staf. He ſays upon his Oath, preſently after the Almoner went over, he told him ſo. Now the Almoner went over three Years before that, when the Proclamation came out to baniſh the Queen's Servants for being Papiſts.

Mr. *Dugdale.* I heard it there; I never knew *George Hobſon* before he came to be Servant to my Lord *Aſton*, but I did not tell it as a Diſcourſe at that time, or that it was more than what I had from him, that there was ſuch a Deſign ſo long before.

L. Staf. He ſays preſently after the Almoner went over, in his Oath; which was, I think, in the Year 72 or 73, or rather in the Year 75, about the end of the Year 74, as I remember: and he ſays preſently, three Years after; is that preſently? E'en now the end of *Auguſt* was the beginning of *September*, and how long that was we can't tell, and now three Years is preſently after.

Sir *Will. Jones.* He is telling of another's Diſcourſe with him.

L. H. S. My Lord, you muſt obſerve that *Dugdale* ſays, that he did hear it from *Hobſon* after he came to my Lord *Aſton*'s Service.

L. Staf. But he ſays, preſently after the Almoner went over; and 'tis impoſſible, for he did not ſay it till three Years after, and ſo there is no Truth in him.

Mr. *Dugd.* My Lords, it was that *Hobſon* told me, that preſently after the Almoner *Howard* went over, there was ſuch a Deſign carrying on.

L. H. S. You diſtinguiſh not, and therefore don't comprehend. 'Tis one thing if *Dugdale* had ſaid, that preſently after there was ſuch a Deſign *Hobſon* told him ſo.

L. *Staf.* I beſeech you, it is ſaid, that preſently after the Almoner went over, *Hobſon* told him ſo.

L. H. S. But it is not that preſently after he heard the Diſcourſe; but *George Hobſon* told him, that preſently after the Almoner went over, there was ſuch a Deſign.

L. Staf. 'Tis ſaid he was told preſently after.

(*Then the Information was read again.*)

L. H. S.

L. H. S. Do you know when *Howard* the Almoner went over?

Mr. *Dugd.* No, my Lords; but by report I heard when he went: But I do not make that part of my Oath, for I cannot abſolutely remember it.

L. H. S. My Lord, you muſt not make a Strain to make a Miſtake.

L. Staff. God's Life! is three Years a Strain?

Mr. *Dugdale.* I never did mean ſo, nor never did intend ſo, for I never knew him till he came to my Lord *Aſton*'s; but he told me then this Diſcourſe.

L. H. S. My Lord, this is only a Queſtion of Grammar, how it can be conſtrued.

L. Staff. My Lords, I beg your pardon: 'tis to my little Reaſon a Queſtion of Senſe, and it is plain to me it can have no other Senſe; but I ſubmit it to your Lordſhips, whether this be not the true Conſtruction.

L. H. S. Go on, my Lord, with your Evidence, notice will be taken of your Objection: you ſhall ſee what they ſay to it; if they do not give it an Anſwer, it will have its Weight.

Sir *Will. Jones.* We will give that an Anſwer in due time.

L. Staf. Then next he ſays, I talk'd with him at my Lord *Aſton*'s the beginning of *September*, where he met with me at *Tixall* at the Gate, and I ſaid, it was ſad we could not ſay our Prayers, but in private. Truly, my Lords, I cannot ſay I did not ſay this to him; but if I did ſay it, I do not remember it, or that ever I thought ſo much; for I was ſo much of a contrary Opinion, that I thought thoſe of that Religion ſaid their Prayers too openly, and have chid them for it. And why ſhould I ſpeak it to him, whom I did not know what Religion or what Profeſſion he might be of? And preſently after I ſpoke of theſe things, he ſays, he went to know what the Deſign was, and then Mr. *Evers* told him of the Plot, and yet yeſterday he ſaid he knew it ſixteen Years ago. How can all this be true? And beſides, it ſeems I could have no great Power with him to perſuade him, for it ſeems he miſtruſted my Ability to pay; and he had reaſon, for I ſhould hardly have parted with 500 *l.* in the condition I was then in, to any one; but I have no more to ſay to him now. There is a third Witneſs, one *Turberville*, I deſire to ask him a Queſtion.

L. H. S. Call *Turberville.* *(Who ſtood up.)*

L. Staf. I deſire to know what time he came to ſerve my Lady *Molyneux* (for it is in the beginning of the Information in the Houſe of Commons, that he came in the Year 73.) and how long he ſtaid with her?

L. H. S. My Lord *Stafford*, if your Lordſhip pleaſe, there was an Offer made to you, that thoſe Affidavits ſhould be produced, if you deſired to ſee them.

L. *Staf.* I think I ſhall have no occaſion as yet; it may be I may by and by: But I deſire to ask him this Queſtion firſt, Whether he did ſay he came in the Year 73 into my Lady *Mary Molineux*'s Service, and ſtaid with her about three Years?

L. H. S. Did he ſwear in the Year 73 he came?

L. Staff. 'Tis ſo in his Narrative in Print.

L. H. S. Do you own that Narrative in Print for true?

Mr. *Tur.* No, my Lords.

L. H. S. How can you challenge him then with a Narrative he does not own?

L. Staff. Then what can a Man do, if he muſt not go according to what is printed?

Mr. *Tur.* There is a Miſtake in the Printing of it, there is a Miſtake of 73 for 72.

L. *Staf.* I now deſire that Affidavit may be produced.

L. H. S. Pray let him have the Benefit that was offer'd him of the Affidavit.

Mr. *Tur.* Beſides, I declared I could not be poſitive to a Year; I own any thing elſe in it.

L. *Staf.* Then, my Lords, if I ſhall have Fellows that will not ſwear to Months nor to Years, I beg of your Lordſhips to know whether theſe be legal Witneſſes.

Manag. The Affidavit is in the cuſtody of Sir *W. Poulteney*, a Member of our Houſe.

Sir *Will. Poulteney.* My Lords, I have the Affidavit; if you pleaſe I ſhall give you an account what I did upon it, and Sir *Thomas Stringer*, another Juſtice of Peace. My Lords, after that Mr. *Turberville* had given his Evidence to the Houſe of Commons *viva voce*, he tendred to them this Information that I have in my Hand. The Houſe of Commons, after it had been read, thought it might be convenient to have it ſworn to before two Juſtices of Peace. Whereupon Sir *Thomas Stringer* and myſelf withdrew into the Speaker's Chamber, Mr. *Turberville* came to us, we read over the Information to him again, and after we had read it over, it was ſign'd, and he ſwore it. In this Information, when we then took it, he declar'd there, That he came to my Lord *Powis* in the Year 1673, and came into *England* 1676. After we had ſworn him, we carried this Information into the Houſe again. The next Morning, my Lords, he came to me (I being one of the Juſtices that had ſworn him) and told me, that ſearching among his Papers the laſt Night for a Letter, which he ſaid he had receiv'd from my Lord *Stafford*, ſent to *Diep*, tho he could not find the Letter he look'd for, yet he found that the preciſe time that he went to live with my Lord *Powis* was 1672. and the preciſe time of his coming into *England* was 1675. And he deſired me to acquaint the Houſe of Commons with it, that this Circumſtance of Time might be alter'd. Whereupon, my Lords, I did acquaint the Houſe of Commons with it, how he was miſtaken in that point of a Circumſtance of Time; and that he came of his own accord, and deſir'd me to move the Houſe in it. I mov'd the Houſe, and they did direct we ſhould withdraw again, and take his Information again, and that he ſhould amend it. He amended it, and made the 73, 72. and the 76, 75. and then afterwards we ſwore him to it again *de novo*: and this is the Matter of Fact concerning the Affidavit.

L. H. S. Sir *William Poulteney*, did Mr. *Turberville* correct the Miſtake himſelf firſt, or was it found and alter'd by others?

Sir *Will. Poulteney.* My Lords, he came to me, for I did not know any thing of it, that he was miſtaken; but he came to me the next Morning as ſoon as ever I came to the Houſe, before indeed I entred into the Houſe, and told me of the Miſtake; and told me the Reaſons how he came to recollect himſelf, and find out the Miſtake.

L. H. S. Mr. *Turberville*, I would ask you the Queſtion, how came you to be inform'd that you had miſtaken yourſelf?

Mr. *Tur.* My Lords, I'll tell you: I was ſearching for a Letter I receiv'd from my Lord *Stafford*, and miſſing that, I found my Diſcharge I had from the *French* Army; wherein I ſaw my Miſtake as to the time, and that I have to produce.

L. H. S. I ask you again by the Oath you have taken, did you correct it of yourſelf, or by Information from any other?

Mr. *Tur.* By the Oath I have taken I did correct it of myſelf, and no body mov'd it to me.

Mr. Serj. *Maynard.* It was but a Circumſtance of Time.

Sir *F. Win.* And corrected by himſelf the very next Morning, my Lords.

L. *Staf.* He does acknowledge he did forſwear himſelf once, and did make himſelf an honeſt Man the next Day, when he was a perjur'd Villain the Day before. And now he tells your Lordſhips that he was ſearching for a Letter that I ſent to him, but he cannot find it.

Mr. *Tur.* No, my Lords, I thought I had it, but I cannot find it.

L. *Staf.* No, I'll ſwear thou canſt not. But then he does ſay that he had a Diſcharge from the *French* Army.

Mr. *Tur.* Yes, 'tis here, my Lord.

L. H. S. Is that the Paper of your Diſcharge?

Mr. *Tur.* Yes, it is. 'Tis worn out a little, and torn, but the Seal is preſerv'd: I did not know that ever I ſhould have occaſion to make uſe of it; but my Lord challenging me for a Coward, and a Deſerter of my Colours——

L. Staf. I believe ſo ſtill, for I have heard ſo.

L. H. S. Your Honour is not in queſtion, Mr. *Turberville.*

Mr. *Tur.* The Title is a little torn; and if your Lordſhips pleaſe, I will read it: (which he did, being in *French*, and is rendred in *Engliſh* in theſe Words.)

THis certifieth all to whom it ſhall appertain, that I have given an abſolute Diſcharge to the Sieur *Turberville*, a Cavalier of my Company, after having ſerv'd the Space of ſix Months with all Honour and Fidelity. Therefore I deſire thoſe that are to be deſired, to treat him civilly, and let him paſs and repaſs, without doing him any Injury, or giving him any Hindrance; but on the contrary, to afford him all Aid and Aſſiſtance where it ſhall be neceſſary, promiſing the like upon all Occaſions that ſhall require it. In Confirmation of which, I have for him ſign'd this preſent Diſcharge, and thereto put the Seal of my Arms, to ſerve him in caſe he ſhall need it. Made at the Camp before *Aire* this 4th of *Auguſt*, 1676.

Sheldon.

L. H. S. What is the Date of that Diſcharge, *Turberville?*

Mr. *Tur.* 'Tis in *Auguſt* 76.

L. *Staf.* May I ſee it, my Lords?

L. H. S. Yes. Deliver it to my Lord. (*Which was done, and he look'd upon it.*)

L. Staf. The thing looks like Truth, but there is no Proof of it.

Mr. *Tur.* The Seal is a little broke, but the Name remains perfect.

L. Staf. He ſays here is a Diſmiſſion from the Army in 76. how will that rectify his Miſtake about 73? I underſtand not that.

Then the Court called for the Paper; and it was look'd upon by the Duke of Monmouth, *and ſome other Lords.*

L. H. S. My Lord, this Paper hath been look'd upon; the Hand is well known by thoſe that ſhould know it.

L. Staf. I do not ſay the contrary.

L. H. S. Whereabouts are you now, my Lord, then?

L. Staff. I am extremely faint and weary, that I am ſure of. This Gentleman told you yeſterday that he ſpoke with me ſeveral times in *France*, and that he was converſant with me for a Fortnight together, that he viſited me, and I propos'd the killing of the King to him; and that he refus'd to give me an Anſwer then, but told me he would give it me at *Diep*: This he ſaid yeſterday, as I remember. And afterwards, when he was gone down, he came up again, and deſir'd to put your Lordſhips in mind of a particular Circumſtance which he ſaid he did remember, That when he came to me, I had the Gout, and was in a lower Room of the Houſe, in ſuch a Street, which fac'd *Luxemburgh* Houſe; all which I ſtand not upon: and that the Prince of *Conde* liv'd in the ſame Street, on the left hand he ſaid firſt, and after on the right hand, and after he knew not where, and that I did lodge in the ſame Street.

Mr. *Tur.* I did ſay I believed the Prince of *Conde* lived there, but I was not poſitive.

L. Staff. No; but firſt he ſwears a thing, and then only believes it. Be pleaſed to call my Servants, to know if ever I had my Foot ill of the Gout in my Life.

Mr. *Tur.* Your Lordſhip told me it was the Gout.

L. Staff. If ever I put my Foot on a Stool, or was lame there, I will own all that he ſays. But when a Man ſwears his Evidence, and goes down from the Place, and then invents, and comes up again to tell new Stories, who ſhall believe ſuch a Man?

Mr. *Tur.* I never went from the Bar.

L. Staff. I do ſay, you went down, and had given all your Evidence, and came up again, and told this Circumſtance. I have not been lame, not one Moment, theſe forty Years; and yet this Fellow, this impudent Fellow, to ſay, that I was lame, and put my Foot upon a Stool. He does not, my Lords, ſwear poſitively in any thing but this, and this I can eaſily diſprove him in.

L. H. S. What ſay you to this Particular, *Turberville?* Had my Lord *Stafford* never the Gout while he was in *France?*

Mr. *Tur.* He told me it was the Gout, my Lords: He had a great Lameneſs, he could not go from one place to another. Here are ſeveral People to give Teſtimony that my Lord was lame within leſs time than he ſays.

Mr. *Foley.* Hold, hold, *Turberville*, you muſt not give that Evidence now.

L. Staff. Call *Nicholas Furneſe* again.

L. H. S. What do you call him for?

L. *Staf.* Ask whether ever he ſaw Mr. *Turberville* with me in *France.*

L. H. S. Were you with my Lord *Stafford* all the while he was in *France?*

Furneſe. Yes, my Lords.

L. H. S. Did you never ſee *Turberville* there?

Furn. No.

L. H. S. Pray did you never ſee Father *Anthony Turberville* there?

Furn. No, my Lords, I never heard of his Name.

L. Staff. Was I ever one moment lame while I was in *France?*

Furn. Not that I remember.

L. H. S. How long was my Lord there?

Furn. About three Months.

L. H. S. What time of the Year?

Furn. At *Paris* in *October* and *November*, in *December* at *Rohan*, in *January* we came over into *England*.

L. *Staf.* Ask him if ever I put my Foot upon a Cuſhion or upon a Stool for Lameneſs.

L. H. S. Mr. *Turberville*, did you ever ſee *Furneſe* when you were in *France?*

Mr. *Tur.* This Man, my Lords?

L. H. S. Yes.

Mr. *Tur.* No, not that I remember.

L. H. S. In what quality did you ſerve my Lord in *France*, *Furneſe?*

Furn. My Lords, I waited on him in his Chamber.

L. H. S. Do you remember any other Servant of my Lord's, that you did ſee there?

Mr. *Tur.* Truly, my Lords, I don't remember, I might forget him.

L. *Staf.* So I believe thou doſt me too.

Mr. *Tur.* Your Lordſhip, that could call me Coward, may ſay any thing.

L. *Staff.* You ſhall be as valiant as *Hector* if you will. Pray call my other Boy.

(*Who ſtood up.*)

L. H. S. You little Boy, were you all the while with my Lord, that he was in *France?*

Leigh. Yes, my Lords.

L. H. S. Did you ever ſee *Turberville* there?

Leigh. No, my Lords, not that I know of.

L. H. S. Had my Lord the Gout in *France?*

Leigh. No, nor never had ſince I have been with him.

L. H. S. That is ſix Years.

Leigh. Seven Years almoſt, my Lords.

L. H. S. Are you ſure of that?

Leigh. I am ſure of it.

L. *Staff.* Now, my Lords, Mr. *Turberville* ſays, I writ him a Letter to *Diep*, which Letter he can't find. I beſeech you what were the Contents of the Letter?

L. H. S. What were the Contents of the Letter my Lord ſent you?

Mr. *Tur.* The Contents of the Letter were, that I ſhould not ſtay at *Diep* in expectation of him, for he had appointed a Yacht to come to *Calais*; but I ſhould make what haſte I could to *London*, and there I ſhould meet with him.

L. *Staf.* I deſire to ask whether I ſent him word that Count *Gramont* came over with me.

Mr. *Tur.* Yes, my Lords, to the beſt of my remembrance.

L. *Staff.* I ſhall now bring Witneſſes that I did not come by *Calais*, but by *Diep*, and Count *Gramont* came not with me.

L. H. S. Mr. *Turberville*, which way came you, from *Diep*, or from *Calais?*

Mr. *Tur.* From *Diep*, my Lords.

L. *Staff.* And I came from *Diep* too.

L. H. S. My Lord came that way too, he ſays.

Mr. *Tur.* I know not of it, he ſent me word otherwiſe.

L. *Staff.* I ſhall now prove what I ſay. Pray call Mr. *Wyborne*.

(*Who ſtood up.*)

L. H. S. What do you ask him, my Lord?

L. *Staff.* Whether he did not ſee me at *Diep*, and embark from thence for *England?*

Mr. *Wyborne.* My Lords, I will give you an account as well as I can. In the Year 75, in *December*, I had occaſion to go over into *France* upon my own Concerns; and enquiring where there was a Conveniency to go over, I heard that a Yacht was ſending to *Diep* for my Lord *Stafford*, and Mr. *Henry Sidney*, his Majeſty's Envoy-Extraordinary now in *Holland:* I took that occaſion, and we weighed Anchor on Friday the 24th of *December*; and it being foul Weather, and we being toſs'd long upon the Sea, we did not come to an Anchor before *Diep* till the Sunday was Se'nnight at Two a-clock in the Afternoon, which was *January* the 2d. Then I came with the Captain immediately on ſhore, to enquire for my Lord and Mr. *Sidney*; I enquired for my Lord, and they told me he was at *Rohan*, expecting to hear of the Arrival of the Yacht: upon which the Captain deſired me to write a Letter to my Lord, and I did ſo; upon ſight of which Letter, he came to *Diep* on Tueſday in the Afternoon, which was, as I take it, the 4th of *January*, and we were at the *Baſtile* there then together, when he came that Evening. And the next Day I went on my own Occaſions to *Paris*, and my Lord and Mr. *Sidney* did come over together in the Yacht.

L. Staff. If you pleaſe I will call my two Servants again to this Matter.

L. H. S. Call them, my Lord.

(*Then* Furneſe *and* Leigh *ſtood up.*)

L. H. S. Which Way came my Lord *Stafford* out of *France* into *England*, by *Diep* or by *Calais?*

Furn. By *Diep*.

L. H. S. What ſay you, Boy? Which Way came my Lord?

Leigh. By *Diep*, my Lords.

L. H. S. You came with him?

Leigh. Yes, we did.

L. H. S. My Lord, the Queſtion is not whether you came by *Calais* or no, but whether you writ a Letter to him to *Diep*, that you would go by *Calais*.

L. *Staf.* He ſwore yeſterday that I did come by *Calais*.

L. H. S. Do you ſay my Lord came by *Calais?*

Mr. *Tur.* My Lords, I had a Letter from his Lordſhip, which he wrote to me, that he would come by *Calais*.

L. Staff. He did not name the Letter yeſterday, nor is it in the Information.

L. H. S. Read the Affidavit.

The Information of Edward Turberville *of* Skerr, *in the County of* Glamorgan, *Gent.*

WHO ſaith, That being a younger Brother, about the Year 1672, he became Gentleman-Uſher to the Lady *Mary Mollineux*, Daughter to the Earl of *Powis*, and by that means lived in the Houſe of the ſaid Earl above three Years; and by ſerving and aſſiſting at Maſs there, grew intimate with *William Morgan*, Confeſſor to the ſaid Earl and his Family, who was a Jeſuit, and Rector over all the Jeſuits in *North-Wales*, *Shropſhire*, and *Staffordſhire*. And he during the three years time often heard the ſaid *Morgan* tell the ſaid Earl and his Lady, That the Kingdom was in a high Fever, and that nothing but Blood-letting could reſtore it to Health, and then the Catholick Religion would flouriſh. Whereunto the ſaid Earl many times reply'd, It was not yet time, but he doubted not but ſuch means ſhould be uſed in due time; or words to that effect. And he heard the Lady *Powis* tell the ſaid *Morgan*, and others, publickly and privately, That when Religion ſhould be reſtored in *England*, which ſhe doubted not but would be in a very ſhort time, ſhe would perſuade her Husband to give 300*l.* *per annum*, for a Foundation to maintain a Nunnery. And this Informant was perſuaded by the Lady

dy *Powis*, and the ſaid *Morgan*, to become a Fryar; the ſaid Lady encouraging this Informant thereunto, by ſaying, That if he would follow his Studies, and make himſelf capable, ſhe queſtion'd not but he might ſhortly be made a Biſhop by her Intereſt in *England*; becauſe upon Reſtoration of the Catholick Religion, there would want People fit to make Biſhops, and to do the Buſineſs of the Church. And thereupon ſhe gave this Informant ten Pounds to carry him to *Doway*, where this Informant entred the Monaſtery, and continued about three weeks, and with much difficulty made his eſcape thence, and returned for *England*; for which the ſaid Earl and his Lady, and all the reſt that incouraged him to go to the Monaſtery, became his utter Enemies, threatning to take away his Life, and to get his Brother to diſinherit him: which laſt is compaſſed againſt him. And Father *Cudworth*, who was then Guardian of the Fryars at *Doway*, ſome days before his eſcape thence, told this Informant, That if he ſhould not perſevere with them, he ſhould loſe his Life and Friends: And further added, That this King ſhould not laſt long, and that his Succeſſor ſhould be wholly for their purpoſe. And Father *Croſs*, Provincial of the Fryars, told this Informant, That had he been at *Doway* when this Informant made his eſcape thence, he ſhould never have come to *England*. And this Informant finding himſelf friendleſs, and in danger in *England*, went to *Paris*, where one of his Brothers is a Benedictine Monk, who perſuaded this Informant to return for *England*; and in order thereunto, about the latter end of *November*, 1675, he was introduced into the Acquaintance of the Lord *Stafford*, that he might go for *England* with his Lordſhip; and three Weeks he attended his Lordſhip, and had great Acceſs and Freedom with his Lordſhip, who gave him great Aſſurances of his Favour and Intereſt to reſtore him to his Relations Eſteem again: And ſaid, That he had a Piece of Service to propoſe to this Informant, that would not only retrieve his Reputation with his own Relations, but alſo oblige both them and their Party to make him happy as long as he lived. And this Informant being deſirous to embrace ſo happy an Opportunity, was very inquiſitive after the Means; but the ſaid Lord *Stafford* being ſomewhat difficult to repoſe ſo great a Truſt as he was to communicate to him, exacted all the Obligations and Promiſes of Secrecy, which this Informant gave his Lordſhip in the moſt ſolemn manner he could invent. Then his Lordſhip laboured to make this Informant ſenſible of all the Advantages that would accrue to this Informant, and the Catholick Cauſe; and then told this Informant in direct Terms, That he might make himſelf and the Nation happy, by taking away the Life of the King of *England*, who was an Heretick, and conſequently a Rebel againſt God Almighty. Of which this Informant deſired his Lordſhip to give him time to conſider, and told his Lordſhip that he would give him his anſwer at *Diep*, where his Lordſhip intended to ſhip for *England*, and to take this Informant with him; but this Informant going before to *Diep*, the Lord *Stafford* went with Count *Gramont* by *Calais*, and ſent this Informant orders to go for *England*, and to attend his Lordſhip at *London*: but this Informant did not attend his Lordſhip at *London*, but went into the *French* Service, and ſo avoided the Lord *Stafford*'s further Importunities in that Affair. And this Informant further ſaith, That one *Remige*, a *Frenchwoman*, and vehement Papiſt, who married this Informant's Brother, lived with the Lady *Powis* all the time this Informant reſided there, and ſome years ſince, and was the great Confident of the ſaid Lady; and the ſaid *Remige* was for the moſt part taken with her Ladyſhip into *Morgan*'s Chamber, when the Conſults were held there, where he hath often ſeen Father *Gavan*, Father *Towers*, Father *Evans*, Father *Sylliard*, *Roberts*, *White*, *Owens*, *Barry*, and the Earl of *Caſtlemain*, and other Prieſts and Jeſuits, meet and ſhut themſelves up in the ſaid *Morgan*'s Chamber, ſometimes for an Hour, ſometimes for two Hours, more or leſs; and at the breaking up of the ſaid Conſults, have broke out into an Extaſy of Joy, ſaying, They hoped e'er long the Catholick Religion would be eſtabliſhed in *England*, and that they did not doubt to bring about their Deſign, notwithſtanding they had met with one great Diſappointment, which was the Peace ſtruck up with *Holland*: ſaying, That if the Army at *Blackheath* had been ſent into *Holland* to aſſiſt the *French* King, when he was with his Army near *Amſterdam*, *Holland* had certainly been conquer'd, and then the *French* King would have been able to aſſiſt us with an Army to eſtabliſh Religion in *England*. Which Expreſſions, with many others, importing their Confidence to ſet up the Romiſh Religion, they frequently communicated to this Informant. And the ſaid *Morgan* went ſeveral times into *Ireland*, to *London*, and ſeveral other Parts of *England*, as this Informant hath juſt Cauſe to believe, to give and take meaſures for carrying on the Deſign: and the ſaid *Remige* and her Husband having firſt clandeſtinely ſold their Eſtate, and fled into *France* about *May* or *June* laſt, for fear of diſcovery; this Informant by many Circumſtances being aſſured that the ſaid Mrs. *Remige* was privy to all or moſt of the Tranſactions of the Plot. And he ſaith, That about *May* laſt was two years, he was preſent at Maſs with the Lord *Powis* in *Vereſtreet*, when the Earl of *Caſtlemain* did ſay Maſs in his Prieſtly Habit, after the Rites and Ceremonies of the Church of *Rome*.

Edward Turberville.

Sworn the 9th Day of November, 1680. *before*

Thomas Stringer,
William Pulteney,
Edmund Warcupp:

L. H. S. My Lord, this Affidavit is to the purpoſe to which you call for it; this does ſay that your Lordſhip did go by the way of *Calais*, it does abſolutely ſo.

L. Staff. Now whether he be forſworn or no, your Lordſhips may judge by theſe three Witneſſes.

Mr. *Tur.* My Lords, that which I grounded my Belief of his going to *Calais* upon, and ſo conſequently that Affidavit, was the Letter which I received from my Lord; which I have looked for, but cannot find.

L. H. S. This Affidavit does not ſay you went from *Calais* to *England*, but you went with Count *Gramont* to *Calais*.

L. Staff. I conceive, my Lords, this Affidavit and his Narrative are word for word the ſame, only that Amendment of 72 for 73, upon which I obſerved before he was forſworn once. I cannot tell what to ſay if this Man can be believed. And Count *Gramont* came by *Diep* too. But beſides, my Lords, in this Affidavit he does not ſay he believed ſo by the Letter, though now he ſpeaks of one.

L. H. S. My Lord *Stafford*, was Count *Gramont* in your Lordſhip's Company when you came to *Diep?*

L. Staff. No, my Lords, he was in *England* before me a Month; but, my Lords, I cannot deny but I had one recommended to come over with me, that pretended himſelf to be a *French* Count, but the Man was as errant a Raſcal as this that ſwears againſt me; and that was one that called himſelf Count *de Brienne*, whom all the World knows to be a Cheat.

L. H. S. Call your other Witneſſes, my Lord.

L. Staff. Where is *John Minhead?*

(Who ſtood up.)

L. H. S. Who do you belong to?

Minhead. My Lord *Powis.*

L. Staf. My Lords, Mr. *Turberville* he ſays by the perſuaſion of my Lady *Powis* went to *Doway*, and he ſtaid in the Monaſtery three Weeks, and not liking that Life, he came away, (this may be true, I ſay nothing to it:) but that which I take exception at, is this; He ſays, for this the Earl of *Powis* and his Lady, when he came back from *Doway*, were very angry with him, and ſo were all his Relations, and he ſtood in fear of his Life from them. Surely when Mr. *Turberville* knew he was in ſuch danger, he would not have come near them. Pray ask this Gentleman whether he was at my Lord *Powis*'s, and how he was entertained.

L. H. S. Do you know *Turberville?*

Minh. Yes, my Lords.

L. H. S. Have you ſeen him at my Lord *Powis*'s?

Minh. Yes, my Lords.

L. H. S. How was he received there?

Minh. Very well, my Lords.

L. H. S. When was that?

Minh. In the Year 75.

L. H. S. Was that before or after he came back to *England?*

Minh. It was after he came from *Doway.*

L. H. S. What Countryman are you?

Minh. A *Frenchman.*

L. H. S. What Religion are you of?

Minh. A Roman Catholick.

L. Staff. Pray ask him whether he lay in my Lord's Houſe?

Minh. Yes, my Lords, he lay with me in my Lodgings.

L Staff. And yet he ſays he was afraid of his Life.

L. H. S. Did my Lord know he lay there?

Minh. Yes, he muſt needs, becauſe he came thro the Room to go to bed.

L. Staff. May it pleaſe your Lordſhips, he ſays he was threatned that he ſhould have his Brother diſinherit him, and which afterwards was compaſſed. Now I ſhall ſhew that this was impoſſible, for he had no Inheritance to loſe, nor was to have none; for his Brother, who is elder than he, (this Man being by a ſecond Venter) hath Children, as I ſhall make appear by another of his Brothers, who is here. And this not being ſettled upon him who was by the ſecond Venter, could not come to him; but, for want of Iſſue of that Brother, muſt go to the Uncle. So he ſwears he was diſinherited of an Eſtate, when he was to have no Eſtate, nor could have. Call Mr. *John Turberville*: (*Who appeared.*) My Lords, I deſire you to ask him whether he knew that upon his coming back to *England* he was ill-uſed?

Mr. *J. Tur.* I never knew any Unkindneſs from my elder Brother to him.

L. H. S. Are you his Brother?

Mr. *J. Tur.* Yes, my Lords, by the Father, not by the Mother.

L. H. S. Well, what can you ſay?

Mr. *J. Tur.* I never heard any thing when he returned from *Doway*, that he was ill received by my Lord *Powis*; but in a few days after my Brother and Siſter came to Town, we went to *Bloomsbury*, and there we met together: and my Brother complaining that he was unfortunate in that he had undertaken what he could not perform in going beyond Sea, and now wanted a Livelihood; my eldeſt Brother told him he had done as far as his Ability, he could do no more, it was his own Choice, and he had no more to ſay.

L. Staff. Had he any Money from his Relations?

Mr. *J. Tur.* He made interceſſion by Friends to my Siſter, and ſhe told me that ſhe gave him 7 *l.* to bear his Charges to *Paris*, with that Proviſo, that he would never trouble them more.

L. H. S. But were they not angry with him?

Mr. *J. Tur.* Here he is, he cannot ſay they ever gave him an angry Word in their days; I'm ſure I never did.

L. H. S. Did you not forbid him the Houſe?

Mr. *J. Tur.* No.

Mr. *Ed. Tur.* Theſe are People that take not the Oaths of Allegiance and Supremacy, and therefore are not fit to be Witneſſes.

L. Staff. Now your Lordſhips ſee what a Villain he is.

Mr. Ser. *Mayn.* You muſt give good words, my Lord, for none but good words are given you.

L. Staff. I muſt call them Villains, or my ſelf Traitor.

L. H. S. You ſay they gave him 7 *l.* upon condition they ſhould never ſee him more.

Mr. *J. Tur.* I did not ſay, my Siſter ſaid upon condition ſhe would give him 7 *l.* he would never trouble us more; it was his Declaration.

L. Staff. One thing I would ask Mr. *Turberville* more, and that is about this Man's being diſinherited: Whether he could, or whether he was Heir to an Eſtate or not?

L. H. S. What ſay you to it?

Mr. *J. Tur.* By all the Information of our Relations, the Eſtate was made by my Grandfather to my Father for Life, and after my Father's Life to my Mother; and after my Mother's Life to my eldeſt Brother, and the Heirs Males of his Body; and for want of ſuch, afterwards to me, and the Heirs Males of my Body; and in caſe I had none, then to my Father's Brother, and his Heirs Males; and if he had no Heirs Males, then after that to the right Heirs of the Grandfather. This was before my time.

L. H. S. Well then, that Remainder to the right Heirs might come to him; and ſo there was ſome Eſtate for him to loſe, and that Remainder might be dock'd by the Tenant in Tail. I would ask, Was there any Recovery ſuffered to bar that Intail?

Mr. *J. Tur.* Yes, I think there was one upon my Brother's Marriage.

L. H. S. Mr. *Turberville*, were you told you ſhould be diſinherited?

Mr. *E. Tur.* Yes, my Lords.

L. H. S. Who told you ſo?

Mr. *E. Tur.* My eldeſt Brother.

L. H. S. What did he tell you?

Mr. *E. Tur.* He told me it ſhould not come to me.

L. H. S. How ſhould it come to you?

Mr. *E. Tur.*

Mr. *E. Tur.* I am not ſo good a Lawyer as to tell that, whether it could or no; but I thought, by Succeſſion.

L. Staff. Then he ſays he came to ſerve my Lady *Mollineux* in 72; it may be it is ſo as he ſays, I don't know it of my own Knowledge: but I pray he may anſwer, whether it was in 71, or 72.

Mr. *E. Tur.* In *January* or *February*, 71.

Mr. *Treby.* That is the beginning of the Year 72, according to the Almanack.

L. Staff. My Lords, for the preſent I do not remember any thing more——Oh, yes, my Lords, he ſays he was at ſuch a time at my Lord *Powis*'s, when my Lord *Caſtlemain* was at *Powis*-Caſtle, which muſt be either in the Year 72, 73, or 74. Now I deſire you would ask Mr. *Lydcot* whether my Lord *Caſtlemain* was there, or could be there in any of thoſe Years.

(*Then* Lydcot *ſtood up.*)

L. H. S. What do you ask him, my Lord?

L. Staff. I deſire to ask him, whether in the Year 72, 73, or 74, which are the Years *Turberville* ſays he was at my Lord *Powis*'s at *Powis*-Caſtle, whether my Lord *Caſtlemain* was at *Powis*-Caſtle, or could be there at that time.

L. H. S. Was my Lord *Caſtlemain* there in any of thoſe Years?

Lydcot. My Lords, I can prove he was not, as much as I am capable of proving a Negative. I was with him in the Years 72, 73, and 74.

L. H. S. Where?

Lydcot. He was in *England* in 73; I was with him all the while, and I am ſure ſince I knew him he was never in *Wales*, and I was never abſent from him ſince I knew him (which is nine Years) not four Months in all: I have travelled with him, and been abroad with him.

L. H. S. Turberville, when do you ſay my Lord *Caſtlemain* was at *Powis*-Caſtle?

Mr. *Tur.* I think it was in the Year 73.

L. H. S. By what Token do you remember him there?

Mr. *Tur.* He was arguing with my Lord *Powis* about Religion, and ſeveral times he did ſo: I believe it was in the Year 73.

L. H. S. What ſay you to that?

Lyd. I can aſſure your Lordſhips he was not there then; I was always with him that Year: he had many times a Deſign to go there, but he could not but put it off; and the laſt time he was there, I can prove it was fifteen Years ago.

L. H. S. I deſire to know of you this, Friend; Can you take it upon you to affirm upon the Faith of a Chriſtian, that you were never from my Lord *Caſtlemain* all the Year 73?

Lyd. I can give an Account to half a Week where he was; and when I was abſent from him, it was beyond Sea, and all that while I kept Correſpondence with him every Poſt, and receiv'd Letters from him conſtantly once a Week, dated from *Liege*: This was in the time of my Abſence.

L. H. S. Were you at *Liege* when my Lord was in *England*, or were you with him all the time he was in *England?*

Lyd. My Lords, I was with him all the time he was in *England*, and was never abſent from him all that compaſs of time, but when he ſent me into *England* from *Liege*.

L. H. S. Then he was at *Liege* himſelf?

Lyd. Yes, my Lords.

L. H. S. Was that in the Year 73?

Lyd. Yes, my Lords, I was then in *England*. But, my Lords, I can give you a whole Account, for my Lord and I never made any Journeys, but I put them down.

L. H. S. You ſay you can give a particular Account of the whole Year 73, even to the compaſs of four Days in that Year at moſt.

Lyd. No, my Lords, I do not ſay ſo, but I ſay I can give an Account of the whole time I have been with him within four Months.

L. H. S. Were any of thoſe four Months within the Year 73?

Lyd. No: I was with him all the Year 73.

L. H. S. Will you take it upon you to ſay, That every Day in 73 you were with my Lord?

Lyd. Every Day, my Lords!

L. H. S. Every Week?

Lyd. Yes, I do not think but that I was. My Lord did me the honour to make me as it were his Companion.

Mr. Ser. *Mayn.* No, you do your ſelf the honour to make your ſelf his Companion; he made you his Servant.

L. H. S. Come, where are your Notes you pretend to ſpeak by? your Diary, or your Journal? Let us hear a whole Account of the Year 73, for you come to teſtify as if you could give an Account of every Day.

Lyd. I did not think any Queſtion of this nature would come on the Stage; there is my Lord's Steward can give a very good Account of this by his Account-Books, which are all ready to be produced: he can tell where my Lord was, by laying out ſuch and ſuch Moneys. And 'tis an hard thing to give a Teſtimony after ſo many Years, of a thing that we thought not would ever be a Queſtion.

L. H. S. Let us ſee your Notes.

Lyd. My Lords, I will read it to your Lordſhips.

L. H. S. When was this written?

Lyd. I took this out of another Book.

L. H. S. When?

Lyd. Lately, ſince Mr. *Turberville*'s Narrative came out.

Sir *Will. Jones.* Oh, I deſire that may be obſerved.

L. Staff. If your Lordſhips pleaſe, I deſire that he may bring his Books *Oh, Oh!* will not condemn me, but Law and Juſtice: I am not to be run down with *Oh, Oh!* or what ſuch impudent Villains as theſe ſay.

L. H. S. Read what you have there.

Lyd. From *Liege* we ſet forth to *Paris*, *January* 1. 72. where we ſtaid three Weeks, and arrived thence at *London*, *January* 24; there we ſtaid till *May* 73, and from thence we went to *Liege* again in *June*, and from *Liege* we ſet forth to *London* in *Auguſt*, and returned *October* the 3d, 73.

L. H. S. Were you all the while between *Auguſt* and *October* in *London?*

Lyd. I am morally certain, that I did not go from my Lord all that time.

L. H. S. Where were you after *October?*

Lyd. Which *October*, if your Lordſhip pleaſe?

L. H. S. October, 73.

Lyd. At *Liege*; for we returned to *Liege* at *October* the 3d, and then after this my Lord ſent me into *England*. I left him at *Liege*, and from thence I ſet out for *England*; and in *January* I returned to *Liege*, which was the greateſt part of time that I was ever abſent from him.

L. H. S. And was he at *Liege*, are you ſure, all that time from *October* to *January?*

Lyd.

Lyd Yes, except he fled: For I ſent Letters by the foreign Poſt, and received Letters by the foreign Poſt every Week. And his Account-Books will ſpeak it.

Sir *Will. Jones*. My Lords, we deſire to ask him one Queſtion, (ſince he can give ſo exact an Account) Whether my Lord *Caſtlemain* was in *England*, 72; and how much of that Year?

Lyd. Yes.

Sir *Will. Jones*. How many Months of the Year 72, was he in *England*?

Lyd. I read it before. We arrived from *Liege* to *London*, *January* the 24th, 72, and ſtaid at *London* till *May* 73.

L. H.S. But where was my Lord all the Year 72?

Lyd. Pray, my Lords, do you mean New-Stile or Old-Stile?

L. H. S. When I ſpeak of his being at *London*, I mean the Stile of the Country.

Sir *Will. Jones*. Then, under favour, he ſpeaks of the latter part of the Year: I deſire to know, whether my Lord for all the former part of the Year was in *England*?

L. H. S. Where was my Lord in *December*, 72, and in *November* before that, and in all the Year up backwards?

Lyd. My Lords, I have told you the whole Year.

L. H.S. But where was my Lord from *January* 71, to *January* 72?

Lyd. In 71, *June* the 19th, New-Stile, we came to *London*, and returned in *September* to *Liege*; from *Liege* we ſet forth to *Paris*, *January* 1, 72; and arrived at *London*, *January* 24.

L. H. S. He runs paſt the time.

Sir *Will. Jones*. My Lords, we ask him a plain Queſtion, but he does not anſwer it; he ſlips over the time that we deſire your Lordſhips to ask him about.

L. Staff. I beſeech your Lordſhips that it may be made plain, that there may nothing be ſaid afterwards that it was not plain.

Lyd. Sir, do you propoſe any thing to me, and I will anſwer it.

Sir *Will. Jones*. Anſwer not us, anſwer my Lords.

Lyd. I deſire any body may peruſe my Notes, if they pleaſe.

L. H.S. Pray, Sir, anſwer the Queſtion, which in very ſhort Terms is this, Where my Lord *Caſtlemain* was all the whole Year 72?

Lyd. Well, my Lords, I will; I can but read it over again. From *Liege* we ſet forth to *Paris*, *January* 1. 72.

L. H. S. Are not you a rare Fellow now!

Lyd. My Lords, I underſtand it according to the Stile of that Country when I am there, and of this Place when I am here.

L. H. S. Anſwer me according to our Stile.

Lyd. This that I have written here, in the Book out of which I took it, hath been written ever ſince that time; and I did not think I ſhould e'er be called to account about it.

L. H. S. Begin *January* the 1ſt, 71.

Lyd. We went from *Liege* to *Paris*, where we ſtaid about a Week, or ſuch a time, and we arrived at *London*, *January* the 24th, that is the Old-Stile, and ſtaid at *London* till *May* the 8th, 73.

L. H. S. That is impoſſible, for you 'ſcape a Year and an half together.

Lyd. My Lord was here in *England* in *January*.

L. H. S. You begin very gravely with *January*, *Stilo veteri*, that you came from *Liege*; and ſo *January* the 24th, *Stilo veteri*, you came to *London*.

Lyd. When I ſpeak of any Stile, I underſtand it according to the Stile of the Country.

L. H. S. But in your Account, what is become of all the time from *January* 71, to *January* 72; ſay and ſwear, if you can, where my Lord was all that time.

Lyd. He muſt be in *London*.

L. H. S. Can you take it upon your Oath, that my Lord was in *London* from *January* 71, *Stilo veteri*, to *May* 73, *Stilo veteri*?

Lyd. I cannot know how to count better than I have done.

L. Staff. Mr. *Turberville* ſays, my Lord *Caſtlemain* was in 73 at *Powis*-Caſtle; I beſeech your Lordſhips this Man may be asked, and that without any Interruption, where my Lord was that Year.

Sir *Will. Jones*. With your Lordſhips favour I muſt deſire your Lordſhips to ask Mr. *Turberville* whether he did ſay poſitively the Year 73; for if my Ears and my Notes do not fail me, he ſaid, as he remembred; and that is the reaſon why we ask about the Year 72.

Mr. *Tur*. My Lords, I do not ſay poſitively, nor cannot, which Year it was.

Lyd. My Lords, I do ſtand upon it that he was in *London January* 72, and went away *May* 73.

L. H. S. What becomes of the mean time, between *January* 71, and *May* 73?

Lyd. My Lords, I explain my ſelf as well as I can.

L. H. S. My Lord *Stafford*, will you call any more Witneſſes?

L. Staff. Yes, my Lord.

L. H. S. Call them then.

Earl of *Shaftesbury*. My Lord High Steward, I deſire my Lord *Stafford* may be asked how many Witneſſes my Lord hath more, for it now grows late.

L. H. S. My Lord, I deſire to know how many Witneſſes you have more?

L. Staff. Three or four; I can't tell well how many.

Lords. Adjourn, adjourn.

L. H.S. Is it your Lordſhips pleaſure that we do adjourn?

Lords. Ay, ay.

L. H.S. Then this Houſe is adjourned into the Parliament-Chamber.

Then the Lords returned in their former Order to their Houſe, and the Commons went back to their Houſe.

Mr. Speaker reſumed the Chair, and a Meſſage from the Lords was ſent by Sir *Timothy Baldwin* and Sir *Samuel Clark*.

Mr. Speaker,

The Lords have ſent us to acquaint this Houſe, that they have ordered the Priſoner, *William* Viſcount *Stafford*, to be brought again to his Tryal at the Bar in *Weſtminſter-Hall* to-morrow morning at Ten of the clock.

The Fourth Day.

Friday, *December* 3. 1680

ABOUT the Hour of Ten in the Morning the Lords adjourned into *Weſtminſter-Hall*, and returned in their former Order into the Court there erected; and Mr. Speaker having left the Chair,

Chair, the Commons were ſeated as before-mentioned.

The Court being ſat, Proclamation for Silence was made, and the Lieutenant of the *Tower* commanded to bring his Priſoner to the Bar; which being done, the Lord High Steward ſpake to the Priſoner as followeth.

L. H. S. My Lord *Stafford*, your Lordſhip's Defence took up yeſterday. All the Day was employed in hearing your Lordſhip's Witneſſes to impeach the Credit of the Teſtimony that hath been given againſt you. Your Lordſhip hath excepted againſt *Dugdale*, becauſe you were not at *Tixall*, as he ſays you were, neither the latter end of *Auguſt*, nor the beginning of *September*, till the Twelfth; and when you were there, you never ſent for him to your Chamber, but your Man, upon his own deſire, brought him: and when he came there, the Buſineſs was, to deſire you to get leave that he might go to the Race; and there was no opportunity of private Diſcourſe, becauſe your Men were in the Room all the while: That *Dugdale* hath often ſaid he knew nothing of the Plot; that he ſwore falſly, when he ſaid he told of the Letter about the Death of Sir *Edmondbury Godfrey* before it was known he was kill'd, and when he ſaid, that *Hobſon* told him preſently after the Almoner went over, which was three Years before *Hobſon* came to my Lord *Aſton*'s Service. Your Lordſhip hath likewiſe objected, that he hath corrupted Perſons to ſwear falſly againſt you and others, as *Robinſon* the Upholſterer againſt your Lordſhip, *Morrall* the Barber againſt Sir *James Symons*, and *Holt* the Blackſmith to ſwear that one *Moor* carried away *Evers*. Your Lordſhip hath endeavoured to diſcredit *Oates*, by his ſaying he knew nothing of any other Perſons that were concerned in the Plot, and after accuſing the Queen. Your Lordſhip hath impeach'd the Credit of *Turberville*, by proving that you came home by *Diep*, and not by *Calais*, as he ſays you did; that you had never the Gout while you were in *France*, nor, as your Page ſays, for theſe ſeven Years; that my Lord *Caſtlemain* was not at my Lord *Powis*'s in the Year 73. and there you left off. This I take is the Sum of what your Lordſhip ſays; if I do you any wrong, your Lordſhip will put me in mind of it.

L. *Staff.* I thank your Lordſhip, you have done it with great Equity and Truth.

L. H. S. Then go on.

L. *Staf.* The next Witneſs that I call is one *John Porter*.

(*Who ſtood up.*)

L. H. S. What is your Name?

Witneſs. John Porter.

L. H. S. What Profeſſion are you of?

Porter. A Butler.

L. H. S. To whom?

Porter. To my Lord *Powis*.

L. *Staf.* My Lords, I deſire your Lordſhips would ask him what Mr. *Turberville* ſaid about the Plot.

L. H. S. I will ask him all the Queſtions your Lordſhip deſires I ſhould ask him.

Mr. *Foley.* We deſire to know what Religion he is of.

L. Staff. I deſire your Lordſhip would ask him that Queſtion, and not the Managers.

L. H. S. They will tell me their Queſtions, my Lord, and I will ask them.

L. Staff. They ask him, my Lords, and not you.

L. H. S. What Religion are you of?

Porter. A Church-of-*England* Man, my Lords.

Mr. Serj. *Mayn.* The Popiſh Church of *England*, I believe.

L. Staff. Pray, my Lords, let not this be; when my Witneſs ſays he is of the Church of *England*, they cry he is of the Popiſh Church of *England*.

Mr. Serj. *Mayn.* Pray, good my Lord, we are ſilent when you ask him proper Queſtions, and make no Remarks; we do not ſpeak it to the Court; we may ſay what we will among ourſelves, I hope.

L. *Staf.* I may ask impertinent Queſtions, becauſe I do not underſtand ſo well as theſe Gentlemen. But I pray they may not deal thus with me.

L. H. S. My Lord, you ſhall ask what Queſtions you pleaſe.

L. *Staf.* Pray ask him what Mr. *Turberville* ſaid to him about his Knowledge of the Plot.

L. H. S. What did *Turberville* ſay to you about his knowing of the Plot?

Porter. About a Year ſince, when I ſerv'd my Lord *Powis* as Butler there, he was us'd to come and ſee me; it was not at my Lord's Houſe, but he ſent for me to a Victualling-Houſe——

L. H. S. That was the laſt Year?

Porter. Yes.

L. H. S. What time of the Year?

Porter. It was about twelve months ago, I cannot ſay poſitively the time.

L. H. S. Was it Winter or Summer?

Porter. He hath been both, I can't be poſitive which; I believe he hath been there forty times.

L. H. S. In the Year 80, or 79?

Porter. In the Year 79.

L. H. S. What did he ſay?

Porter. He came there, and asked me how my Lord *Powis* did; and ſaid, he was extremely troubled that he was in that Affliction, for he did verily believe, that neither he nor the reſt of the Lords were in the Plot; and the Witneſſes that ſwore againſt him, he believ'd were perjur'd, and could not believe any thing of it.

L. H. S. Have you any more to ſay?

Porter. Yes, my Lords: I told him, if there were ſuch a thing as a Plot, he having been beyond Sea, muſt certainly know of it. He told me, as he hop'd for Salvation, he knew nothing of it, neither directly nor indirectly, againſt the King's Sacred Perſon, nor the Subverſion of the Government. And he further ſaid, Altho I am a little low at preſent, and my Friends will not look upon me, yet I hope God Almighty will never leave me ſo much, as to let me ſwear againſt innocent Perſons, and forſwear and damn myſelf.

L. H. S. Where was this ſaid to you?

Porter. At the *Ship* Alehouſe in *Lincolns-Inn-Fields* one time, another time at the *King's-Head Tavern* in the *Strand*, and another time at the *Golden-Ball* in the *Strand*.

L. H. S. Was any body by, beſides yourſelf?

Porter. Not at that time; but there is a Gentleman in Court, that can teſtify that he ſaid ſuch things at other times.

L. H. S. What ſay you to this, *Turberville?*

Mr. *Tur.* I ſay 'tis all falſe: But if your Lordſhips pleaſe, I'll tell you what I ſaid once, I did conceive my Lord *Powis* was the leaſt concern'd of any, I thought; and I hop'd it would prove ſo. I can take all the Oaths in the World, I ſaid no more.

L. H. S. What elſe do you know?

Porter. Only ſuch things as theſe he hath often ſaid.

Earl of Shaftesbury. Pray, my Lords, ask him how came *Turberville* to talk of Witneſſes about the Plot?

L. H. S. Upon what occaſion came *Turberville* to talk of theſe Matters?

Porter. It was only voluntary of himſelf; it was ſpeaking of my Lord *Powis*, and the reſt of the Lords in the *Tower*.

Earl of Shafteſ. My Lords, I mean of his own being a Witneſs.

L. H. S. How came *Turberville* to ſay, he hop'd God Almighty would never forſake him ſo far, as to let him ſwear againſt innocent Perſons? he was never call'd to be a Witneſs.

Porter. But, my Lords, ſome of his Friends did ſay they were fearful of him, in regard he was reduc'd to Poverty; his Friends were fearful.

L. H. S. Who were fearful?

Porter. His Brother and Siſter, Mr. *Turberville* and his Wife.

L. H. S. Did he take notice to you that they were afraid he would come in?

Porter. Yes, Mr. *Turberville* did tell me himſelf, that they heard he would come in.

L. H. S. Have you ſaid all that you have to ſay?

Porter. My Lords, that is all I have to ſay.

L. H. S. Then call another, my Lord.

L. *Staf.* Where is Mr. *Talden?*

(*Who ſtood up.*)

L. H. S. What is your Name?

Witneſs. Talden.

L. H. S. Your Chriſtian Name?

Witneſs. John.

L. H. S. What is your Profeſſion?

Talden. A Barriſter at Law.

L. H. S. How long have you been called to the Bar?

Talden. I was call'd to the Bar laſt *Trinity Term* was twelve Months.

L. H. S. What Houſe are you of?

Talden. Grays-Inn.

L. H. S. Are you a Practiſer?

Talden. Yes, my Lords.

L. H. S. What Religion are you of?

Talden. Of the Church of *England.*

L. H. S. Well, what can you ſay?

Talden. I am ſummon'd to appear by Order of this Houſe; and I deſire to know of my Lord what he is pleas'd to examine me about.

L. Staff. What Mr. *Turberville* hath ſaid in his hearing about the Plot.

L. H. S. What Diſcourſe hath paſs'd between you and *Turberville* about the Plot?

Talden. My Lords, in *February* or *March* laſt I was walking in *Grays-Inn-Walks* with Mr. *Turberville*, and Mr. *Powell* and he din'd with me a day or two after; and there Mr. *Turberville* and I were talking of the Diſtractions of the Times, how Trade was ruined, how the whole Kingdom was out of order; and he was a little touch'd at ſome things, and cry'd out, *God damn me, now there is no Trade good, but that of a Diſcoverer; but the Devil take the Duke of* York, Monmouth, *Plot and all, for I know nothing of it.*

L. H. S. That is odd, that he ſhould ſay it was a good Trade to be a Diſcoverer, and at the ſame time ſay, he knew nothing of the Plot.

Talden. This I underſtood to be his Meaning; he curs'd himſelf and them, becauſe he knew nothing of the Plot to diſcover; for he would have got Money by it (as I underſtood) as well as others.

Mr. *Tur.* My Lords, Mr. *Talden* did declare yeſterday, he was ſummon'd in by my Lord *Stafford* the laſt Night, and that he had nothing to ſay but what was by Hear-ſay.

Talden. My Lords, I do declare here what I ſay is true. And yeſterday Mr. *Powell* gave me a Caution to take heed what I did, and ſwore by God, it would elſe be the worſe for me.

L. H. S. Who did?

Talden. Mr. *Powell.*

L. H. S. Who is that?

Talden. Mr. *Turberville*'s Friend. And I ſaid, I do not appear here as a voluntary Evidence, but by an Order of the Houſe of Lords. I do not know what weight my Evidence may have; for I can ſay nothing but what I heard him ſay, and ſo perhaps it will be taken but for an Hear-ſay.

Mr. *Tur.* You ſaid you knew nothing but by Hearſay.

L. H. S. Will you ask him any Queſtions, Gentlemen?

Manag. No, my Lords.

L. *Staff.* My Lords, I ſhall not trouble your Lordſhips with any more Witneſſes as to theſe Points; I have here a Copy of the Warrant for the Yacht to go to *Diep:* and if there be any Queſtion whether I did come over from *Diep* at *Chriſtmas* 75, if you pleaſe the Book may be ſearched.

L. H. S. My Lord, it is all loſt, for I hear not one word.

L. *Staff.* I ſay, my Lords, if it be fit to trouble your Lordſhips with it, I can prove that I did come over in the Yacht from *Diep* at *Chriſtmas* 75; here is the Copy of the Warrant for it to go for me. And whether you will have it prov'd that I did come over thence, I ſubmit to you.

L. H. S. I ſuppoſe that is fully prov'd, that you did come by *Diep.*

Manag. We do not deny it.

L. H. S. You do not ſtand upon it, Gentlemen, do you?

Manag. No, no, my Lords.

L. H. S. 'Tis admitted to you, my Lord.

L. *Staff.* My Lords, when I went from your Lordſhips Bar laſt Night, I had no thoughts of examining any Witneſſes, but what I have already done: But, my Lords, ſince I was here, there hath ſomething happen'd, about which I deſire Dr. *Oates* may be called again (I ſhall give you my reaſon why I move it afterwards) upon ſomething I heard yeſternight.

L. H. S. Call Dr. *Oates* again. (*Who appeared and ſtood up.*)

L. H. S. My Lord, what does your Lordſhip call him for?

L. Staff. He did ſay, that he being a Miniſter of the Church of *England*, did ſeemingly go over to the Church of *Rome*, or ſome ſuch Words; I deſire he may anſwer that firſt.

L. H. S. What ſay you?

Dr. *Oates.* Yes, I did ſay I did but ſeemingly go over.

L. Staff. I deſire to know, whether he was really a Papiſt, or did but pretend.

Dr. *Oates.* I did only pretend, I was not really one, I declare it.

L. H. S. What do you make of that?

L. Staff. I deſire to know how long Dr. *Oates* was in *Spain.*

Dr. *Oates.* My Lords, I came into *Spain* in *May*, and I came home again in *November.*

L. H. S.

L. H. S. That is ſix Months.

L. Staff. He is called Dr. *Oates:* I beſeech your Lordſhips to ask him, whether he were a Doctor, made at the Univerſities here or abroad.

Dr. *Oates.* My Lords, if your Lordſhips pleaſe, any matter that is before your Lordſhips, I will anſwer to it; but I hope your Lordſhips will not call me to account for all the Actions of my Life: whatever Evidence is before your Lordſhips, I will juſtify.

L. H. S. The Doctor hath never taken it upon his Oath, that he was a Doctor, and why do you ask it?

L. *Staf.* He is called a Doctor, and I would know whether he did never declare upon his Oath, that he took the Degree at *Salamanca?*

Dr. *Oates.* My Lords, I am not aſhamed of any thing I have ſaid or done; I own what is entred as my Oath before your Lordſhips, and am ready to anſwer it; but I am not bound to ſay what does not at all concern this Buſineſs.

L. *Staff.* I ſay, my Lords, 'tis entred upon your Lordſhips Books, that he did ſwear at the Council, he was at *Madrid* with Don *John* of *Auſtria*; I would know of him whether he did ſo.

Dr. *Oates.* My Lords, I would have my Lord to propoſe the Queſtion to the Court of Peers.

L. H. S. Have you ſworn any thing of Don *John* of *Auſtria?*

Dr. *Oates.* My Lords, I refer my ſelf to the Council-Book.

L. *Staf.* I beſeech your Lordſhips, I may have that Book.

L. H. S. I believe it is in the Narrative; turn to the Journal, you have that mention'd there.

[*To which the Clerk turned, but it could not be found.*]

L. H. S. If you will not acknowledge it, we muſt ſtay till the Book be brought.

Dr. *Oates.* My Lords, if your Lordſhips pleaſe, I will repeat, as well as I can, what was ſaid at the Council-Table; but I had rather the Council-Book were fetch'd, becauſe I am upon my Oath: but, my Lords, I always thought the Council-Book is no Record upon any Man.

L. *Staf.* I deſire it may be produc'd, or he own that he ſaid ſo.

L. H. S. What you ſaid at the Council-Table, you ſaid upon your Oath, and 'tis lawful to lay it before you.

Dr. *Oates.* But if your Lordſhips pleaſe, as to what was ſaid at the Council-Table, if my Lord will bring any one *viva voce*, to ſwear what was ſaid by me there, that will make ſomething.

L. H. S. That may be material, as he ſays, that your Lordſhip ſhould bring ſomebody to ſwear he ſaid ſo, for the Clerks may miſtake him.

L. *Staff.* If your Lordſhips pleaſe that the Book may be ſent for, I will make it out.

Sir *W. Jones.* It could not be read if it were here.

L. H. S. If the Clerks will ſwear what is in the Books, it may.

Sir *W. Jones.* But whether the Clerks will take that upon them or no, may be a Queſtion.

L. H. S. Go on in the mean time.

L. Staff. I cannot conclude with him without it.

L. H. S. Where is the Council-Book? For the Clerks inform me 'tis not in their Cuſtody; but the Gentlemen of the Houſe of Commons have been attended with the Book, and other Papers relating to it.

L. Staff. In the mean time, give me leave to ſay ſomething, tho perhaps it may be nothing to the purpoſe: Mr. *Yalden* was juſt now going down, and *Turberville* threatned to lay him by the heels.

L. H. S. If he did ſo, 'tis a Miſdemeanor, and he muſt be puniſh'd for it. Call *Yalden* and *Turberville.*

L. H. S. Mr. *Turberville*, have you dar'd or threatned *Yalden* the Witneſs, to lay him by the heels?

Mr. *Tur.* I did not ſpeak any ſuch Words to him; Mr. *Dugdale* was juſt by me all the while.

L. Staff. I tell you but what he ſaid, and what I can prove by Witneſs; pray call *Yalden.*

Mr. *Tur.* This Gentleman, Captain *Scudamore*, ſtood by me too.

L. H. S. But I ask you upon this Miſdemeanor, whether you threatned *Yalden* to lay him by the heels?

Mr. *Tur.* My Lords, I ſtood by Mr. *Dugdale* till he was gone down.

L. H. S. How could he lay him by the heels? By what Authority could he do it?

Mr. *Tur.* I did not ſpeak ſuch a Word, upon my Oath.

L. *Staff.* Ask *Yalden*, I am told he did.

L. H. S. I am afraid you are miſinform'd, my Lord; for he could not do it, 'tis not in his power.

L. *Staff.* He threatned he would jayl him; but if you won't examine it, I ſubmit to you.

Dr. *Oates.* My Lords, *Yalden*, it ſeems, calls us a Pack of Rogues, that give Evidence for the King; and here are Witneſſes of it.

(Yalden *ſtood up.*)

L. H. S. Yalden, were you threatned by *Turberville?*

Yalden. Yes, I will tell you how I was threatned, my Lords: Mr. *Turberville* pulls me by the Arm, when I had given my Evidence, and asked me if I knew him, and bid me take care.

L. H. S. Do you call that a Threatning?

Yalden. My Lords, I did not make this Complaint, nor did I deſire it ſhould be made; but ſpeaking this in the Room, ſomebody carried it to my Lord.

Mr. *Tur.* My Lords, now he hath done, let me ſpeak, I pray; Mr. *Yalden* did ſay in the hearing of Captain *Scudamore*, who is here, he had got a great many Clients here; but you, ſays he, have got nothing but a Pack of Rogues.

Yalden. That is a Miſtake.

L. H. S. This is fine Work. But, Gentlemen, will you call Captain *Scudamore* now, or will you ſtay till afterwards?

Sir *F. Win.* My Lords, Mr. *Turberville* deſires it may be now, and we do alſo deſire it upon this occaſion; Captain *Scudamore* is a Man of Quality, and will give you a true Account. We did not think to have interpos'd in my Lord *Stafford*'s Evidence; but he having impeach'd our Witneſſes of a Miſdemeanor, we conceive it fitteſt to clear it at this time.

(*Then Captain* Scudamore *was ſworn.*)

L. H. S. Mr. *Scudamore*, what are you call'd for? Can you ſay any thing that happen'd between *Turberville* and *Yalden?*

Captain *Scudamore.* The Gentleman that is here, that ſaid he was one of *Grays-Inn*, I don't know his Name ———

L. H. S. 'Tis *Yalden.*

Captain *Scudamore.* I heard a Gentleman ask him if he came there to get Clients, and he ſaid, I know nothing among you but Roguery.

L. Staf. Whereabouts did this Gentleman ſtand?

Capt. *Scudamore.* In the Paſſage.

Mr. *Tur.* Here are five or ſix more that heard him ſay ſo.

Talden. That which I ſaid, was this, That I might come hither for Practice, but I did not come hither for Roguery.

L. H. S. My Lord *Stafford*, until ſuch time as the Council-Book comes, which may be ſent for, will your Lordſhip proceed to ſomething elſe?

L. Wharton. My Lord Steward, I humbly conceive, that it was reſolved in the Lords Houſe, the day before yeſterday, that no Book ſhould be ſent for out of the Court; and it was done upon the Judgment of all the Judges of *England.*

Talden. My Lords, they will not permit me to go down.

L. H. S. There is a ſtrange Quarrel between you Witneſſes, and an Affectation of complaining one of another: Let Mr. *Talden* go down.

Sir *Will. Jones.* My Lords, I would only acquaint your Lordſhips, that the Council-Book, that my Lord does make mention of, was in the hands of our Clerk, we did not know of it, when it was firſt diſcourſed of; but now underſtanding that here it is, we deſire it may be delivered in to any body that hath occaſion for it.

L. H. S. Hand it in. (*Which was done.*)

L. H. S. What Day does your Lordſhip ſpeak of?

L. *Staf.* The 28th, 29th, or 30th of *September.*

Clerk. Then this is not the Book, for this is for *January.*

L. Staf. My Lords, Is it your Lordſhips pleaſure I may have Pen, Ink, and Paper allowed me?

L. H. S. Yes, yes; give my Lord Pen, Ink, and Paper. (*Which they did.*)

[*Then the Lord High Steward looked upon the Council-Book.*]

L. H. S. My Lord *Stafford*, in this Council-Book, as far as we can inform our ſelves by the Table of it, there is nothing at all of it; it muſt be the Council-Book in *September.*

Sir *W. Jones.* We have no other Book but that.

L. H. S. Why did not your Lordſhip ſend all this while to the Council-Table for any thing that was material, but give the Court the trouble to be interrupted upon your Inquiries?

L. *Staf.* My Lords, you may do what you pleaſe, I did not know any ſuch thing would have needed to be urged, I have Proof enough without the Book: The uſe I ſhould have made of it, is this, I do appeal to ſome of your Lordſhips (you that were of the Council) I do appeal to which of you that were by, whether Dr. *Oates* did not ſay at the Council-Table, he had been at *Madrid*, he went from *Valladolid* to *Madrid*, and there did preach ſomething at the Jeſuits College at *Madrid* (what it was I cannot tell) when Don *John* of *Auſtria* was by.

L. H. S. If any of my Lords of the Council do remember it, they may teſtify.

L. Privy Seal. My Lords, I ſhall tell your Lordſhips as much as I remember of it: Dr. *Oates* was examined about his Journey into *Spain*, and (amongſt the reſt) ſome Queſtion happened to be asked, whether he had ſeen Don *John* of *Auſtria*; he ſaid he had ſeen one that was called ſo, that he knew him not, but he was pointed to one that they ſaid was Don *John* of *Auſtria*: that I heard.

L. *Staf.* My Lord, I thank you.

L. H. S. You hear what is ſaid, Dr. *Oates.*

Dr. *Oates.* My Lords, ſuppoſe I did ſay ſo, I think there is no Crime in it.

L. H. S. 'Tis not objected againſt you as a Crime, but as a Miſtake in your Oath, there was no ſuch Man there.

L. Privy Seal. My Lords, I would not be miſunderſtood in the Evidence I give; I did not ſay that *Oates* ſaid he knew him, but that he knew him not, and only was told ſuch a Man was he.

Dr. *Oates.* It was made apparent that I did not know him, becauſe I miſtook his Perſon.

L. *Staf.* I do ſtand upon it, That upon his Oath (and I have reaſon to believe he did ſo, becauſe I am ſo informed) he ſaid it was Don *John* of *Auſtria.*

L. Privy Seal. No, my Lord, Dr. *Oates* ſaid, he was a tall lean Man, and it ſeems he was a little fat Man.

L. *Staf.* If any Man would ſhew him a Man to counterfeit Don *John* of *Auſtria*, he would not ſhew him a lean Man for a fat.

L. H. S. Go on, my Lord.

L. Staf. I ſhall now put your Lordſhips in mind that he ſwore, but my Memory is bad, and my Eyes much worſe, that he ſaw me receive a Commiſſion, and it ſeems he ſaw what it was too: Now it is ſtrange, that amongſt ſo many Commiſſions that were given, none ſhould be extant; I deſire him to ſhew the Commiſſion he ſaw me receive.

L. H. S. Would your Lordſhip have him ſhew the Commiſſions which he ſaw you receive?

L. Staf. I do not believe he can ſhew my Commiſſion; for I am ſure there was none: I deſire him to ſhew any one of my Letters he talks of. He ſays, he came over, feigning to be a Papiſt, when he was not, and that they ſhewed him preſently all my Letters, and now he is come to diſcover the Plot; I ask him, did he keep any one of my Letters?

L. H. S. Have you any of my Lord's Letters by you?

Dr. *Oates.* My Lords, I could not keep any Letters ſent to the Fathers; I had a ſight of them, but none of them to my particular uſe.

L. Staf. Does he know my Hand? Did he ever ſee it in his Life?

Dr. *Oates.* Yes, I do know his Hand, I believe I have a Letter of my Lord's by me, but not about me, 'tis of no concern: I'm ſure I have one of my Lord *Arundel*'s.

L. Staf. But he ſays he hath a Letter of mine; let him ſhew one of my Letters.

Dr. *Oates.* He writes a mix'd Hand, I think 'tis but an indifferent one.

L. Staf. So many Commiſſions, and ſo many Letters, as are ſpoken of, and not one to be found or produc'd!

L. H. S. Can you ſend for the Letter?

Dr. *Oates.* My Lords, I am not certain of that.

L. H. S. Where did you ſee my Lord write?

Dr. *Oates.* At *Fenwick*'s, my Lords, when I carry'd the Letter to the Poſt.

L. Staf. How often hath he ſeen me at *Fenwick*'s?

Dr. *Oates.* My Lords, not above twice, if twice.

L. Staf. My Lords, I cannot ſay I did not ſee him there; but I can ſay I don't know the Place, nor that ever I was there.

Dr. *Oates.* My Lords, will his Lordſhip ſay I never ſaw him at Dr. *Perrot*'s?

L. Staf. Who?

Dr. *Oates.* My Lord *Stafford.*

L. Staf. Where did he live?

Dr. *Oates.* In *Duke-ſtreet*, going into *Lincolns-Inn-Fields*: He is the Arch-Prieſt of the Seculars, that is, the Principal of the Secular Clergy; and he hath the Care of the *Engliſh* College for the ſending of Scholars to the College. Mr. *Fiſher*, my Lord *Stafford*, and Dr. *Perrot* were diſcourſing together about ſending his Son thither, and Mr. *Fiſher* would have one ſent with him, that was Dr. *Perrot*'s Man.

L. Staf. I do profeſs before God, I was never at Dr. *Perrot*'s in my whole Life?

L. H. S. Did not you ſend your Son abroad?

L. Staff. No, my Lords, not I.

L. H. S. Had he a Servant at Dr. *Perrot*'s to attend him?

Dr. *Oates.* No, my Lords, not that I know of, I cannot ſay he had not.

L. Staf. I tell you poſitively, as I am a Chriſtian, my Lords, I did not ſend my Son to *Lisbon*, he went againſt my Will. I told him I had an averſion to it, but ſaid I will not lay my Commands on you not to go; but he would go, I could not help it: I told him, do you mean to go into the College? he would not tell me.

L. H. S. Pray, my Lord, does not your Lordſhip know Dr. *Perrot?*

L. Staf. Yes, my Lords, I do.

L. H. S. Were you never with him at his Houſe in *Duke-ſtreet?*

L. Staf. No, my Lords, never in my Life; nor ſaw that *Fiſher* he ſpeaks of, ever in my Life.

Dr. *Oates.* My Lord, 'tis againſt the Rules of that Houſe, that any be admitted of that Houſe (if their Parents be Catholicks) without conſent of their Parents.

L. Staf. If he be admitted there, I know it not.

Dr. *Oates.* He lives there.

L. Staf. But I proteſt before God, my Lords, I asked him that Queſtion, Will you go to the College? No, ſays he, I will go to lie at the Biſhop's Houſe: But as for Dr. *Perrot*, I never was at his Lodgings in my Life, and I never knew where he lay; he hath been with me ſometimes, but I knew not that he was a Doctor. But, my Lords, I deſire I may not be ran down by theſe Fellows, who do not ſpeak a word true, not one tittle. My Lords, I have Witneſſes in whoſe Houſe *Fenwick* lay. Call them, and ask them if ever they knew me there in their Lives.

L. H. S. What kind of Man was he?

Dr. *Oates.* My Lords, he is an antient Man, he wears his own Hair.

L. H. S. Is he a tall Man, or a low Man?

Dr. *Oates.* A luſty Man.

L. Staf. Truly, my Lords, I never was at his Houſe ſince I was born.

Dr. *Oates.* My Lords, I'll tell your Lordſhips a Circumſtance; That Summer Don *Franciſco de Melos*, the Ambaſſador here, was ſick, and I think he died of the Sickneſs, Dr. *Perrot* was his Father-Confeſſor; I was waiting for Dr. *Perrot* ſome time, for he promiſed to meet me at his Lodgings, and this Gentleman, the Priſoner at the Bar, did come in there.

L. Staff. Where?

Dr. *Oates.* Into Dr. *Perrot*'s Lodging. Dr. *Perrot* had a Kinſman there that waited on him; and when my Lord came in, he was in haſte to ſpeak with Dr. *Perrot*, and he offered me half a Crown to fetch Dr. *Perrot* to him, and I made him this Reply, I was no Porter.

L. Staf. If ever I ſaw this Man in my Life ſince I was born, or heard of his Name till the Plot, then I will confeſs my ſelf guilty of all. Indeed, when firſt I heard of the Plot (they ſaid) there was one Mr. *Oates* diſcovered it, but I did not know any ſuch Man.

Dr. *Oates.* I went by another Name, and went in another Habit; and my Lord *Stafford*, tho his Memory be bad, yet it can't be ſo bad, but that he muſt remember ſomething of me.

L. Staf. I don't remember you, I never ſaw your Face in my Life.

L. H. S. You would have given him half a Crown to have fetch'd Dr. *Perrot*.

L. Staf. It ſeems then at that time, I took him for a poor Fellow, that I ſhould offer him a Shilling or two.

Dr. *Oates.* It is like I was, but I refuſed your half Crown, and told you I was no Porter.

L. Staf. My Lords, I ſhall give you Evidence that he was a poor Fellow, ſince he gives me occaſion to prove it; nay, that he was ſo poor, that he was brought down to accept of *6 d.* I will prove it by the Party that gave it, now he puts me upon it. But, my Lords, this Dr. *Oates* ſays he ſaw ſome of my Letters, I deſire to know what was in them; did he take any Notes? What was in them?

L. H. S. Did you, when you had a ſight of theſe Letters at *St. Omers*, take any Notes out of them?

Dr. *Oates.* What Notes I did take, if I did take any, I have not now in being; but I do not remember that I did take any. Beſides, my Lords, we could keep no Papers by us, but what we communicated to our Superiours, and therefore it was ſtill their Care to look after their Papers themſelves; and in that Circumſtance of Time, if they had known I had taken Notes out of their Papers, it would have been prejudicial to me, and indanger'd my Life.

L. Staf. My Lords, I do infer this one thing further, upon what this Dr. *Oates* tells you; He did ſeemingly profeſs himſelf of the Catholick Religion, and I do ſtand upon it, that hereupon he is no competent Witneſs in that which he offers againſt me: For he being of the Church of *England*, (for I think he profeſſes himſelf ſo, and wears that Habit) I ſay, any Man, let him be who he will in the World, Church-of-*England* Man or other, that ſhall pretend himſelf to be a Papiſt, for what end ſoever it be that he ſo pretends, and diſſembles with God Almighty, which he muſt do to a great height, in receiving that Sacrament, which is by your Lordſhips and the Houſe of Commons declared to be groſs Idolatry, is not eaſily to be eſteemed a Witneſs. I appeal to your Lordſhips, to the Houſe of Commons, and every body, whether ſuch a Fellow, that will abhor his Religion, let him do it for any ends in the World, be a Man to be credited; and eſpecially ingaging in ſuch a way, to ſuch an height, in that which his Conſcience tells him is idolatrous, is not a perjured Fellow, and no compleat Witneſs? No Chriſtian, but a Devil, and a Witneſs for the Devil. And I appeal to the whole Chriſtian World, if a Proteſtant of the Church of *England* ſhould come to be a Servant to a Catholick, and pretend himſelf a Papiſt, and were not ſo, whether he were fit to be countenanced: As it did once happen to me at *Bruſſels*, before the King came in, one that was a Proteſtant came to be my Footman, and he profeſſed himſelf afterwards to be a Catholick; and when I found he was not ſo, I told him what a Villain he was, and he ought to be puniſhed ſeverely. I deteſt ſuch diſſembling with God; and I think by the Laws of

God and Man, and the Holy Scriptures, ſuch a perjured Man is no Witneſs. I am ſorry I have troubled your Lordſhips ſo long; but now if you pleaſe to give me leave, my Lords, I will give you my Reaſons why I called him now: When I did remember how he had diſſembled with God Almighty, as I ſaid before, I did conſider with myſelf, ſure this Dr. *Oates* muſt have been, ever ſince he hath returned, of a very ſevere, ſtrict and ſober Life; for a Man that hath ſo diſſembled with God, ought to ſhew himſelf of an exemplary, peaceful, pious, civil Life, to teſtify the Truth and Reality of his Repentance. But laſt night when I came home, and was ſitting by the fire-ſide, extremely weary, my Daughter here comes in, and asks me if I had heard what had paſſed between Dr. *Oates* and the Lieutenant; how he called the Lieutenant Raſcal and Jaylor: ſure then, ſaid I to my ſelf, this is not the quiet, civil, ſober Man, that ſuch a one that hath lived as he hath done, ought to be. And this is the reaſon I ſpeak of it, that he ſhould call him vile Name, Goaler and Raſcal; it did not become a Man of his Coat to do it: Whether it was ſo or no, I do not know; but Mr. Lieutenant, I ſuppoſe, will ſatisfy your Lordſhip.

L. H. S. What did *Oates* ſay to you, Mr. Lieutenant?

Mr. Lieut. My Lords, I was deſiring Mr. *Oates* that he would keep the People down, becauſe there was a great Croud; and ſeeing a great many People come in, he told me they were Witneſſes that were to come in: ſaid I, I believe half of theſe are not Witneſſes; and the Door opening ſo often, I could keep this Place in no order, ſo I deſired they would ſtand away that were not Witneſſes: why, ſays he, you are but a Goaler. Then I told him, if it were not for his Coat, and I were out of this Place, I would break his Head. Then he called me Raſcal.

L. Staf. My Lord Steward, I deſire to know whether this be a Witneſs fit to be believed againſt any Man.

L. H. S. Mr. *Oates*, this does not become you; 'tis very ill Manners in you.

Dr. *Oates.* My Lords, the Lieutenant of the Tower hath the Law; and I refer my ſelf to the Law, if I have done him any wrong.

Mr. Ser. *Mayn.* It did not become Mr. Lieutenant of the Tower to tell him he would break his Head.

Mr. Lieut. Why? If any Man out of the Court, or in any other Habit, ſhould tell me I was a Goaler, I think I ſhould not deſerve to be the King's Lieutenant, if I did not break his Head.

Mr. Ser. *Mayn.* Pray tell the Court ſo. But yet, under favour, you ought not to threaten him for a Word to break his Head.

L. Staf. My Lords, I do ſay this to your Lordſhips, a Man that hath diſſembled with God Almighty in ſo high a nature, as he acknowledges himſelf to have done, ought to be a Man of a very ſevere Life afterwards, and not ſo paſſionate and cholerick, as it ſeems this Fellow is.

L. H. S. Will your Lordſhip proceed?

L. Staf. For this Man truly I ſhall ſay no more; I think I have ſaid enough to make him appear a Perſon not fit to be believed. I would only ask *Stephen Dugdale* a Queſtion, if you pleaſe; 'tis but a little, I won't hold you long. I only ask, and if he deny it I'll prove it, whether he was not a Priſoner at *Stafford* for Debt, when he made the firſt Affidavit?

L. H. S. Were you a Priſoner for Debt at *Stafford*, when you made your firſt Affidavit?

Mr. *Dugd.* In the Serjeant's hands I was, my Lords.

L. Staf. For a very great Debt, my Lords, ſome hundreds of Pounds, and he was a Fellow not worth a Groat. And, my Lords, Dr. *Oates* ſays I offer'd him half a Crown, and he refuſed it: I call *Ellen Rigby* to prove he was ſo poor he begg'd for Six-pence.

Dr. *Oates.* I will ſave my Lord the trouble of proving any ſuch thing. My Lord *Stafford* ſays I was a poor Man, and had not Six-pence in my Pocket: I can make it appear to the Houſe of Lords, that ſome time ſince I came in upon this Diſcovery, I have not had Two-pence in my Pocket, and ſometimes I have not had Six-pence; but a Man's Poverty is no Objection againſt his Honeſty.

L. Staf. Where is *Ellen Rigby*, to prove whether ſhe did not give him Six-pence? But then, my Lords, pray ask him whether he did not ſwear at a former Tryal, he had ſpent ſix or ſeven hundred Pounds more than he got?

L. H. S. Did you ſay at a former Tryal, you vere five or ſix hundred Pound out of purſe?

Dr. *Oates.* My Lords, I will ſatisfy this Houſe what I ſaid: what Folks write after me, I am not to juſtify. But, my Lords, I had a Friend of mine preſented me with 100 *l.* I name not his Name, but if that be queſtioned, he is a Peer of this Houſe, and will juſtify it: I had 100 *l.* for my Narrative; I had 100 *l.* for taking ſome Jeſuits; which is 300 *l.* I had for ſome other Copies that I printed, a matter of 50 or 60 *l.* And now I can make it appear, that as to thoſe Sums which I received in groſs, I have ſpent them all, and more, in this Service; for I have none of the Money now by me.

L. *Staf.* He makes out but 350 *l.* and he ſwore he was out 700 *l.* but he does not ſwear one true Tittle, nor is any whit to be believed.

Dr. *Oates.* If you expect I ſhould prove it, I can prove it now.

Managers. Be quiet, Dr. *Oates*, we will do you right anon.

L. *Staf.* My Lords, I do not know for the preſent that I have any thing elſe to trouble your Lordſhips with. I remember theſe Gentlemen, when I asked them if they had any more Evidence to give in, ſaid, No, unleſs I ſhould give them ſome occaſion: and now I deſire your Lordſhips, if they bring any new Evidence, that I may have time to anſwer to it.

L. H. S. God forbid but you ſhould have liberty to anſwer any Objection.

Sir *Will. Jones.* My Lords, before we go about to ſum up our Evidence, we ſhall have occaſion to call ſome Witneſſes, and that will be to fortify what our Witneſſes have ſaid, to diſcover what kind of Witneſſes have been made uſe of againſt them, and to falſify what my Lords Witneſſes have ſaid in ſome Particulars. Theſe will be the three Heads for which we deſire to call Witneſſes. And becauſe, my Lords, we will not trouble you with making one intire Narration of what they can ſay, or to what purpoſe we call them before they come, deſire the favour that we may acquaint your Lordſhips with it, ſtill as we call them; for that we think will be the way more clearly to be underſtood. My Lords, we ſhall begin to make good by other Witneſſes, ſome things ſaid by Mr. *Dugdale* (for he was our firſt Witneſs, and therefore in order of time

time we will firſt begin with him.) My Lords, the Priſoner at the Bar was pleaſed to object——

L. Staf. My Lords, I would not interrupt him; but I would ask whether there were more than two Heads that he proceeds upon to fortify their own Evidence, and to falſify mine.

Sir *Will. Jones.* My Lords, I think we may comprehend all under thoſe two Heads. But, my Lords, you obſerve, one great Matter my Lord did inſiſt upon yeſterday, was this, That he, it is true, hath ſeen Mr. *Dugdale* at my Lord *Aſton*'s; (tho by the way I muſt ſay this, my Lord at the firſt did not ſeem to know him)——

L. Staf. I did not know him in his Perriwig.

L. H. S. Do not interrupt them, my Lord, for they muſt have the ſame liberty that you had, to go on without Interruption.

Sir *Will. Jones.* We muſt have the ſame Freedom my Lord had. I will do his Lordſhip that right, he did afterwards recollect himſelf and ſay, his Perriwig had made that alteration in him, that he did not know him. But my Lord was alſo pleaſed to ſay yeſterday, That though he did not know him, yet he looked upon him as ſo mean and inconſiderable a Fellow, that he did purpoſely avoid all Diſcourſe with him; and that ſometimes when he was a-dry at my Lord *Aſton*'s, he would not ſpeak to him to help him, nor to call one to help him to Drink. My Lord was pleaſed yeſterday alſo to deny that ever he had any Converſe with him, but only that one time, when indeed Mr. *Dugdale* did deſire to make uſe of my Lord, that by his Interpoſition he might have leave to go to the Foot-Race. My Lords, your Lordſhips very well perceive we are now going about to prove a Matter moſtly ariſing within my Lord *Aſton*'s Family; and what Witneſſes we ſhall have from thence, your Lordſhips may eaſily imagine will not be very favourable to us: And if we have not many to this Point, your Lordſhips will take into conſideration, that thoſe who can give the fulleſt Proof here, muſt be thoſe of the Family, and the Religion of the Family. But, my Lords, we will call one or two that I believe will give you ſatisfaction that my Lord the Priſoner was no ſuch Stranger to Mr. *Dugdale*; that they have been ſeen together, and alone together: and that is the firſt thing we deſire to call Witneſſes to. Call Mr. *Anſell* and *William Hanſon.*

Mr. Hanſon *was ſworn.*

L. H. S. Where do you live? Whoſe Servant are you?

Mr. *Hanſon.* At *Wilnal* in *Staffordſhire.*

L. H. S. What do you ask him?

Sir *Will. Jones.* I deſire, if you be ſatisfied where he lives, that he will tell you whether he hath been at my Lord *Aſton*'s, and ſeen my Lord *Stafford* there.

L. H. S. Have you ſeen my Lord *Stafford* at my Lord *Aſton*'s?

Mr. *Hanſ.* Yes, my Lords.

L. H. S. When?

Mr. *Hanſ.* A little above two years ago.

L. Staf. Be pleaſed he may name the time poſitively.

Sir *Will. Jones.* My Lord *Stafford* is not ſo well verſed in Proſecutions of this nature, as to know that he is not to interrupt us while we are examining our Witneſſes.

L. H. S. My Lord, your Lordſhip received no interruption, nor muſt give none.

Sir *Will. Jones.* My Lords, we deſire this Witneſs may be asked, whether or no he hath ſeen Mr. *Dugdale* and my Lord *Stafford* at any time together.

L. H. S. What ſay you?

Mr. *Hanſ.* Yes, my Lords.

L. H. S. When, and where?

Mr. *Hanſ.* I cannot juſtly tell the Time.

L. H. S. Can you tell the Place?

Mr. *Hanſ.* Yes, at my Lord *Aſton*'s.

L. H. S. Whereabouts?

Mr. *Hanſ.* In my Lord *Aſton*'s Parlour.

L. H. S. And were they alone?

Mr. *Hanſ.* Mr. *Dugdale* fetched me to my Lord *Stafford.*

L. H. S. And was no body in the Parlour when *Dugdale* fetched you to my Lord?

Mr. *Hanſ.* No, my Lords, I think there was not.

L. *Staf.* He thinks there was not.

Mr. *Hanſ.* There was not, to my beſt remembrance.

Sir *Will. Jones.* My Lords, will you be pleaſed to ask him the occaſion why *Dugdale* fetched him to him?

Mr. *Hanſ.* My Lord had a mind to have a Boy.

L. H. S. What was the occaſion that *Dugdale* did come to fetch you to my Lord *Stafford* in the Parlour?

Mr. *Hanſon.* To bring the Boy, my Lords, *Yong Hawkins.* Mr. *Dugdale* fetched me and the Boy to him; it was a Boy that my Lord would have to live with him.

Sir *Will. Jones.* Can you tell what time of the Year it was? whether Winter or Summer, as near as you can?

L. H. S. Ay, what time of the Year was it?

Mr. *Hanſ.* Indeed, my Lords, I cannot tell.

Sir *Will. Jones.* I deſire to ask him, whether when he went away he left them together?

L. H. S. Did you leave them together?

Mr. *Hanſ.* To my beſt remembrance, my Lords, I did. The Boy and I went away together, and we left them at my Lord *Aſton*'s Parlour-door.

Sir *Will. Jones.* Call *James Anſel.*

L. H. S. Nay, if you have done with him, my Lord *Stafford* may ask him any Queſtions.

L. *Staf.* My Lords, I ſhall tell you how this thing is: There was a Report that this *Hawkins* was a very good Running-Footboy; and this was ſpoken of at my Lord *Aſton*'s at Dinner or Supper, I don't know which, nay ſeveral times about that time: it was when my Lord of *Danby* was Treaſurer, and his Son, my Lord *Dunblain*, was much for Foot-Matches, and I had a mind to have a Footboy to make a Match with him; and I believe *Dugdale* at Dinner or Supper did ſay that he was a good running Lad, and I might deſire to ſee him, and *Dugdale* did bring him to me I believe into my Lord *Aſton*'s Parlour; but there was at leaſt ſix or ſeven in the Room beſides.

L. H. S. My Lord *Stafford*, was this at that time when your Lordſhip was at *Tixall* the 12th of *September?*

L. *Staf.* Pray, my Lords, I deſire to ask him that Queſtion; I would know what Year it was.

L. H. S. He ſays it was above two Years ago.

L. *Staf.* I profeſs I believe it was one or two Years before I was taxed with this Plot. I did never think I ſhould be queſtioned about this, or I could eaſily have brought Witneſſes that were by at that time. It is true, he did come to me; but pray what time of day was it?

Mr. *Hanſ.* In the Morning, I think it was.

L. *Staf.*

L. *Staf.* I profeſs to God, it was after Supper; as I hope to be ſaved, it was as we were going to bed, to the beſt of my remembrance.

Sir *Will. Jones.* Did you come into the Parlour after Supper?

Mr. *Hanſ.* I am not ſure what time it was.

Sir *Will. Jones.* If his Lordſhip pleaſe to ask him any more Queſtions; if not, we will call another.

James Anſell. (*Who was ſworn.*)

L. H. S. What is your Name?

Witneſs. *James Anſell.*

L. H. S. Where do you live?

Mr. *Anſell.* At *Heywood* in *Staffordſhire.*

L. H. S. Did you live with my Lord *Aſton?*

Mr. *Anſ.* I have been at my Lord's Houſe at *Tixall.*

L. H. S. But you are not of the Family?

Mr. *Anſ.* No.

L. H. S. How far is *Heywood* from *Tixall?*

Mr. *Anſ.* A Mile.

L. H. S. Have you ſeen my Lord *Stafford* at *Tixall?*

Mr. *Anſ.* I have ſeen a Man they called my Lord *Stafford.* I did not know him, but as they told me.

L. H. S. Did you ever ſee *Dugdale* in the company of a Man they called my Lord *Stafford?*

Mr. *Anſ.* Two Years ago I was at *Tixall*, and there I ſaw one, that they ſaid was my Lord *Stafford*, walking with Mr. *Dugdale*, whom I did know.

L. H. S. Where was it?

Mr. *Anſ.* In the Court at *Tixall*, walking together.

L. H. S. Were they alone? Was there no body elſe in company?

Mr. *Anſ.* None that I ſaw; there might be more Company, but I ſaw no more.

Sir *Will. Jones.* Pray, my Lords, ask how long ago this was.

Mr. *Anſ.* About Summer was two years.

Sir *Will. Jones.* If his Lordſhip will ask him any Queſtions now we have done, he may; otherwiſe we will call another.

L. *Staf.* My Lords, I have recollected my ſelf as well as I can in ſo ſhort a time, and all I can ſay, is, Some of my Servants were by, I ſuppoſe; and I do aſſure your Lordſhips, the other Buſineſs above three years ago: ſo the Fellow does not know what he does ſay.

L. H. S. Will you ask him any Queſtions?

L. *Staf.* Pray ask him how long he ſaw me in the Court with *Dugdale.*

L. H. S. How long was it?

Mr. *Anſ.* I cannot tell: I did but walk thro the Court. I came to ſpeak with Mr. *Dugdale*, and he was with my Lord.

L. *Staf.* Did he hear us diſcourſe, or any Word we ſaid?

Mr. *Anſ.* No, I did not.

Sir *Will. Jones.* My Lords, if you pleaſe, before *Anſell* go away, we would ask him a Queſtion to another Point; and that is, For what reaſon *Dugdale* was ſecured, whether he went away for Debt or no?

L. H. S. Do you know wherefore *Dugdale* was ſecured, or why he went from my Lord *Aſton*'s?

Mr. *Anſ.* I can't tell why he went away; whether for fear of the Plot, or no, I can't tell.

Sir *Will. Jones.* What diſcourſe was between you and *Dugdale* about it?

Mr. *Anſ.* Where? There was a Diſcourſe at *Stafford*, when he was there.

Sir *Will. Jones.* But before he went away?

Mr. *Anſ.* I came to my Lord *Aſton*'s one day, and told Mr. *Dugdale* I heard ſay he was concerned in the Plot; for I told him I was amongſt ſome People, and they ſay you are concerned in the Plot. And this was about a Fortnight after the News was hot in our Country.

L. H. S. What ſaid he?

Mr. *Anſ.* He laugh'd at it, and ſaid, God blaſt him if he knew any thing of it.

L. *Staf.* So he denied it then.

Sir *Will. Jones.* Pray, Sir, at that time did he ſay he knew any thing about my Lord *Aſton*, and why my Lord *Aſton* did uſe him ill?

[*Then my Lord* Stafford *objected Mr.* Dugdale *was too near the Witneſs, and deſired he might go down; and it was ordered accordingly.*]

Sir *Fran. Win.* My Lords, we would ask this Man what does he know of *Dugdale*'s concealing himſelf after he had heard of the Diſcourſe about the Plot.

Mr. *Anſ.* I know not that, my Lords; he was fearful of coming in Company: what his Diſcourſe was, I do not know.

Sir *Will. Jones.* My Lords, now, if it pleaſe your Lordſhips, we will go to another Particular. Your Lordſhips will pleaſe to remember, that yeſterday there were two Witneſſes called by my Lord *Stafford*, that is *Sambidge* and *Philips*. *Sambidge* was the old Gentleman that was deaf, and a little paſſionate too, becauſe he was once ſummoned to *Litchfield* Court; Mr. *Philips* was the Miniſter of *Tixall*: And both theſe did teſtify, That whereas Mr. *Dugdale* had ſworn at a former Tryal, that he did give notice before them of the Death of Sir *Edmondbury Godfrey* upon Monday, which (as I take it) was the 14th of *October*, there was no ſuch notice given in their Preſence. Mr. *Dugdale* did affirm, they were by, and that he gave notice before them and others. This was made uſe of by my Lord to invalidate the Teſtimony of Mr. *Dugdale*, that he ſhould go and affirm at a former Tryal, that he did give notice of the Death of Sir *Edmondbury Godfrey* within two days after he was killed, before any one knew of it; and *Dugdale* muſt needs know it from the Jeſuits: and both of theſe Gentlemen being now in Court, do deny that they heard of it at that time. My Lords, we ſhall prove to you here, that he did give notice of it at that time, and that they were both preſent: For Mr. *Sambidge*, it is not ſo ſtrange he ſhould not obſerve it, he was very deaf, and he could hardly hear yeſterday; and as he was deaf, ſo he was very paſſionate. As for Mr. *Philips*, I cannot ſay that as to him, but perhaps he cannot at that diſtance of time remember; but we will prove by undeniable Witneſſes, that notice was given that Monday, and that theſe Perſons were by when it was given.

Sir *Fran. Win.* This Witneſs we uſe to another purpoſe beſides this; but we will ask him only to this now.

L. Staff. I deſire the Witneſſes may ſtand by themſelves.

L. H. S. Let them take care that there be but one Witneſs at a time, and that no body approach them while they are giving their Teſtimony.

Sir *Will. Jones.* We did not make the like Deſire as to my Lord's Witneſſes.

L. Staf. In troth, you might with all my heart, if you would.

Sir *Will. Jones.* It may be ſo; but we did not fear them ſo much. Swear *William Goldſmith.*

(*Which*

(*Which was done.*)

Sir *Will. Jones.* I would begin with *James Anſell.*

(*Who appear'd, and ſtood up again.*)

Sir *F. Win.* If your Lordſhips pleaſe, we would ask him what he knows of a Diſcourſe about the Juſtice of Peace's Death; to tell the time, and what it was that was ſaid. We only ask general Queſtions.

L. H. S. What Diſcourſe did you hear of the Murder of a Juſtice of Peace, and when?

Mr. *Anſ.* My Lords, I heard it at *Tixall.*

L. H. S. When did you hear it firſt?

Mr. *Anſ.* The 14th of *October.*

L. H. S. Who did you hear it from?

Mr. *Anſ.* From Mr. *Dugdale.*

L. H. S. The Letter was dated the 12th. Where did you hear of it?

Mr. *Anſ.* It was at one *Eld*'s Houſe, an Alehouſe in *Tixall.*

L. H. S. Where?

Mr. *Anſ.* At an Alehouſe hard by my Lord's?

L. H. S. Who was by?

Mr. *Anſ.* When that was ſpoken, there was I, and *William Hanſon*, and Mr. *Sambidge*, and Mr. *Philips.*

L. H. S. Did *Dugdale* ſpeak with them at that time?

Mr. *Anſ.* Yes, he was with them at that time, but he ſpoke with me at the Parlour; for he ſent for me into the Parlour.

L. H. S. Then at the ſame time he ſpake it to you, and they were in the Houſe.

Mr. *Anſ.* Yes, he came from them to me into the Parlour, and went to them again.

Sir *Will. Jones.* My Lords, I hear him ſpeak to the Day of the Month; if you pleaſe to ask him if he can tell what Day of the Week it was?

Mr. *Anſ.* It was on a Monday.

L. H. S. That is right, the Letter was dated on *Saturday* the 12th of *October.*

Sir *F. Win.* I would ask him, whether afterwards he came into the Room where Mr. *Philips* the Parſon was?

Mr. *Anſ.* Yes.

Sir *F. Win.* Was there any Diſcourſe after you came in, about the Death of a Juſtice of Peace?

Mr. *Anſ.* I cannot tell that.

L. H. S. Will you pleaſe to ask him any thing, my Lord?

L. Staf. Indeed, my Lords, he ſays nothing concerning me; therefore I ſay only this, I deſire to know, if he can tell, what time of day it was?

Mr. *Anſ.* It was the Forenoon.

Sir *Will. Jones.* Then call *William Hanſon* again.

(*Who appear'd.*)

Sir *F. Win.* We call him to the ſame Queſtion. Do you declare to my Lords what you know of Mr. *Dugdale*'s acquainting you with the Death of a Juſtice of Peace, and when it was.

Mr. *Hanſ.* I heard Mr. *Dugdale* ſay at old *Eld*'s Houſe at *Tixall*, There was a Juſtice of Peace murdered, that lived at *Weſtminſter.*

L. H. S. When did he tell you ſo?

Mr. *Hanſ.* The Day that I went to run the Race, the 14th of *October.*

Sir *F. Win.* Can you remember what Day of the Week it was?

Mr. *Hanſ.* It was Monday.

L. H. S. Was it the Forenoon or Afternoon?

Mr. *Hanſ.* The Forenoon.

L. H. S. What Company was in the Houſe when he told you of it?

Mr. *Hanſ.* Old Mr. *Sambidge*, and Mr. *Philips* the Parſon of *Tixall.*

L. H. S. Were they in the Houſe at that time?

Mr. *Hanſ.* Yes.

L. H. S. Were they by when the Diſcourſe was?

Mr. *Hanſ.* Mr. *Sambidge* was going to drink a Bottle of Ale, as he ſaid, at my Lord's Bowling-Green; and for a while he ſits down, and preſently Mr. *Philips* comes in and ſits down, and Mr. *Dugdale* came out of the Parlour into the Room where we were come: ſaid I, What News? ſaid he, They ſay there is a Juſtice of Peace murdered at *Weſtminſter.*

Sir *Fr. Win.* Was *Philips* in the Room?

Mr. *Hanſ.* Yes, he hath forgot it, but he was there.

L. H. S. Did *Philips* hear it?

Mr. *Hanſ.* He might have heard it if he would.

L. H. S. Had you any Diſcourſe with *Philips* about this ſince?

Mr. *Hanſ.* No, my Lords.

Sir *F. Win.* He is poſitive both as to the Day of the Month, and as to the Week, and that both of them were preſent.

Sir *Will. Jones.* My Lords, we ſhall prove to you now, that the Poſt which comes out of *London* on Saturday, comes to this Place on Monday Morning; and thoſe which come out of Tueſday, come there on Thurſday Morning; and the Poſt which goes out of *London* on Thurſday, comes to this Place on Saturday Morning.

L. Staff. He ſays the Poſt comes ſuch and ſuch Days, I own it, and in the Morning too.

Sir *Will. Jones.* Then I go on, my Lords, to another Point, which will be a farther Confirmation of the Matter. For, my Lords, we will prove to you, and that by Men of Quality, that the Noiſe of the Murder was in that Country, the Wedneſday and Thurſday following the Murder. Your Lordſhips pleaſe to obſerve, Sir *Edmondbury Godfrey* was killed the twelfth of *October*; he was found the Thurſday following, which was (as I take it) the 16th or 17th of *October.* We will prove now, that the Noiſe and Knowledge of the Murder was in the Country about *Tixall*, before he was found here near *London.* Now we only bring this as a Confirmation of this matter, that it was revealed at the Alehouſe, and ſo it went about the Country. And for this we call *Edward Birch* Eſq; and *John Turton* Eſq;

Sir *F. Win.* Before we examine them, I would ſtate the time. Sir *Edmondbury Godfrey* was miſſing on Saturday, which was the 12th of *October*; his Murder was not diſcover'd till Thurſday. We call theſe Perſons to a double purpoſe; the one to fortify what our Witneſſes have ſaid, and the other to ſhew, that this Man was diſpatched by theſe Mens Confederates, becauſe they knew it ſo ſoon; which could not have been, but that they were in the Conſpiracy themſelves.

L. *Staf.* I deſire only that he may ſay whether he means me among the reſt.

Sir *F. Win.* My Lord, I will do you no wrong, I ſpeak of thoſe at *Tixall.*

(*Then Mr.* Birch *was ſworn.*)

L. H. S. When did you hear of the Death of Sir *Edmondbury Godfrey*, Mr. *Birch?*

Mr. *Birch.* My Lords, I did not hear any thing of the Death of Sir *Edmondbury Godfrey*, till the Saturday Poſt; but I preſume that which theſe Gentlemen call me for, is this: I did hear before Thurſday, I think Tueſday was the firſt Day, that there was a Juſtice of Peace of *Middleſex* killed, and it was thought the Papiſts murdered him; and this on Tueſday and

Wedneſday

Wedneſday was all over the Country, that is, Tueſday after his Death. For I'll tell your Lordſhips how I came to take notice of it; for hearing ſuch a Report in the Country, I did not ſo much as take notice of it; but being at the King's-Bench Bar, at the Tryal of *Green*, *Berry*, and *Hill*, for the Murder of Sir *Edmondbury Godfrey*, I found upon the Evidence that the Body was not found till the Thurſday after he was killed; that made me recollect my ſelf as to what I had heard in the Country: and as I ſtood at the Bar, I told ſeveral Gentlemen that I did perfectly remember, before Thurſday it was diſcourſed of in the Country by ſeveral Gentlemen where I lived.

Sir *Will. Jones.* Call *John Turton* Eſq;

Sir *F. Win.* Some of my Lords here, I perceive, deſire he ſhould be asked a more particular Queſtion.

L. H. S. I deſire to ask him this: You heard of it, you ſay, on Tueſday, that a Juſtice of Peace of *Middleſex* was killed; I deſire to know who you heard it from?

Mr. *Birch.* Truly, my Lords, I can't tell: For I'll tell your Lordſhips, I have ſome certain Days that I conſtantly appoint to be at home in, when People come about Buſineſs to me. Among theſe People, ſeveral came that asked me what News I had from *London.* I told them, I had received a Letter or two by the Poſt, and I ſhewed them thoſe Letters, there was little or nothing in them. Thereupon they asked me if I did not hear of a Juſtice of *Middleſex* that was killed. No, ſaid I: How come you to hear it? Says one, I come thro *Cank*, (which is within half a mile of mine own Houſe) and as I came thro, there came a Perſon from *Heywood*, that ſaid 'tis all the News about *Tixall* and *Heywood*, and that part of the Country. And this was ſaid to me in my own Houſe.

Sir *F. Win.* How far is *Heywood* from *Tixall?*

Mr. *Birch.* About a Mile.

Sir *F. Win.* Now, my Lords, I would ask Mr. *Turton* to the ſame Buſineſs.

(*Mr.* Turton *was ſworn.*)

L. H. S. Mr. *Turton*, pray hear: When did you firſt hear in *Staffordſhire* of the Death of a Juſtice of Peace of *Middleſex?*

Mr. *Turton.* My Lords, there are two Races in that Country, at a Place near *Litchfield*, and they are about the middle of *October*; the one that Year was the 15th, the other the 18th: the one the Tueſday, and the other the Friday. I was at both of them; and one of the Days, which I cannot be poſitive in, there was one Mr. *Whitehall*, a Juſtice of Peace in *Staffordſhire*, called me from the Company, and deſired to ſpeak with me by myſelf. Said he, Do you hear any News? No, ſaid I. Do you hear nothing, ſaid he, of a Juſtice of Peace that is murdered? (I then had not heard of Sir *Edmondbury Godfrey*'s being miſſing) No. Says he, Don't you hear he is murdered? Do you know him? Yes, ſaid I: How do you hear it? Says he, 'tis a Report about us. But I did not then believe it: but the next Poſt-day, which was Monday, I did hear it. It was either Tueſday or Friday, one of thoſe Days.

Sir *W. Jones.* If it were either one or t'other, 'tis as ſtrange, and the Evidence as ſtrong; for his Body was not found till Thurſday.

Sir *F. Win.* And will your Lordſhips pleaſe to obſerve, that by that time the Report had got the Name of *Godfrey* too, when at that ſame time we in *London* did not know what was become of him.

Mr. *Turton.* He asked me if I knew Sir *Edmondbury Godfrey:* Said he, I hear he was an active Juſtice of the Peace againſt the Papiſts; and he made this Inference, We had need have a care what we do, for we ſhall be all ſacrificed.

Sir *Will. Jones.* My Lords, will your Lordſhips be pleaſed to obſerve, that yeſterday there was ſome Witneſſes called to diſparage Mr. *Dugdale*; and the firſt Man, as I can remember, was a very ſubſtantial Gentleman, called Mr. *Robinſon:* I think he was not able to give an account of his Employment, but he was a Gentleman that lived upon his Mony; I remember thoſe were his Words. My Lords, we ſhall call (without telling you what they will ſay) ſome Witneſſes to prove the Condition of this Gentleman, what Reputation he is of, and what is his Converſation. And we firſt call my Lady *Gerard.*

L. Staf. My Lords, pray give me leave to ſay one Word——But 'tis no great matter, 'tis not worth the ſpeaking.

L. H. S. What can you ſay, my Lord?

L. Staf. It was only a Thought of my own, not worth troubling your Lordſhips with.

(*Then the Lady* Gerard *appeared, and was ſworn.*)

L. H. S. Does your Ladyſhip know one *William Robinſon?*

Lady *Gerard.* No, my Lords.

Sir *Will. Jones.* He hath ſeveral Names, we deſire he may be called.

L. H. S. Call *Robinſon* the Upholſterer.

(*He was call'd, but appear'd not.*)

Sir *W. Jones.* I perceive we miſtake one Lady for another. We deſire Mr. *Booth*, a Member of the Houſe of Commons, may be ſworn.

(*Which was done in his Place.*)

L. H. S. My Lord *Stafford*, ſend for *Robinſon* your Witneſs.

L. Staf. I believe he is here; but if he be not, one that belongs to me I have ſent to ſee for him: whether he be a good or a bad Witneſs, I do not know perſonally.

Sir *W. Jones.* Mr. *Booth* knows him very well, he ſaw him yeſterday, and ſo we may venture to ask him the Queſtion.

L. H. S. Did you ſee *Robinſon* the Witneſs yeſterday?

Mr. *Booth.* Yes, my Lords, I did.

L. H. S. Do you know him?

Mr. *Booth.* My Lords, I do know him very well, tho I have not ſeen him often: for indeed, my Lords, he behaved himſelf ſo the firſt time that I ſaw him, that I believe I ſhall never forget him. My Lords, I am better acquainted with his Character than his Perſon, tho I know the Man very well; and truly the firſt time that ever I was in his Company, he gave me no encouragement ever to deſire it again: for, if you pleaſe, I'll tell you how I came to know him. He told your Lordſhips that he came into *Cheſhire* at a Cocking; it was at that time that I ſaw him: for upon the Sunday after the Cocking, I was invited to a Neighbour's, about two Miles from home. We were ſet down to Dinner, and we had not ſat long, but this Man comes into the Room where we were; there was an empty Place at the lower end of the Table, and he ſits him down, and began a Diſcourſe to ridicule the Lord's Day, in ſuch a manner as I never heard the like. And the reſt of his Diſcourſe was full of a great deal of Contempt of God Almighty, and all that was ſacred. All his Diſcourſe at Dinner was very profane. It was not in mine own Houſe; and becauſe it was not taken notice of by

the Maſter of the Houſe, and he coming under the Protection of a young Gentleman, I did not what elſe I ſhould; for I ſhould have made him hold his tongue, or have uſed it to better purpoſe: The whole of his Diſcourſe was ſo atheiſtical and profane, that I never heard the like in my life. When Dinner was done, he uſed a great many Inticements to draw the Company into play, by asking what would they ſay if they ſhould ſee ſuch and ſuch things to be done: and at length he pulls out a great many Dice out of his Pocket, and behaves himſelf in that manner, as People do that would draw in others to play; and they that had better Skill in it than I, ſaid that they were all falſe. When I ſaw this, I deſired him to leave our Room, or to forbear; for, ſaid I, if this be the Entertainment of the Day, I muſt leave the Company: then they commanded him to deſiſt. This is all that I do know of my own Knowledge: But I ſhall acquaint you what I believe; for I have heard it from very conſiderable Perſons, whom I dare credit: for the Man run much in my mind, becauſe I never ſaw ſo ill a Man in my life. Coming home, I was ſpeaking to ſome of my Family; ſays I, yonder I met with the ſtrangeſt Fellow that I ever ſaw in my days, he is fitter to be hanged than any thing elſe. Oh, Sir, ſaid they, there is ſuch a Fellow hath cheated I know not how many at the Town where the Cocking was. The next day, I think it was, or ſhortly after, I had occaſion to go to that Town; and many People came and complain'd to me of his Cheats, to a very great degree. They asked me what they ſhould do. Said I, you have nothing to do, but indict him for a Cheat. Why, ſaid they, will you take no courſe with him? Said I, what courſe can I take? I am turned out of the Commiſſion of the Peace, elſe I know enough to bind him to the good Behaviour. After this, I had occaſion to go into *Lancaſhire*, and there I found he was better known than truſted. There were very loud Complaints againſt him, and ſome would have given twenty Pound to meet with him. I heard afterwards he went into *Staffordſhire*, and he changed his Name wherever he went; but he ſoon diſcovered himſelf, and all thereabouts he goes for a notorious Cheat. This is all I can ſay of him.

L. Staff. My Lords, be pleaſed to give me leave to ſay one word. I aſſure you, if I had thought this Man had been ſuch a Fellow as now he proves, I would not have brought him before you. I never knew what he was in my life, nor heard of his Name till Saturday laſt.

L. H. S. It may be ſo, my Lord: But your Lordſhip muſt take notice, this is the Man that gave the moſt important Evidence, that *Dugdale* ſhould corrupt him to ſwear againſt you for Mony.

L. Staff. Give me leave to obſerve upon that, my Lords, That if *Dugdale* knew him to be a cheating Fellow, he might think him the liker to take Money to forſwear himſelf.

Sir *Will. Jones.* My Lords, we ſhall not reply now, but obſerve anon, how this cheating Fellow comes to ſwear for my Lord at this time. But we deſire an honourable Peer of this Houſe may give ſome account of him, and that is the noble Lord the Earl of *Macclesfield*; I think he may be known to your Lordſhips.

(*Then the Earl of* Macclesfield *ſtood up.*)

L. H. S. Pardon me, my good Lord, my Lord muſt be ſworn.

Earl of *Mac.* Before I am ſworn, I would know of your Lordſhips whether I ſhould be ſworn or no; for your Lordſhip ſhall not make me be ſworn, unleſs my Lords ſay I ſhould.

L. H. S. I would not offer it, if there were any colour of doubt in it.

(*Then my Lord was ſworn.*)

Earl of *Mac.* My Lords, I have nothing to ſay againſt this Man, but what he ſaid to me, and before a Juſtice of Peace too; for I did take this Man when he had run away from my Lord *Gerard.* He had cheated many of his Servants. I catched him on the way running to play his Tricks ſomewhere elſe, and I intercepted him: but tho I was a Juſtice of Peace there, yet becauſe it was in a manner my own caſe, I would not commit him, till I had carried him before another Juſtice of Peace. So the Man comes up to me; ſays he, My Lord, have you a mind to have your Son-in-law bubbled? I have been only teaching him how to avoid being cheated; I acknowledge my ſelf to be a Cheat, and I would teach him to avoid them. I am going now into *Staffordſhire*, and that was all I intended to his Lordſhip: I am a Rogue I confeſs. And upon this a Juſtice of Peace comes in, and while they were examining of him, we bid ſome that were by to ſearch him, and they found in his Pocket falſe Dice; and truly the Juſtice nor I did not know whether they were true or falſe. Says he, you don't know what to do with theſe, but I do. This is all I can ſay; but in all the three Counties of *Staffordſhire*, *Cheſhire*, and *Lancaſhire*, there are ſeveral Men that I ſee here, that know his Life better than I do: for 'tis his common Practice. And I believe, my Lords, the Judges muſt know him; for it was his common Practice at all Aſſizes and great Meetings to play theſe Pranks.

Sir *Will. Jones.* My Lords, we will not trouble your Lordſhips any further as to *Robinſon*; if he were here, perhaps my Lady would know him: but having two ſuch Witneſſes, I think we need not trouble our ſelves nor you any more about him.

L. H. S. Have you done with my Lady *Gerard?*

Sir *Will. Jones.* Yes, and we beg her pardon for this Trouble. My Lords, your Lordſhips will be pleaſed to remember, there was one *Holt* was produced as a Witneſs by my Lord *Stafford*; and your Lordſhips, when you look on your Notes, will remember, he teſtify'd to this purpoſe: That *Dugdale* ſent an Horſe for him to *Stafford* Town; which Horſe brought him to the *Star-Inn*, and there *Dugdale* did offer him forty Pounds to ſwear, That one Mr. *Moor* carried away *Evers* the Jeſuit. My Lords, we will call ſome Witneſſes to this Mr. *Holt*; you will find him to be ſomething a-kin to Mr. *Robinſon*, and, as we ſuppoſe, of nothing a better Reputation than he. The Witneſſes will give you an account of his Pranks. Call *Sampſon Rawlins*, and *Lander*.

(Rawlins *ſtood up, and was ſworn.*)

L. H. S. What is your Name?

Witneſs. Sampſon Rawlins.

L. H. S. What do you ask him?

Sir *W. Jones.* We deſire to ask him if he knows *Samuel Holt* the Blackſmith.

L. H. S. Do you know *Holt?*

Rawlins. Yes.

Sir *F. Win.* Acquaint my Lords what Reputation he is of, where he lives, and what he is.

Rawl. He is counted to be a very lewd looſe Fellow.

L. H. S. Why ſo?

Sir *W. Jones.* What hath he done?

Rawl. He is counted a drunken lewd Fellow.

Sir *W. Jones.* Is he of an ill Reputation in the Country where he lives?

Rawl. Yes, he is ſo.

L. H. S. For what?

Rawl. 'Tis ſaid in the Town he keeps another Man's Wife.

Sir *W. Jones.* Is there any other Fault he hath?

Rawl. He ſaid there were none but Rogues would take Mr. *Dugdale*'s part; whereas I never knew any harm by Mr. *Dugdale*, and I have known him this fourteen or fifteen Years: I dealt with him, I was Taylor to the Family, and he ever paid me very honeſtly and well.

Sir *W. Jones.* Have you heard of Mr. *Holt* any other ill thing beſides what you ſpeak of?

Rawl. He broke open my Lord *Aſton*'s Wine-Cellar, and ſtole ſeveral Bottles of Wine; wherefore my Lord *Aſton* bid Mr. *Dugdale* ſend him to the Goal: but he curry'd favour with Mr. *Dugdale*, and ſo kept in with him, that he afterwards begged for him of my Lord to forgive him; and now he comes to evidence againſt Mr. *Dugdale*, that was his ſure ſtedfaſt Friend, and ſaved him from the Goal.

L. Staff. I would ask this Witneſs a Queſtion——

Rawl. And becauſe I took Mr. *Dugdale*'s part, ſaying, he was an honeſt Man (and he was ſo to me, and all others, as far as ever I heard) he met me, and would have murder'd me.

L. H. S. When was this?

Rawl. Since laſt Term, when I was up here. And likewiſe *Sawyer* took a Pot, and would have dong'd my Brains out.

Sir *F. Win.* My Lords, I think this Man was ſummoned as a Witneſs, to attend at my Lord *Aſton*'s Tryal. What Occaſion brought you to *London* at that time?

Rawl. I was ſubpœna'd up. And when I came home to my Wife and Children, they groſly abuſed me, and ſaid I was a Rogue, becauſe I came up upon his Majeſty's Service.

L. Staff. Pray, my Lords, ask him whether *Holt* was my Lord *Aſton*'s Servant or no.

L. H. S. Was *Holt* a Servant to my Lord *Aſton?*

Rawl. He was a Smith hard by his Gate, and he worked to the Family.

L. H. S. Were you ſubpœna'd up to the Tryal of my Lord *Aſton?*

Rawl. Yes.

L. H. S. And it was for coming to that Tryal he offered to murder you?

Rawl. Yes, I have ſeveral Witneſſes of it. And by the Blow that *Thomas Sawyer* gave me, for a good while I could not lay my Head on the Pillow.

Sir *W. Jones.* Call *Thomas Lander.* (*But he did not appear, being gone away ſick.*)

Sir *W. Jones.* Becauſe we would not loſe your Lordſhips time, ſeeing the Man we call for, is gone away ſick, we will call a Witneſs as to another of my Lord's Witneſſes, *John Morral.* Call *Thomas Thorne.*

(*Who was ſworn.*)

Sir *F. Win.* My Lords, If that other Man come by and by, we hope your Lordſhips will give us leave to ask him a Queſtion to the Point which we are now gone over. But my Lord *Stafford* did produce one *John Morral*, a Barber that lived at *Ridgley*, who ſaid, that Money was offer'd him to ſwear againſt Sir *James Symons*, and Mr. *Howard*, and others. We call this Witneſs to give your Lordſhips an account what this *Morral* is, and how he hath behaved himſelf in this Buſineſs.

Sir *W. Jones.* What do you ſay about *John Morral*? Do you know him?

Thorne. Yes.

L. H. S. What do you know of him?

Thorne. I know he is a Man that uſed to come often to my Lord *Aſton*'s to *Tixall*, to trim him, he is a poor Fellow that walks up and down the Country, and hath little or nothing to live on.

L. H. S. Is he poor and needy?

Thorne. Yes, he hath been ſued for Money, and I have been contributory to keep him out of Priſon.

Sir *W. Jones.* I ask you in general, is he of a good or bad Reputation?

Thorne. Indifferent.

Sir *W. Jones.* 'Tis modeſtly ſaid. My Lords, your Lordſhips have heard what kind of Witneſſes have been brought againſt us: For two of them you have had particular Matters; for a third, our Witneſs ſpeaks modeſtly, that he is a Man of indifferent Reputation. But now, my Lords, we muſt prove what Endeavours have been uſed to get other Witneſſes againſt our Witneſſes; and for that, I deſire to call one *Simon Wright*, to tell your Lordſhips what hath been offered him to ſwear againſt *Dugdale*, and by whom.

(Wright *ſtood up and was ſworn.*)

Mr. *Foley.* My Lords, we deſire this Witneſs would give your Lordſhips ſome account what Endeavours have been uſed by Offers of Money, or otherwiſe, to make him ſwear againſt *Dugdale*, and by whom.

L. H. S. Hath any body endeavoured to perſuade you to ſwear againſt *Dugdale?*

Wright. Yes, my Lords.

L. H. S. Tell your whole Story, who it was, and what was offer'd you.

Wright. The firſt time I was employed was preſently after the Murder of Sir *Edmundbury Godfrey*; and it was by one Mr. *Pleſſington*, that was in cuſtody about that matter: And he ſent me one Sunday Morning to the Marquiſs of *Wincheſter*'s to deſire him to conſider what a Charge he lay at; and my Lord did ſend him word, he could not expect to be diſcharged ſo ſoon. The Tueſday after he was diſcharged; and afterwards coming unto me, I told him I was glad he had ſo good Friends to get out ſo ſoon. He told me, were I in the ſame condition, I ſhould have as good or better. Whereupon Mr. *Pleſſington* and I were as good Friends as any about the Town. I was his Barber, and Barber to Mr. *Dugdale*, and we were all great Chronies. And *Pleſſington* told me, if I could find a way to take off his Evidence, or deſtroy him, I ſhould have ſeven hundred Pounds. I went to enquire out where I might have a Security for the Money, and Mr. *Reeves*, an Apothecary in *Chancery-Lane*, did proffer me his Note, and ſo did Mr. *Dewy* the Scrivener: but I did not, nor had the Money. And ſeveral times, particularly at the Tryal of Mrs. *Price* and Mr. *Tasborough*, they would have had me ſworn quite blank, That he would have hired me to have ſworn againſt them. And afterwards they would have had me own I was forſworn, and they would get me a Pardon.

L. H. S. What had you ſworn?

Wright. What I heard Mrs. *Price* ſay at the *Horſe-ſhoe* in *Chancery-lane*, as to the blaſting of *Dugdale*, as may be ſeen in the Tryal.

L. H. S. Who offered you that ſeven hundred Pounds?

Wright.

Wright. My Lord *Bellaſis*'s Steward.

L. H. S. What is his Name?

Wright. Pleſſington.

Sir *F. Win.* My Lords, I think he ſays he was to ſwear againſt Mr. *Dugdale*; I deſire he would explain himſelf more particularly, and tell who it was that offered the Money to ſwear againſt *Dugdale.*

Wright. Mr. *Pleſſington*, my Lords. And ſince the Tryal of Mrs. *Price*, they did perſuade me to write a Paper for the blaſting the Reputation of *Dugdale*, and to ſhake his Credit by it. And that they carried to Mr. *Drayton* and Sir *James Symons*, and they being ſatisfy'd, would have me write again to thoſe Gentlemen, and they framed a Letter for me to write And thereupon Mr. *Longmore* (I know the Gentleman if I ſee him again) told me that Sir *James Symons* was better able to perform, than *Dugdale* was to promiſe; and if I would ſtand by it, I ſhould be an happy Man.

L. H. S. What had you ſaid in that Paper?

Wright. I had ſaid according as they directed me, That Mr. *Dugdale* would have given me Money to ſwear againſt Sir *James Symons* and Mr. *Gerard.*

L. H. S. Did you ſwear that?

Wright. No, I did not, but I was to have done it.

L. H. S. How came it to paſs you did not agree with them?

Wright. My Lords, I have had four Pounds in hand, and that I had by reaſon Poverty came upon me. And my Lord *Bellaſis*'s Steward came and lay with me, and ſpent twenty Shillings upon me; but finding that I was not abſolutely true to them, nor like to go through, they diſtruſted me: and I borrowed an Horſe of Capt. *Chetwin*, and got down into the Country, where I have been ſince *July* laſt, till I was fetch'd up by a Meſſenger to come and give Evidence for the King. And there I received a Letter from my Lord *Aſton*'s Agent, That if I would call at *Stafford*, and come up with my Lord's Witneſſes, they would bear my Charges up to *London.* I have the Letter in my Pocket.

L. *Staff.* If it pleaſe you, he may ſhew the Letter. (*Which he did.*)

Clerk. This for Simon Wright, *a Barber, at Deliver with Care.* Subſcribed, *Your Loving Friend* Abnett.

Simon Wright,

I Have juſt now received a Letter from the Lord Stafford, *wherein my Lord mentioned* Wright *to be one of his Witneſſes, and deſired me forthwith to give* Wright *notice, that, if poſſible, he ſhould be at* London *on the Saturday night next, his Tryal being to be on the Tueſday after; therefore if he pleaſed to come to him, he ſhould give him Money to bear his Charges up, and he ſhould come up with my Lord's Witneſſes.*

Abnett.

(This is the Subſtance of the Letter as it was taken.)

Sir *Will. Jones.* I preſume your Lordſhips will be pleaſed to take notice, he was intended a Witneſs for my Lord; and it was ſuppoſed then that he was able to ſay ſomething, but he was not produced by my Lord yeſterday.

L. Staff. Pray, my Lords, give me leave, as to this Witneſs; I deſire, if you pleaſe, I may have time to prove ſomething againſt this Man till tomorrow: I have enough againſt him.

Mr. Ser. *Mayn.* You will find another Witneſs, I ſuppoſe, by that time.

L. Staff. No, I will not find him; I have him already; I have enough againſt this Fellow.

L. H. S. You ſhall have time to ſay what you will, my Lord.

Mr. Ser. *Mayn.* I would my Lord would name his Witneſs.

L. Staff. I will name him to you, ſince you ask it, 'tis *Dodd*; he knows what I mean well enough.

Wright. I don't know him, my Lord, I'll aſſure you.

Sir *Will. Jones.* My Lords, we will go on now to another Matter. My Lord *Stafford* was pleaſed to object, that Mr. *Dugdale* did talk much of Letters and Proceedings, but was able to ſhew none of them. My Lords, we will give an account how that comes about: Mr. *Dugdale*, as in part hath been proved already, was apprehenſive of being accuſed for the Plot; nay, I think we ſhall prove he was afraid he had been in the Proclamation againſt thoſe Traitors and Jeſuits that were fled. We ſhall prove, that Mr. *Dugdale*, to ſecure himſelf, and his then Friends (for he was not then come over to make any Diſcovery) did burn a great many Letters and Papers that did relate to thoſe Proceedings, and did not leave any thing remaining; hoping thereby to prevent a Diſcovery. We will call Witneſſes that were by when it was done, and I think that will be ſome Anſwer to this Objection. Call *Elizabeth Eld*, and *Anne Eld.*

(Elizabeth Eld *ſworn.*)

Sir *F. Win.* My Lords, if your Lordſhips pleaſe, we would ask her this general Queſtion; What ſhe knows of Mr. *Dugdale*'s burning a great many Letters and Papers, at what place, and about what time.

Elizabeth Eld. I cannot poſſibly ſay to the time; I burnt ſome Writings for him when he went away, he deſired me to burn them, he did not tell me what Writings they were. He ſaid, the Times were troubleſom, and if he ſhould be ſick upon the Road where he was going, he would not have all his Papers ſeen, but he deſired me to burn them. And I took and burnt them all but one Book; and my Siſter asked if that Book ſhould be burnt: he ſaid, no, there was nothing of Treaſon in it. I asked him if there were any thing of Treaſon in the others; and he ſaid, do you think there was?

Sir *Will. Jones.* How long was this before he went away?

E. Eld. That Morning when he went away.

Sir *Will. Jones.* How many Papers were there?

E. Eld. I cannot ſay how many.

Sir *Will. Jones.* I do not ask you the Number, but the Quantity; was there a Buſhel?

E. Eld. I cannot ſay; they were roll'd up, and put in his Pockets and his Breeches.

L. H. S. Were they Parchments or Papers?

E. Eld. They were Papers.

L. H. S. Were they Letters?

E. Eld. I did not ſee what they were, but they were wrapt up together, they might be the Accounts of the Houſe for what I know.

Sir *F. Win.* But ſhe ſays, as I take it, that Mr. *Dugdale* ſaid there was Treaſon in them.

E. Eld. No, he ſaid, did I think there was? He ſaid, it was no matter for burning that little Book, there was no Treaſon in that; and when I asked him if there was any in the others, he ſaid, do you think there was?

L. H. S. Was it one or two Bundles.

E. Eld. There were ſeveral Bundles, they were not tied up, but taken in handfuls and thrown into the Fire.

Mr. *Foley.* If my Lord *Stafford* will ask her no Queſtion, we will call up another.

E. Eld. My Lords, I did ſee Mr. *Dugdale* take a Glaſs of Cyder, and I heard him ſay, and wiſh it might be his Damnation, and he might ſink in the Place where he ſtood, if he knew any thing of the Plot.

Sir *Will. Jones.* I pray what Religion are you of? I don't ask you to diſparage you.

E. Eld. A Roman-Catholick.

L. H. S. When was it that he ſaid that?

E. Eld. When he was in *Staffordſhire.*

(Anne Eld *was then ſworn.*)

Mr. *Foley.* Tell my Lords what you know of any Papers that were burnt by Mr. *Dugdale*, or by his Direction, and at what time.

A. Eld. Mr. *Dugdale* came to my Father's Houſe over night, and the next morning (before he went away) he brought a great many Papers he had in his Breeches, and in his Pockets, bundled together, and he deſired us to burn them in the Flame of a Candle.

L. H. S. Why did he deſire you to burn them?

Anne Eld. He ſaid, the Times were troubleſom, and being to travel he was to go to divers Places, and if he were taken, People would think him a Plotter, having all thoſe Papers about him.

L. H. S. Did he burn the Book at that time?

A. Eld. No.

L. H. S. Why not?

A. Eld. I found that Book, and asked him if that ſhould be burnt; he ſaid, No, lay that by, it might do good ſeven Years hence, there is no Treaſon in it. Says my Siſter to him, Is there any Treaſon in the reſt? Says he, Do you think there is? that was all.

Sir *Will. Jones.* Not to trouble you longer, my Lords, upon this, your Lordſhips will be pleaſed to remember, Yeſterday my Lord *Stafford* was pleaſed to offer by way of Evidence, as if Mr. *Dugdale* was a Man of an ill Reputation in theſe Particulars, that he had defrauded my Lord *Aſton*, that he was a mean Man, run in arrear to my Lord; and that being in neceſſity, he became a fit Inſtrument to give falſe Evidence. We ſhall ſhew, That Mr. *Dugdale* was a Man of Eſtate; that both before, and ſince he came away from my Lord *Aſton*, he hath made it his buſineſs to deſire my Lord to come to account; that he hath preſſed him, and that he does believe, and hath reaſon ſo to believe, that there is Money coming from my Lord *Aſton* to him, and that a conſiderable Sum. Now, my Lords, if we ſhall make it appear, that he hath made it his buſineſs to come to account with my Lord, I hope it will not be ſuppoſed that he is afraid of it, or ſo needy, or ſo mean. For this we call *Michael Noble* and *Stephen Colledge.*

(Michael Noble *ſworn.*)

Sir *J. Trevor.* What do you know of Mr. *Dugdale*, and my Lord *Aſton?*

Mr. *Noble.* My Lords, I can ſay little or nothing as to Mr. *Dugdale*, for that I have never been acquainted with him, but ſince the Plot, and he came to be an Evidence; but Mr. *Dugdale* deſired me to aſſiſt him as much as I could, to make up his Accounts with my Lord *Aſton.* And we were twice at the Tower, one time we ſpoke with my Lord with great difficulty; another time we could not ſee him. There were three Books of Account, two my Lord would let us ſee, but the third, wherein all the Diſcharges were, as Mr. *Dugdale* ſaid, he would never let us ſee, that is all I can ſay.

(*Then* Stephen Colledge *was ſworn.*)

L. H. S. What is your Name?

Witneſs. Stephen Colledge.

Sir *Will. Jones.* Declare to my Lords what you know concerning Mr. *Dugdale*'s preſſing my Lord *Aſton* to account with him.

Mr. *Colledge.* In *January* laſt I went along with Mr. *Dugdale*, at his requeſt, to the Tower, with one Mr. *Noble*, a Barriſter of the Temple, and one Mr. *Boſon* of *Lyons-Inn*, in order to the making up Accounts between Mr. *Dugdale* and my Lord *Aſton*; for he told me he was going thither for that end. When we came thither, we met with one Captain *Hawley*, who belongs to the Lieutenant of the *Tower*, and we deſired him to go to my Lord *Aſton*, and tell him Mr. *Dugdale* was there, in order to make up his Accounts with him. He went, and brings an anſwer back again, that my Lord was not at leiſure to ſpeak with Mr. *Dugdale* then, nor none of us from him. And Mr. *Hawley* ſaid he was then going up with the Lords to Nine-pins. Mr. *Dugdale* ſaid, he was very ill uſed, for he had been ſeveral times there before, and he could not be admitted to ſpeak with him. He hath a little Book, ſays he, (meaning my Lord) wherein there is an Account made up under his own hand, of almoſt two or three hundred Pounds; which Sum I cannot ſay, but one of them I am certain of, which he hath denied ſeveral times that he had it, (but I can prove that he hath it:) if he will be pleaſed to produce that Book, we need not be a Quarter of an hour in making up the Account. He did ſpeak of ſome other Sums he had to place to Account, but ſo much was made up already. But Captain *Hawley* ſaying he would not ſpeak with him, nor any of us from him, I did take the liberty to ſay to Captain *Hawley*, that it was hard his Lordſhip, and his Party ſhould abuſe Mr. *Dugdale* at that rate, to make him his Debtor; for now I underſtood by what Mr. *Dugdale* ſaid, my Lord was his Debtor: And ſaid I, if I can perſuade Mr. *Dugdale*, he ſhall publiſh his Caſe, for the Proteſtant Intereſt ſuffered by it, that he ſhould be made a Debtor to my Lord when he was not ſo. And I believe Captain *Hawley* told my Lord *Aſton* what I did ſay; for when he came back again from my Lord *Aſton*, he ſaid, my Lord did acknowledge he had that Book, and it was ready to be produced, but he would ſtay till a Counſellor of his came out of the Country, and till he had ſpoke with the Lieutenant; for he would not ſpeak with Mr. *Dugdale* unleſs the Lieutenant were by, and in three or four days time he would ſend for him: but I never heard that he ſent for him ever ſince. If it pleaſe your Lordſhips, I have one thing more that I remember: There was a young Man that belonged to my Lord *Aſton*'s Family, that heard Mr. *Dugdale* was at Captain *Hawley*'s Chamber, and came to ſee him, and paid a very great reſpect to him, and would ſtand bare to him, tho Mr. *Dugdale* deſired him to put on his Hat ſeveral times. Some of us asked him, whether Mr. *Dugdale* was thought to be ſuch a Knave, when he lived with his Lord, as they would have made him ſince. No, ſaid he, Mr. *Dugdale* was as honeſt a Gentleman as ever lived in our Family. I remember my Lord *Aſton*'s Man ſaid this to us then.

L. Staff. My Lords, will you be pleaſed to give me leave, if I ſpeak impertinently, I am under your Correction; I conceive I ſhall have ſomething to anſwer to this, but I would firſt know whether I may deſire of your Lordſhips, that I may have my Lord *Aſton* here to give an account of this Matter.

Sir

Sir *W. Jones.* If he were here he could not be heard, being a Perſon accuſed for the ſame Offence.

L. H. S. My Lord, he ſtands indicted for the ſame Treaſon, and cannot be a Witneſs.

L. Staff. I beg your pardon, my Lords.

(Nicholas Boſon *was ſworn.*)

L. H. S. What is your Name?

Witneſs. Nicholas Boſon.

Sir *W. Jones.* Declare to my Lords what you know concerning Mr. *Dugdale*'s preſſing my Lord *Aſton* to come to an account.

Mr. *Boſon.* In *January* laſt, I met with Mr. *Dugdale*, and one Mr. *Noble*, and one Mr. *College*. And Mr. *Dugdale* deſired us to go down with him to the Tower. He ſaid he had an Order of the Council to paſs his Accounts with my Lord *Aſton*; and when we came there, we inquired for Captain *Hawley*, and deſired him that he would acquaint my Lord *Aſton*, that he was there to account with him. Captain *Hawley* went up to my Lord *Aſton*, and brought word back again, my Lord was not at leiſure or would not ſpeak with him, or to that effect; whereupon Mr. *Dugdale* ſaid, it was very hard that he ſhould be aſperſed to owe my Lord Money, and he would not come to account with him. For my Lord *Aſton* had a Book or Books in his cuſtody which he would ſtand by, and they would determine the Buſineſs between them; that my Lord *Aſton* was almoſt two hundred Pounds in his debt. And pray, ſays he, Captain *Hawley*, do me the favour to go to my Lord *Aſton* again, and deſire him that he will be pleaſed to produce that Book or Books. If I owe my Lord any Money, I am ready to pay him. And if he owe me any, I hope his Lordſhip will do the like by me; as I am ſure he does two hundred Pounds. Captain *Hawley* went away, and brought this Anſwer, that his Lordſhip would ſend for him in ſome ſhort time, as ſoon as a Counſellor did come out of the Country, whom he had intruſted with his Books; and that was one *Birch*, as near as I remember.

Sir *W. Jones.* We have done with this Witneſs. And becauſe we deſire to conclude as to Mr. *Dugdale*, we ſhall call ſome Perſons of Quality as to his Reputation, my Lord having gone about to make him a Man of no Reputation.

Mr. *Boſon.* I can ſpeak too about the Boy that came in.

Sir *W. Jones.* There is no need of that now: we ſhall trouble you no further, Sir. Your Lordſhips will be pleaſed to obſerve, That Mr. *Philips*, the Miniſter, that was one of my Lord *Stafford*'s Witneſſes, did ſay, Mr. *Dugdale* was a Man of whom many ſpoke well, and ſome indifferently, and perhaps that is the caſe of moſt good Men; for ſcarce any are ſo good that all ſpeak well of them: but that many ſhould ſpeak well and ſome indifferently of him, may be the Lot of a very good Man. We ſhall call ſome Witneſſes, and begin with Mr. *Whitby* a Juſtice of the Peace, that will tell you he hath known Mr. *Dugdale* long, and what Reputation he is of.

(Thomas Whitby *Eſq; ſworn.*)

Sir *John Trevor.* My Lords, We deſire your Lordſhips would be pleaſed to ask him what Reputation and Credit Mr. *Dugdale* was in, in my Lord *Aſton*'s Service.

Mr. *Whitby.* My Lords, I have known Mr. *Dugdale* to be a Servant to my Lord *Aſton* this nine or ten Years; he was Steward to him, and there was no other Perſon between my Lord and him; he received my Lords Rents and Debts for him, exchanged his Lands for him in forty places, I exchanged ſome Land with my Lord my ſelf, and he was the Man that did it. He was very hard for my Lord's advantage, and did what he could for my Lord's profit.

Sir *John Trevor.* What do you know more as to his dealing?

Mr. *Whitby.* He was a Perſon that was next to my Lord, and did rule and govern the reſt of the Family. All the Servants were under him.

Sir *John Trevor.* Was he looked upon to be an honeſt Man in his dealings?

Mr. *Whitby.* As to what I had to deal with him he was an honeſt Man, I never heard to the contrary. I have heard ſome Tradeſmen complain that he hath put them off without Money, would not pay them what my Lord owed them.

L. *Staff.* I deſire that Mr. *Whitby* may be here when I ſhall have occaſion to ſay ſomething to him.

Sir. *W. Jones.* That will be, I hope, by and by, for we have almoſt done. Call Mr. *William Southall.*

(*Who was ſworn.*)

L. H. S. What is your Name?

Witneſs. William Southall.

Mr. *Foley.* Give my Lords an account how long you have known *Dugdale*, and what you know of him.

Mr. *Southall.* My Lords, I have known Mr. *Stephen Dugdale* about eight Years.

Mr. *Foley.* How hath he behaved himſelf? What Reputation hath he borne?

Mr. *Southall.* Truly he hath always had a good Repute, not only with my Lord's Tenants, but alſo with the Workmen, and thoſe People that had dependance on the Family; and truly I never heard any ill Report of him, but only what is ſpoken of now of late.

Sir *Francis Winnington.* Were you very well acquainted with him?

Mr. *Southall.* Yes, but never had any Buſineſs with him. Several Diſcourſes I have had with him about the Popiſh Religion.

Sir *John Trevor.* My Lords, I only obſerve this, This Gentleman is Coroner of the County, and hath a general knowledge of the County, and muſt know moſt Men there.

Sir *Francis Winnington.* You are Coroner of the County of *Stafford*, Sir, I think?

Mr. *Southall.* Yes, I am one of them.

Mr. *Foley.* What was he in my Lord's Houſe?

Mr. *Southall.* Bailiff, and a kind of Governour, providing Meat, and paying Workmen, moſt of the things of the Family went through his Hands.

Sir *Francis Winnington.* My Lords, This Gentleman is a Coroner of the County, and can ſpeak materially to other Particulars beſides this of *Dugdale*'s Reputation; for he was a Perſon who was preſent when he made his firſt diſcovery of this Plot, and was very inſtrumental in prevailing with him to do it. He will give your Lordſhips an account of the whole Buſineſs, and I would rather he himſelf ſhould relate all the Progreſs of it, than take upon me to recite any of the Paſſages.

Mr. *Southall.* There was the latter end of *November* (78.) a Report that Mr. *Dugdale* was gone away from my Lord *Aſton*'s, ſuddenly and ſtrangely, and it was the common Report in the Country that he was in the Plot, and was fled for it. In the beginning of *December* I went through a Town called *Great Heywood*, a Mile and a half from *Tixal*, where my Lord *Aſton* and Mr. *Dugdale* dwelt. I

called

called at Mr. *Thomas Whitby*'s Houſe, the Gentleman that was up here lately, and he was telling me, *Dugdale* was come again and apprehended by the Watch at *Heywood* upon Suſpicion. He told me further, he would make no Confeſſion of the Plot, though he had been under Examination before Sir *Walter Bagott*, Mr. *Kinnerſley*, and I think he ſaid Sir *Thomas Whitgrave*. But he told me divers Paſſages by which we both ſuſpected he might be concerned and know of the Plot. We thought ſo from the various Reports and Rumours we had heard in the Country, and from thoſe great grounds of Suſpicion that were given us. As I returned from *Heywood*, I reſolved I would ſpeak with *Dugdale* the firſt Opportunity, for I had a ſtrong perſuaſion I could prevail with him to make a diſcovery of the Plot: but before I did ſpeak with him, there was one *Goldſmith* my Kinſman, had ſome difference fallen out between him and Mr. *Anſel* and Mr. *Dugdale*, touching a Deed, the deciding of which they had referred to Mr. *Dugdale*. And he deſired me to go to Mr. *Dugdale* to *Stafford* with him, I was very glad of the opportunity. *Anſel* was to bring one *Hanſon*, Mr. *Goldſmith* was to bring me, and Mr. *Dugdale* was to bring one Mr. *Gerard*, that was concerned in the Premortgage, that we might all have diſcourſe together. I promiſed to meet them at the time appointed, and accordingly the 23d of *December*, two Days before *Chriſtmas-Day*, I came to the place in *Stafford*, where *Dugdale* was, about ten a clock in the Morning, where they met according to their Promiſe. We had not been in the Houſe longer than a quarter of an Hour, but the King's buſineſs, which I thought was a buſineſs of greater weight than any particular buſineſs, did ſtick much upon me; and I reſolved before I ſpoke to the particular buſineſs about which we all met, I would firſt ſpeak to Mr. *Dugdale* to put that in execution which I had reſolved. After a ſhort ſpace of time, I deſired Mr. *Dugdale* that I might ſpeak with him in a Chamber privately between him and me; he told me, if I would go into the next Chamber to his, he would come to me. Accordingly I went, and ſtaid a ſhort ſpace of time, and Mr. *Dugdale* came to me. I deſired him to make the Door to, which he did, and I began thus with him. Mr. *Dugdale*, ſaid I, for ſome Years laſt paſt, ſince I came to be acquainted with you, I have always had a good Eſteem of you, and you a good Report in the Country where you live, and now there is an opportunity put into your hands to ſerve his Majeſty and his Proteſtant Subjects, if (as an honeſt Man ought) you will diſcharge your Duty. Mr. *Dugdale* replied, Sir, What do you mean? Why ſaid I, I mean this in a few words, Here is a Plot diſcovered in *London*, and if it be in *London*, I conceive it hath been in part acted at *Tixal*; and if there, of neceſſity, you having ſuch a Government and Rule over that Houſe, it is impoſſible but you muſt know it. He looked upon me very earneſtly, and gave me a Smile, but anſwered me not. I replied to him again thus: ſaid I, There is a natural Allegiance which every Subject owes to his Sovereign, and by that it is required, that if any Subjects know of any Plot or any Conſpiracy againſt his Perſon and Government, they ought in Conſcience to diſcover it; therefore Mr. *Dugdale*, ſaid I, diſcharge a good Conſcience, and tell what you know, for it is commonly ſuſpected you are concerned in the Plot. He anſwered, I have taken the Oaths of Allegiance and Supremacy. When and where, ſaid I? Before his Majeſty's Juſtices of the Peace at *Stafford*, ſaid he. Then ſaid I, there is not only that natural Allegiance which every Subject owes to his Prince, but the Oath of Almighty God lies upon your Conſcience; therefore diſcharge a good Conſcience, and tell your Knowledge. He ſtood pauſing a little while, and by and by, ſaid he, If I ſhould make any diſcovery, how ſhould I be ſecured of my Life? You need not queſtion that, ſaid I, nor his Majeſty's Gracious Pardon, which he hath promiſed in his Proclamation. Have you ſeen the Proclamation? Yes, ſaid he. Said I, you have but a ſhort time, a Day or two to diſcover in, for this is the 23d, and as I do conceive, you ought to diſcover before the 25th. He ſtood pauſing a while about the time: ſaid I, You need not queſtion his Majeſty's gracious Promiſe, and to incourage you thereto, there is not only an Aſſurance of Pardon, but a Promiſe of Reward of two hundred Pounds. Said he, if I do diſcover any thing of my Knowledge, I matter not, nor deſire (I don't know which it was) his Majeſty's Money, ſo I may be ſecured of my Life. Upon this, my Lords, ſaid I, Sir, you need not queſtion his Majeſty's gracious Promiſe, my Life for yours, if you have not his Pardon; but I will take ſpecial care about it, for I will ſend up a Letter to *London*, directed to ſome of the Lords, (which I accordingly did) and I will alſo ſpeak to Captain *Lane*, who is a worthy Gentleman, to interpoſe in it too. Then ſaid he, I will make a diſcovery of the Plot. Then, my Lords, he told me firſt ſome particular Paſſages relating to this Lord at the Bar, and alſo concerning Mr. *Evers* and Mr. *Petres*, now in Cuſtody, and ſome other Particulars; I wiſhed him that he would ſpeak no more at that time. And when I parted with him, forthwith I conſulted with my ſelf what I ought to do, in point of Law; I knew, I muſt diſcover, that a further Diſcovery might be made of what had paſſed between us. Then I went to Mr. *Freke*, who was either Mayor or Juſtice of Peace in *Stafford*, and told him he muſt come with me to Serjeant *Parry*'s. He asked me what to do. I told him when he came, he ſhould know: he accordingly came, and took ſhort Notes of a further Diſcovery, and Mr. *Freke* he certified it up to Mr. *Chetwyn*, who was then at *London*. Upon the Day following, the 24th, I roſe and went to one Mr. *Vernon*, one of his Majeſty's Juſtices of the Peace, and told him what had happened, and he ſent for Captain *Lane* another of his Majeſty's Juſtices of the Peace, and they took an Examination of him. I have done my Lords, with reference to his Diſcovery, and the Time.

L. H. S. Do you remember what he mentioned of my Lord *Stafford*? what he ſaid of him?

Mr. *Southall.* Truly, my Lords, I can only tell what he ſaid at the firſt Examination; he told me the firſt time my Lord *Stafford* ſpoke with him was at *Tixal-Hall*, nigh to the *Gatehouſe*, betwixt the Gate and the Hall. My Lord was going into the Hall, and my Lord *Stafford* told him it was a very hard thing, or to that purpoſe, that they could not ſay their Prayers but in private, and after told him the ſame Day or Night t'one that they had ſome work to do, and he might or muſt be inſtrumental in it. This was the Effect of what he told me paſſed the firſt time. Another time I think he told me he was to have five hundred Pounds to kill the King.

L. H. S. When did he tell you ſo?

Mr. *Southall.* Not till Captain *Lane* examined him, which was the ſecond time he was examined; which was about the 26th.

L. H. S. Did he ſwear that before *Vernon* and *Lane*?

Mr.

Mr. *Southall.* Yes, he did, I could give your Lordſhips a Breviate of what he ſwore then.

L. Staf. I deſire he may give that Breviate.

Mr. *Southall.* I took ſome Notes of what he ſwore then.

L. H. S. Have you them by you, or about you?

Mr. *Southall.* Yes, my Lords, I have.

L. H. S. Produce them.

Mr. *Southall.* I took this upon ſome Paper I had in my Pocket, and is the ſubſtance of what he ſwore.

(*Which he delivered to the Clerk.*)

Clerk. December the 24th, 1678. Mr. *Dugdale* informeth, That in *September* laſt, he met in *Tixall*, the Lord *Stafford*, nigh to the Gates, who ſaid, That it was ſad they were troubled they could not ſay their Prayers, but in a hid manner; but ſuddenly there would be a Reformation to the Romiſh Religion, and if there be a good Succeſs we ſhall enjoy our freedom. And that upon the 20th Day of *September* 1678. the ſaid Lord *Stafford* told this Informant, That there was a deſign in hand, and if he would undertake in it, he ſhould have a good Reward, *&c.* and make himſelf famous. The ſame Day this Informant went up into Mr. *Francis Evers*'s Chamber, to know what my Lord *Stafford* meant by his words; and he firſt made him ſwear ſecrecy upon his Knees, and then told him, That he might be a Perſon employed, and have a good Reward, and make himſelf famous, if he would ſtand inſtrumental with others in taking away the King's Life, by Shooting or otherwiſe, and need not fear, for that the Pope had excommunicated the King, and that all that were excommunicated by him were Hereticks, and they might kill them, and be canonized for Saints in ſo doing. And that the deſign was to kill the Duke of *Monmouth* as well as the King.

December the 29th, 1678. this Informant ſaith, That ſince the 20th Day of *September* laſt, the ſaid Lord *Stafford* did promiſe him five hundred Pounds as to the carrying on of the Plot, and that Mr. *Evers* ſhould give him Inſtructions about the ſame. And that the Lord *Stafford* told him, he did not doubt of his Fidelity, for Mr. *Evers* had given him a good Character to be truſty. And that the Lord *Stafford* told this Informant, That there was a deſign to take away the Life of the King, and the Life of the Duke of *Monmouth*, and that ſeveral others were to be imployed in the Deſign beſides this Informant. And that this had been throughly conſidered of to be the fitteſt way for the eſtabliſhing of the Romiſh Religion. And that at the ſaid time, the ſaid Lord *Stafford* laid his Hand upon his Head, and prayed God to keep him in his good Mind, and to be faithful to what he had intruſted him in, *&c.*

And this Informant further ſaith, That he doubting of the Lord *Stafford*'s Payment, the ſaid Mr. *Evers* promiſed him the making good of my Lord *Stafford*'s Promiſe, *&c.*

And further ſaith, that he ſaw a Letter directed from my Lord *Stafford* to Mr. *Evers*, and he read the ſame, and knows it to be my Lord *Stafford*'s Writing; and that therein was written, that things went on well beyond the Seas, for the carrying on the Deſign, and ſo he hoped it did do here in *England*, &c.

Sir *William Jones.* My Lords, We will examine no further as to Mr. *Dugdale:* But will conclude with this Witneſs, and I think he ſpeaks fully to him. The next Witneſs we called was Dr. *Oates*, and your Lordſhips have been pleaſed to obſerve, That what Exceptions have been made againſt him, have not been ſo much by Witneſſes produced, as by oppoſing one part of his Teſtimony to another, what he ſwore at one time to what he ſwore at another: To which we ſhall give an anſwer when we come to ſum up our Evidence; for there will be no need of Witneſſes to what is objected againſt Mr. *Oates*, but only of Obſervations. But as to the third Witneſs *Turberville*, we have ſomething to anſwer of Witneſs, and ſomething by way of making Obſervation. We will firſt call our Witneſſes.

[*Then Mr.* Southall *deſired his Paper again, which the Court told him he ſhould have a Copy of from the Clerk.*]

Sir *William Jones.* And our firſt Witneſs is to this purpoſe, It was objected againſt Mr. *Turberville* ——

L. H. S. Have you done with *Dugdale?* You have forgot to give an Anſwer to the Objection about the point of time when *Hobſon* told him of the Deſign.

Sir *William Jones.* My Lords, that will be when we come to make our Obſervations, we ſhall not anſwer that by Witneſſes; when we come to ſum up our Evidence, I doubt not but we ſhall give a ſufficient Anſwer to that Objection. But to go on with what is to be anſwered by Teſtimony, your Lordſhips will be pleaſed to remember, that *Turberville* did inform your Lordſhips, That he had ſome Converſe with my Lord *Stafford* at *Paris*, being introduced by ſome of the Fathers. My Lords, we ſhall call a Gentleman that happened to be there at that time, that will tell you though he did not know my Lord *Stafford*, yet he knew that *Turberville* did converſe much with an *Engliſh* Lord in that place where my Lord does acknowledge his Lodging to be. He will give you ſome further account how *Turberville* went to *Diep* in expectation of my Lord, and how he had a Meſſage from the Lord, though he did not know my Lord *Stafford*. He will give you a further account how Mr. *Turberville* was earneſt with him to go to *Calais*, and then told him, he might go over with my Lord at that time. The uſe we make of theſe Particulars we will forbear to mention till we ſum up our Evidence. We deſire to examine Mr. *Thomas Mort.*

(*Who was ſworn.*)

Sir *William Jones.* We deſire to ask Mr. *Mort*, whether he knew Mr. *Turberville* at *Paris*, and at what time.

L. H. S. What ſay you, Sir?

Mr. *Mort.* Yes, my Lords, I knew him, it is now five years paſt ſince we were in *Paris*. He and I had been intimately acquainted, before we lived in the ſame Family. I was ſeveral times in Company with him, and many times in his Brother's Company, which was a Monk, and I heard him ſay his Brother had an intention he ſhould be of the ſame Order. And ſome time after that he altered his Reſolution, and deſigned for *England*, and I had ſuch a deſign too to go from *Paris*, where I was an Apprentice. And being acquainted with him, I reſolved to go over with him, and he told me, his Brother the Monk had introduced him into the favour of a Lord; as I take it, it was my Lord *Stafford*, as well as I can remember. And that there was a Veſſel to come to *Diep*, a Yacht, and we ſhould go thither to go over with my Lord. And Mr. *Turberville* told me, we muſt make as much haſte as might be, for it were better to be there a Day or two too ſoon, than too late. We went

to

to *Diep*, and when we came there, the Veſſel was not come. And when we had been there a Fortnight, or thereabouts, we were put to a great deal of inconveniency by reaſon of our long ſtay there: and, I think, if I miſtake not, I or ſome of the Company ſaid, Curſed is he that relies or depends on a broken Staff; alluding, as I believe, to my Lord *Stafford*'s Name. Mr. *Turberville* told me, if we did go to *Calais*, we might go over with my Lord; but how or by what means he underſtood the Veſſel would be there, and my Lord go that way, I know not. But we did not go thither, we had another opportunity; there was a ſmall Veſſel, whether a Fiſh Boat or a Coal-Veſſel I cannot tell, a very little one it was, but we took the opportunity, and came over in it.

Sir *William Jones*. My Lords, We ſhall make uſe of it in due time, we only call him now to prove his Converſe with a Lord at *Paris*.

L. H. S. Did you ever ſee *Turberville* at a Lord's Houſe in *Paris?*

Mr. *Mort*. No, my Lords, not that I can remember; but I think, as near as I remember, I will not be poſitive, I walked about *Luxemburgh-Houſe* while he went, as he ſaid, to the place where the Lord lodged, I was thereabouts till he came.

L. Staff. In what Street was it?

Mr. *Mort*. Indeed I cannot tell.

Sir *William Jones*. This Man is very cautious.

L. H. S. Can you tell the Lord's Name?

Mr. *Mort*. I do not remember his Title, but I think it was my Lord *Stafford*.

Sir *William Jones*. Pray who were you Servant to? Who were you bred under?

Mr. *Mort*. My Lord *Powis*. I ſerved as a Page to him, when Mr. *Turberville* was Gentleman-Uſher to the young Lady, one of his Daughters, ſince married to my Lord *Molineux*.

Sir *William Jones*. Will my Lord pleaſe to ask him any Queſtions? if not, we will go on.

L. Staff. No, not at preſent.

Sir *William Jones*. Well then, my Lords, we deſire to call one Mr. *Powell*, a Gentleman of *Grays-Inn*, to tell you when he firſt heard Mr. *Turberville* ſpeak of this Evidence he hath now given.

(*Mr.* Powell *was ſworn.*)

Sir *William Jones*. Pray will you give an account what Diſcourſe you had with Mr. *Turberville* about the Plot, and when.

Mr. *Powell*. About this time Twelve-month we diſcourſed about it, and he told me, that he had much to ſay in relation to the Plot; but truly he did not name any particulars to me at that time.

Sir *William Jones*. Where was this, we deſire to ask him?

Mr. *Powell*. It was at the *King's-Head* Tavern in *Holborn*.

Sir *William Jones*. Are you ſure it was a Year ago?

Mr. *Powell*. It was about this time Twelve-month.

Sir *William Jones*. What was the reaſon he did not think fit then to reveal it? Did he tell the Reaſon?

Mr. *Powell*. I think he gave me a Reaſon, That he was ſomething cautious, becauſe he feared he might diſoblige his Brother at that time.

Sir *William Jones*. Did he give you any further Reaſon?

Mr. *Powell*. I think he ſaid he was afraid he ſhould not have incouragement enough, for he ſaid ſome of the Witneſſes had been diſcouraged, and he was afraid he ſhould be ſo too.

Sir *William Jones*. Now we ſhall call a few Witneſſes to Mr. *Turberville*'s Reputation, which have known him a good while. Mr. *Hobby*.

L. H. S. Was this time that Mr. *Powell* ſpeaks of, that he did diſcourſe with him, before or after that of *Talden?*

Sir *Will. Jones*. My Lords, we do not know of any Diſcourſe with *Talden*; nay, we believe none ſuch was. This Witneſs ſpeaks of a Year ſince.

L. H. S. What time does *Talden* ſpeak of?

Sir *Will. Jones*. *February* or *March* laſt, and this was a Year ago.

L. H. S. This was then before that certainly.

Sir *Will. Jones*. We deſire that Mr. *Arnold* a Member of the Houſe of Commons may be ſworn.

(*Which was done in his place.*)

Sir *Will. Jones*. Do you know Mr. *Turberville?*

Mr. *Arnold*. My Lords, I do know him very well, and I have known him theſe two Years, he came recommended to me from his Grace my Lord Duke of *Buckingham*. My Lords, preſently after the breaking out of the Plot, he was ſent down into our Country by the Lords of your Lordſhips Houſe that were of the Committee, and a particular recommendation from the Duke of *Buckingham* to me, to give him Direction and Aſſiſtance to find out a Prieſt, one *Charles Prichard*, and I think alſo if I miſtake not, one *Morgan*, my Lord *Powis*'s Prieſt. I ſpoke with him before he went, I ſent Letters down with him, I ſpoke with him afterwards, he hath been in my Family ſome time; he hath behaved himſelf very well there, and in ſeveral other ſober Families nearly related to me. I have not heard a better Character of any Man from all ſorts of People, than of him, in my Life.

Sir *Will. Jones*. Did he tell you any thing of the Plot, Sir?

Mr. *Arnold*. My Lords, I did ſeveral times find by him, that he knew much; having converſed both in *France* and here with Jeſuits and Prieſts. I preſſed him oftentimes to diſcover his Knowledge, and to come in to the Council; but he gave me ſuch Anſwers why he did not, that I could not anſwer.

Sir *Will. Jones*. What were they, Sir? Pray tell us.

Mr. *Arnold*. That the Witneſſes that were come in, were in danger of their Lives; that they were diſcouraged, that they were diſcountenanced; and as long as the Duke of *York* had that Power in the Council that he had, and my Lady *Powis*'s Brother had that Power over thoſe Countries where he lived, (which his Lordſhip is often pleaſed to call his Province) he durſt not do it for his Life.

(*Then Mr.* Hobby *was ſworn.*)

Sir *Will. Jones*. Do you know Mr. *Turberville*, and how long have you known him?

Mr. *Hobby*. My Lords, I have known Mr. *Turberville* near four Years.

L. H. S. What Account can you give of him?

Mr. *Hobby*. My Lords, my firſt Acquaintance with him, was at my Brother's Houſe in *Glamorganſhire*. When I came there, my Brother ſhew'd him me, and told me he was a very worthy Man, but his Friends had caſt him off, becauſe he would not take Orders in the Romiſh Church. He lived at my Brother's above a Year; and when he came thence, my Brother writ a Letter of Recommendation to my Father to receive him there, and do him all the kindneſs he could. He came to my Father's, and ſtaid there near half a Year, or thereabouts,

abouts, I cannot tell to a Month or ſo. Since I have known him often in this Town, and been in his Company; and I never knew, nor heard, but that he behaved himſelf like a worthy honeſt Gentleman: but as to any thing of the Plot, I know nothing.

Sir *Will. Jones.* We ask you not to that: Where is Mr. *Matthews?*

(*Then Mr.* Matthews, *a Divine, was ſworn.*)

Sir *Will. Jones.* Mr. *Matthews*, pray tell my Lords, whether you know Mr. *Turberville*, and how long have you known him?

Mr. *Matthews.* Yes, my Lords, I have known Mr. *Edward Turberville* for about four Years laſt paſt.

L. H. S. Go on, what do you know of him?

Mr. *Matthews.* My Lords, he lived ſome time in my Neighbourhood; I never knew him guilty of any ill Action at all, but a Perſon of a very fair Reputation: He acknowledged himſelf a *Roman* Catholick, and was pleaſed to give me the liberty to talk to him. I found him inclinable to hearken to me, and to thoſe Reaſons I offered to him; and I found he had a mind to quit that Religion, being convinc'd by the Arguments I gave him; and at ſeveral times he hath ſince told me, thoſe were ſome of the great Motives of his coming over from the *Romiſh* to the *Proteſtant* Communion.

L. H. S. What were the Motives?

Mr. *Matthews.* One was the Hazard I told him of, in his living in the *Roman* Communion, as to Salvation; another was the Excellency of the Doctrines of our Church, its Principles and Practices.

L. H. S. Did he acknowledge to you, he knew any thing of the Plot?

Mr. *Matthews.* No, not a Syllable of it.

Sir *Will. Jones.* We don't call him to that Purpoſe.

(*Then another Witneſs was ſworn.*)

L. H. Steward. What is your Name?

Witneſs. William Seys.

Sir *William Jones.* Pray will you acquaint my Lords, what you know of Mr. *Turberville.*

Mr. *Seys.* I have been acquainted with him theſe two or three Years, and I never knew him guilty of any ill Action in my Life. I never heard of any body that could aſperſe him; but he hath behaved himſelf like a very honeſt civil Gentleman.

Sir *Will. Jones.* Where were you acquainted with him?

Mr. *Seys.* Here in *London.*

(*Then Captain* Scudamore *ſtood up again.*)

Sir *Will. Jones.* He was ſworn before, we deſire he may ſpeak to Mr. *Turberville*'s Reputation.

Capt. *Scudamore.* My Lords, I have known Mr. *Turberville* for theſe three Quarters of a Year, I have been acquainted with him in *London*; he hath been much at my Houſe, and all that while I ſaw nothing in him, but that he is a very honeſt Gentleman.

Sir. *Will. Jones.* My Lords, I think we have but one Matter more, which we ſhould have mentioned before, but that our Witneſs was not come: but I hope we ſhall have the Favour of ſome Honourable Lords that do know the thing; and I think there are many more that can prove it. My Lord *Stafford*, who is very antient, it may be, may not remember matters exactly, I blame him not; Oblivion is the great Infirmity of old Age. He was pleaſed to ſay yeſterday, he had ſo good Health, that he had not been lame, I think he ſaid for theſe forty Years; but at laſt his Page ſaid, for the laſt ſeven Years; and I ſhall confine our Proof to that time. My Lords, I think there are ſome Honourable Lords here, that have ſeen this Noble Lord, that ſays he was not lame in ſo many Years, very near about the time that he was confined and impriſoned, go lame and come lame to the Houſe, and eaſe himſelf by holding up his Leg ſometimes. My Lords, I do not ſay, the Circumſtance is very material, but only to ſhew my Lord may forget himſelf, which I ſhall impute to his old Age.

L. *Staff.* I will acknowledge it, if your Lordſhips pleaſe, I did ſay I had not been lame with the Gout ſo long, no more I have not. I was troubled with the *Sciatica* many Years, but 'tis above eight or nine Years ſince that; and I took ſo much *Opium*, that that, and my going to the *Bath*, cured me. I have often come lame to the Houſe out of Wearineſs and old Age; but if ever I put my Foot upon a Stool for the Gout, or was ever ſo lame as to put my Foot upon a Cuſhion to eaſe it, I will admit what he ſpeaks to, I'll acknowledge thus much to ſave time.

Sir *Will. Jones.* Seeing my Lord is pleaſed to go off from it, I'll call no Witneſſes to it.

L. *Staff.* I go off from nothing, I was lame three or four Years when the King came in: I went to the *Bath*, and afterwards into *Germany*; and what with *Opium* and the *Bath* I was cured, and have not been lame theſe eight or nine Years. I have not had the Gout in my Foot for theſe many Years, and I never was ſo lame to put my Foot on a Stool, to my remembrance.

Sir *Will. Jones.* I do not think we ſhall need to trouble your Lordſhips more with this matter; that my Lord was lame ſome time, he is pleaſed to confeſs. One Witneſs ſays, That he put his Foot upon a Cuſhion; my Lord doth not acknowledge that.

L. *Staff.* I was never lame at *Paris.*

Sir *Will. Jones.* That a Man that is lame does ſometimes eaſe his Foot, is no hard Conſequence, I think.

L. Staff. I deny I was lame then; I walked about the Streets of *Paris*, I deſire I may not be miſunderſtood.

Sir *Will. Jones.* I muſt then deſire, under his Lordſhip's favour, if he will not acknowledge it to be within ſeven Years, that we may prove it, and falſify his Witneſs, the Page.

L. Staff. I have gone with a Stick to the Houſe, I acknowledge it, and been lame with Wearineſs.

Sir *Fran. Winnington.* The Objection went to the Credit of our Witneſs, and therefore we deſire to anſwer it: My Lord was not lame, as he ſays, for ſo many Years; but if we prove that within leſs time my Lord hath been lame, it will take off that Objection from our Witneſs. And we deſire a Noble Lord or two of this Houſe may teſtify what they know. And firſt the Earl of *Stamford*; (*who was ſworn.*)

Earl of *Stamford.* My Lords, I think I have not had the Honour to ſit in this Houſe much above ſeven Years, but long ſince that time I have ſeen my Lord *Stafford* come lame into the Houſe of Peers, and that is all I can ſay.

L. *Staff.* I have come lame with a Stick to the Houſe, I ſay.

Sir *Fran. Winnington.* My Lords, we deſire that Noble Lord, my Lord *Lovelace*, may be ſworn; (*which was done.*)

Lord *Lovelace*. My Lords, the Account that I can give your Lordſhips, is this; I cannot aſcertain any time, but I am ſure, and I do declare it upon my Honour, and the Oath I have taken, that I have ſeen my Lord *Stafford* lame in the Houſe of Lords within leſs than theſe ſeven Years.

L. *Staff*. If he goes home to the Tower he may ſee me lame, but never put my Foot upon a Stool.

Sir *Will. Jones*. My Lords, your Lordſhips will be pleaſed to remember, we did call a Witneſs, one *Thomas Launder*, and the Account we had of him was, he was gone ſick from the Bar, he was very ſick indeed; but being juſt now brought, we deſire he may be heard, tho it be out of time: we call him to the Reputation of *Holt*.

(*Thomas Launder* was ſworn.)

Sir *John Trevor*. Do you declare to my Lords, whether you know *Samuel Holt*.

Launder. Yes, My Lords, I do.

L. H. S. What do you know of him?

Launder. He is a Smith, my Lords.

L. H. S. What Reputation is he of?

Launder. Indifferent, My Lords.

Sir *Will. Jones*. What do you mean by that, good or bad? ſpeak plainly.

Launder. A Drunken Sot, a Man that will drink, and rant and tear the Ground, and ſing two or three Days or a Week together, and loſe his time.

Sir *Fr. Win*. I would ask this Man, whether he was ſummon'd as a Witneſs upon any Tryal in relation to the Plot?

L. H. S. Were you ever ſummon'd as a Witneſs about the Plot?

Launder. My Lords, I was ſummon'd concerning my Lord *Aſton*'s Tryal, and I came up with my Lord *Aſton*'s People as an Evidence.

Sir *Will. Jones*. Had you any Offer of Money, and what Sum?

Launder. Yes, my Lords.

Sir *Fr. Win*. Acquaint my Lords with it.

L. H. S. Who offered it you? and when? and for what?

Sir *Will. Jones*. For what was that Money offered you?

Launder. The Money was not abſolutely offered me, but I was to have an Horſe to ride on, and Money in my Pocket, if I could take off *James Anſell*, *Dugdale*'s Evidence.

L. H. S. Who came and offered it to you?

Launder. I was ſent for by Mr. *Fox* to *Tixal-Hall*, and there was my old Lord's Brother for one, and Mr. *Thomas Aſton*, that is, this young Lord's Brother, and Mr. *Francis Aſton*, who is my Lord's eldeſt Son, were in a Room together, and this *Thomas Sawyer* that was here, and more were in the Room when they promiſed all theſe things.

L. H. S. If you would do what?

Launder. If I would take my Oath, that this *James Anſell* was a perjured Rogue.

L. H. S. Did all they make you this Promiſe?

Launder. Yes, my Lords.

Mr. *Foley*. It was a Conſult together about taking off the Evidence.

Sir. *Will. Jones*. My Lords, we have done with our Witneſſes; if my Lord *Stafford* pleaſe to conclude, we are ready to do ſo too.

L. *Staf*. What ſhould I conclude? about thoſe Witneſſes you have now brought in?

Sir *Will. Jones*. Your Lordſhip may pleaſe to conclude your Evidence, we are ready to conclude on our part.

L. *Staf*. Theſe new Witneſſes, muſt I ſay what I can ſay againſt them preſently? I cannot do it, I know very few of them.

L. H. S. Have you any Witneſſes here, my Lord?

L. Staf. I cannot poſſibly have any; for I did not know, nor gueſs theſe People would be brought againſt me: They are Perſons I know nothing of. *Anſell* I have ſeen four or five times, I may have ſeen the reſt, but I do not know them to be able to give an account of them.

L. H. S. If you have any Witneſſes here to ſupport the Credit of your own Witneſſes that have been impeached, you may call them.

L. *Staf*. I have none, my Lords.

L. H. S. Will your Lordſhip recapitulate the material Parts of your Defence, that the Proceſs may be cloſed?

L. *Staf*. I am very unready for it, my Lords. Let me ask Mr. *Whitby* a Queſtion, if I muſt have no more time.

(*Mr.* Whitby *ſtood up.*)

L. H. S. There he is; What would your Lordſhip have with him?

L. *Staf*. I do not know the Gentleman.

Mr. *Whitby*. Nor I your Lordſhip.

L. *Staff*. I ask him upon the Oath he hath taken, I know he will ſpeak truth, Whether he did not ſome Years ago tell my Lord *Aſton* that is dead, this Lord's Father, That *Dugdale* was a Knave, and perſuaded him to turn him away, (I ſay not it is true, but I have heard ſo) and deſired him to tell his Son ſo, that he might quit himſelf of him?

L. H. S. What ſay you, Mr. *Whitby?*

Mr. *Whitby*. My Lords, about three or four Years ago my Lord *Aſton* that is dead (I believe it may be two Years laſt *April*) ſent for me to dine with him; and when I came thither, he told me, ſays he, Mr. *Whitby*, I have ſent to you to acquaint you with a thing, but I do not believe it before I tell it you. What is it, ſaid I? Said he, *Stephen Dugdale* hath acquainted me, that you have employed Perſons upon the Water to deſtroy my Water; ſaid I, my Lord, I never endeavoured it. He ſaid, he did believe me. Then I told my Lord; ſaid I, Mr. *Dugdale* is a Diſhonour to the Family, upon this account, becauſe many times People come for Money, and he will not let them have it, but puts them off, and makes them complain. Says my Lord, my Son is now at *Standall*, but I will tell him as ſoon as he comes home; and if you will bring the Perſons that have waited ſo long for their Money, and made ſo many Journeys, you ſhall hear what he will ſay to it. Within a while my Lord *Aſton* that now is, came down, and I went thither to ſee what became of it. And I went to the Bowling-Green where my Lord and his Son were; but my old Lord ſaid nothing to me of it, nor his Son neither. Within a few Days my old Lord *Aſton*'s Gentleman came down to my Houſe, (one Mr. *Aſhley*) ſaid I, I wonder whether my Lord *Aſton* hath acquainted his Son with what I told him. Says he, he hath, but it ſignifies nothing; for he will hear nothing againſt Mr. *Dugdale*. This I ſpeak upon my Oath, 'tis true.

L. H. S. Your Lordſhip ſees what this Gentleman's Opinion was of *Dugdale* then, he would hear nothing againſt him. Will your Lordſhip conclude?

L. *Staff*. My Lords, I am mighty unready, and know not which way to turn my ſelf, upon thoſe new things they have brought; for I knew nothing of it, nor expected any ſuch thing. But will you be

be pleaſed that I may call *Simon Wright* again?
(*Who ſtood up.*)

L. H. S. What would your Lordſhip have with him?

L. *Staff.* I have nothing to ſay to him, but to deſire him to ſee this Letter, whether it be of his own Writing or no.

L. H. S. Look upon that Paper, ſhew it him: (*which was done.*)

L. H. S. Is it your Hand?

Wright. This is my Hand. 'Tis part of that I was hired to do. There is another of a great deal more Conſequence than that.

L. H. S. Deliver it in, and read it.

Sir, June the 14th, 1680.

Clerk. I *Can, I bleſs God, with a ſafe Conſcience declare upon Oath that Mr.* Dugdale *hath been unkind to me in taking his opportunity of my Poverty, by reaſon of a private Meeting of us two by his appointment, he did that time proffer if I would ſwear againſt You, and Mr.* Gerard, *he would protect me as one of the King's Evidence, and I ſhould not want Mony; and in the* Hall *at* Weſtminſter *he ſaid, if I did diſcover it that Day at Mrs.* Price's *Tryal, he would ſet me in the Pillory. This I have owned to his Face, and ſhall not go back from this and more, neither for Fear nor Favour. So I reſt as you ſhall find by your Servant,*

Sim. Wright.

L. H. S. Is this your Hand?

Wright. Yes, my Lords; this I was adviſed word for word to write.

L. H. S. Who penn'd this for you? Did you pen it yourſelf?

Wright. No, my Lords, they penn'd it, and a great while I would not ſet my Hand to it; but *Jermin Drayton* ſaid I need not fear, I was not to ſwear againſt the King.

L. H. S. Who is that?

Wright. He is Butler to Mr. *Heveningham.*

L. Staff. See what you have under his Hand, I have no more to ſay to him.

Wright. But by their perſuaſion at laſt I did write it, and a great deal more than that.

Sir *Will. Jones.* I deſire to ask Mr. *Wright* whether they would have had him ſwore this?

L. H. S. Were you deſired to ſwear this?

Wright. No, my Lords, they never put me to ſwear it; for they told me I was not to ſwear againſt the King: but if I would be ſo kind to make an Affidavit before a Juſtice of Peace, I might then go where I would into the Country, and I ſhould have Money to bear my Charges.

Sir *Will. Jones.* Who would have had you ſwear it before a Juſtice of Peace?

Wright. Jermin Drayton, and Mr. *Longmore*; where he is I can't tell, but he told me that Sir *James Symons* was better able to perform than *Dugdale* was to promiſe.

Mr. Serj. *Maynard.* The ſame thing that was done by *Redding*, he was convicted for it, and ſtood in the Pillory.

Sir *Will. Jones.* We deſire to know, whether he was ever with Sir *James Symons* himſelf, and what he offered?

Wright. I was once with him at the *King's-Bench*, I dined there: after I had written the Paper that was read, he gave me 20 *s.* and ſaid, he hoped I would not go off from what I had ſaid, and he hoped I was ſenſible his Gratuity would not be wanting, and was ſorry he had not occaſion to uſe me.

Sir *Will. Jones.* My Lords, we have done with him; I only obſerve, that my Lord *Stafford* was pleaſed to produce this Paper; he was Maſter of it, and had it in his keeping.

Sir *Fran. Win. Wright* ſays, there is another Paper of more Conſequence; I wiſh his Lordſhip would produce that alſo.

L. *Staf.* I did not know of this till juſt now it was delivered into my Hands. Did you ſee Mr. *Longmore* before this Letter was writ?

Wright. Both before and after, to the beſt of my remembrance, and at the time when Sir *James's* Tryal ſhould have been, at the Sign of the *Crown* in *King-ſtreet* in *Bloomsbury.*

L. H. S. My Lord, will you conclude?

L. *Staf.* My Lords, I deſire your Lordſhips Pardon; I do not know how really to go about it to-night. I will obey your Commands, though I fall down at the Bar. I proteſt before God, I was all Night ſo ill of the Cramp, that I had no Repoſe. If you will have me go on, I will, if you will give me but a little time to recollect my ſelf.

L. H. S. God forbid, when your Lordſhip is to ſpeak upon ſo great a Concern, and a matter of that importance as this is to you, you ſhould be put at the end of the Day, and in the midſt of all your Thoughts, to ſum up your Evidence. I do believe, if you do deſire time till to-morrow, my Lords will give it you: And if you would have me move my Lords in it, I will.

L. *Staff.* One word, I beſeech your Lordſhips——

Sir *Will. Jones.* We do not oppoſe it.

L. *Staff.* My Lords, I deſire one thing, I am very ignorant in this Matter, and do not underſtand it; I would deſire your Lordſhips Directions to know in what Method I muſt proceed.

L. H. S. Your Lordſhip is to proceed thus if you pleaſe: Your Lordſhip is to recollect and recapitulate all the Proofs you have made; and you are to enforce them as well as you can, and make ſuch Obſervations upon them as are for your own Advantage; and this your Lordſhip muſt do for the Fact. If there remain a Doubt in Law which you may have occaſion to move, Counſel may be demanded; and if it be conſiderable and worthy of Debate, you may have Counſel heard to ſpeak to it. But the Proceſs is cloſed, no more Witneſſes are to be heard: There remains only Obſervations upon the Fact or Law to be made.

L. *Staff.* Are no more Witneſſes to be heard?

L. H. S. No, I think not: 'tis agreed on both ſides all is done: But my Lord, I would not have your Lordſhip to underſtand me ſo, that if ſo be you have yet any material Evidence, that you think it does concern you to produce, and you have it ready to-morrow, before you ſum up the Evidence; I believe then, if you move my Lords, they will let it be heard: Otherwiſe I think here is an end of Witneſſes.

L. Staff. I deſire the Paper I gave in, may be returned me.

L. H. S. But in order to this, my Lord, if your Lordſhip does think you ſhall uſe or produce any other Witneſſes, it would be of Importance that you would name them now.

L. Staff. Truly, my Lords, I will go hunt for none; and I think I ſhall have none: only one thing I muſt beg your Pardon in; which is the only thing I muſt have Witneſſes to, to anſwer what they have ſaid, that my Lord *Aſton* would not

not come to Accompt. My Witneſſes are very near me, Mr. Lieutenant, ſome in the *Tower*, and one Mr. *Birch*.

L. H. S. My Lord *Stafford*, bring thoſe to-morrow that you name to-night.

L. Staff. If you pleaſe that I may have that Paper, *Wright*'s Letter.

E. of *Shaftesbury*. My Lord Steward, I deſire that Letter may be kept.

L. Staff. It is a Paper that was given me, and I would return it: if you won't allow me it, I can't help it.

L. H. S. 'Tis deſired it may remain where it is: But your Lordſhip may have a Copy if you pleaſe, atteſted by the Clerk. Is it your Lordſhips pleaſure to adjourn?

Lords. Ay, Ay.

L. H. S. This Houſe is adjourned into the Parliament-Chamber.

Then the Lords withdrew in their Order, and the Committee of Commons returned to their Houſe, where Mr. Speaker reſumed the Chair.

A Meſſage was ſent from the Lords by Sir *Timothy Baldwyn* and Sir *Samuel Clark*.

Mr. Speaker,

The Lords have ſent us to acquaint this Houſe, That they have Ordered William *Viſcount* Stafford *to be brought again to his Tryal at the Bar in* Weſtminſter-Hall, *to-morrow Morning at Ten of the Clock.*

The Commons adjourned to Eight of the Clock the next Morning.

The Fifth Day.

Saturday, December 4. 1680.

ABOUT the Hour of Ten in the Morning, the Lords adjourned into *Weſtminſter-Hall*, going thither in their former Order into the Court there erected; and Mr. Speaker having left the Chair, the Commons were ſeated as before.

The Court being ſat, Proclamation for ſilence was made, and the Lieutenant of the *Tower* commanded to bring his Priſoner to the Bar; which being done, the Lord High Steward began as followeth.

L. H. S. What ſays your Lordſhip, my Lord *Stafford?* My Lords are prepared to hear what your Lordſhip can ſay in the ſumming up of your Defence.

L. Staff. My Lords, I muſt needs ſay to your Lordſhips, That you have given me Favour and Time all that I could demand. But I am a very unfortunate Man in many Things, unfortunate in being brought hither upon this Account; and truly, my Lords, I am very unfortunate, that I had not yeſterday, before I went away, the Names of ſome very material Witneſſes, and ſome that I did not know of, till within this half quarter of an Hour: I humbly offer this to your Lordſhips Conſideration as the State of my Caſe. 'Tis true, my Lords, I acknowledge I was bound up yeſterday to Mr. Lieutenant, and ſome others that I named; but I humbly tell your Lordſhips this, That I am informed of ſome material Witneſſes more this Morning.

L. H. S. Are the Witneſſes you ſpeak of, any of the Witneſſes you named laſt Night?

L. Staff. No, my Lords; 'tis one of my Lords, a Peer of this Houſe.

L. H. S. How many more have you?

L. Staff. Five or ſix.

L. H. S. To what Point?

L. Staff. To diſcredit the Witneſſes that have been brought againſt me, both ſome of thoſe that have diſcredited mine, and ſome that have ſworn againſt me particularly.

L. H. S. There is no end of this Way of Proceeding.

L. Staff. My Lords, I profeſs to your Lordſhips, in the preſence of God, I do it not for delay, nor did I know of them then.

L. H. S. What ſay you to it, Gentlemen?

Sir *Will. Jones.* My Lords, I am afraid this Proceeding at this rate will never have an end. If his Lordſhip have any Witneſſes to any material part of his Defence, tho he hath bound himſelf up, I ſhould not be againſt hearing of them. But if his new Witneſſes are only to the Reputation of our Witneſſes, then perhaps we muſt have ſome other Witneſſes brought to diſcredit his; and we not knowing who theſe new Witneſſes of his would be, may need perhaps another Day to bring Teſtimony againſt them, ſo that I know not when the matter can have an end. Your Lordſhips know, there is a Rule in the Civil Law, *In teſtem, teſtes, & in hos, ſed non datur ultra:* And I hope beyond that you will not go. Truly, for my own part, I did not expect any other Witneſſes, but thoſe he was pleaſed to name laſt Night, in relation to the matters of Account; if he pleaſe to call them, we ſhall hear them: but for any other, conſidering it would prolong the Tryal to another Day, and this Cauſe hath had four Days already for Hearing, we hope they ſhall not be admitted.

L. *Staff.* My Lords, I profeſs to your Lordſhips, if I were alone concerned in it, I ſhould not have moved it; but when I conſider my Wife and Family are concerned, I hold my ſelf bound by the Duty I owe to God and them, to propoſe this to your Lordſhips: I am preſſed to it by my Wife juſt now, ſince the Houſe came in. I proteſt before God, for my ſelf, I can look Death in the Face without being afraid; but when I conſider in what condition I ſhall leave my Wife and Family, it moves me.

(*Then he wept.*)

I am not concerned at it for my own part, for I know I am innocent, but I cannot forbear Tears when I conſider them; 'tis not for my ſelf, I take God Almighty to witneſs that I weep, I could be content to ſpeak a few words to your Lordſhips, and ſubmit to your Judgment, and take my Death, if you decree me to it, and not defer it till Monday: But I cannot forbear ſhewing my Grief when I conſider my Wife and Children.

L. H. S. Pray, Gentlemen, conſider, Whether it be not a ſaving of time to let my Lord examine his Witneſſes, elſe my Lords muſt withdraw to conſider of his Deſire. 'Tis true, in the practice of *Chancery* we do examine to the Credit of Witneſſes, and to their Credit, but no further; but what my Lords will do in this Caſe, I know not till they are withdrawn.

Sir *Will. Jones.* My Lords, we have that Opinion of our own Proofs, and are ſo deſirous of an End of theſe Proceedings, that rather than we will give your Lordſhips the trouble to withdraw, if my Lord will pleaſe now to tell us the Number and Names of his Witneſſes, we ſhall not oppoſe their being heard.

Sir *Fr. Win.* If your Lordſhips pleaſe, one word further: We know well of what Concern this is

to

to my Lord, and no body deſires to have him crampt in his Evidence. The Objection did lie fair on our ſide, it looking like a deſigned Delay; and yet we are willing to comply with this Reſervation, that if there ſhould be any ſuch Witneſſes produced now, as may require an Anſwer, that we may not be foreclоſed of adviſing with one another about it.

L. H. S. No, by no means. My Lord *Stafford*, your Deſire is conſented unto upon theſe Terms, That your Lordſhip will now name the Perſons and Number of the Witneſſes you will call.

Mr. *Hampden.* And the Points to which you will call them.

L. *Staff.* I humbly thank your Lordſhips for the Favour, but it is an impoſſibility for me to do it: If your Lordſhips will give me a quarter of an Hour's time, I will name them, I cannot name ſome of them; one is my Lord *Ferrers*, another is one Dr. *Taylor*, Dr. *Watſon*, Dr. *Elliot*, and one *William Dale*.

L. H. S. Now to what Points will your Lordſhip call theſe Witneſſes?

L. Staf. My Lord *Ferrers* is to ſpeak his Knowledg of *Southall* the Coroner, and that is as to *Dugdale*; my Lord knows that Perſon Dr. *Watſon*, and they are to invalidate the Teſtimony of Dr. *Oates*: and there is another Man's Name, I forget what it is.

Sir *Will. Jones.* To what Point is he to be a Witneſs?

L. *Staf.* 'Tis to Dr. *Oates*, and the Evidence againſt me.

Mr. Serjeant *Maynard.* So there will be pretences made every moment of ſome new Witneſs to put off this Cauſe.

L. *Staf.* Under your Lordſhips Favour, I ſcorn to make any delay. If you think this may not be material, or not fit to be done, I will quit it.

L. H. S. Go on, my Lord.

L. Staf. Will your Lordſhips be pleaſed to begin with my Lord *Ferrers?* (*who ſtood up in his place.*)

L. H. S. My Lord *Ferrers*, your Lordſhip is called upon by my Lord *Stafford*, and you being a Witneſs for the Priſoner, and againſt the King, your Lordſhip is not to be ſworn.

Lord *Ferrers.* My Lords, What I have to ſay concerning that Perſon my Lord named, *Southall*, is only upon Hear-ſay, and upon the Reputation he hath in the Country; for I have no Acquaintance with him, nor do know him at all: But the Reputation that hath been given me of him in the Country, is, That he hath been a very active Man in the late Times againſt the King, and is counted to be a very pernicious Man againſt the Government.

L. Staf. Call Dr. *Taylor.*

Servant. I know not where he is, he can't be found at preſent.

L. *Staf.* Then call *William Dale* in the mean time. My Lords, This ſame *Southall* I never heard of; the other Man that drew up the Affidavit, that is *Feake*, I know, he was named by *Southall* to join with him in the Examination; I can tell what he was, I can prove that he is an Attorney, that he was Mayor of *Stafford*, and proclaimed the King Traytor.

L. H. S. Who was that?

L. Staf. One that drew up the Affidavit of *Dugdale*, *Feake* mentioned by *Southall.*

L. H. S. Who is your next Witneſs, my Lord?

L. Staf. One *William Dale:* (who being called, appeared.)

L. H. S. What is your Name?

Witneſs. William Dale.

L. H. S. What do you ſay?

L. Staf. About *Dugdale*, my Lords, what he knows about his offering him any Money.

Sir *Will. Jones.* We deſire to know where he lives.

Dale. Dugdale never offered me any Money.

L. H. S. Where do you live?

Dale. At *Owſely*-Bridge.

L. Staff. Pray ask him whether *Dugdale* perſuaded him to ſwear againſt my Lord *Aſton* ſomething he knew not.

L. H. S. Did *Dugdale* ever hire you to ſwear againſt my Lord *Aſton?*

Dale. No, he never hired me.

L. H. S. Do you know that he ever hired any body elſe to ſwear falſe?

Dale. I do not, my Lords.

L. Staf. My Lords, I moſt humbly thank your Lordſhips for your Favour in giving me the Liberty of examining theſe other Witneſſes, I ſhall trouble you no further, nor give no more Evidence; only one Witneſs, my Lords, I ſhall trouble you no further, and that is Mr. Lieutenant of the *Tower*, to this Point, whether my Lord *Aſton* did refuſe to come to account with *Dugdale.*

L. H. S. Come, Mr. Lieutenant, do you know any thing about Accompts between my Lord *Aſton* and Mr. *Dugdale?*

Mr. *Lieutenant.* My Lords, laſt Summer was Twelve-month *Dugdale* came to the *Tower*, but my Lord *Aſton* would not ſpeak with him, unleſs I were by; ſo they brought him to my Lodging, and he ſhewed me the Books of Accompts: I told them I did not underſtand Accompts, but if they would have me be by, I would get ſomebody to be preſent that did, and have them adjuſted. Mr. *Dugdale* ſaid he would come another time, but from that time to this I never heard of him.

L. Staf. My Lords, I ſhall not trouble you with any more Witneſſes. My Lords, I have now done my Evidence. I ſhall, as well as my weak Memory and old Age will give me leave, ſum it up, ſomething (as well as I can) of the Evidence given againſt me, and for me. Truly, my Lords, I am able to do it very imperfectly for want of Underſtanding, and truly for want of Sleep; but I do not doubt, but that according to the Law, as I am informed it is, ſince I can have no Counſel in Matter of Fact, or to adviſe me in any thing of that nature, yet I am alſo informed by the Law, your Lordſhips who are my Judges, are my Counſel. And I do not doubt but your Lordſhips, when you take it into Conſideration, will ſupply any Defects which I ſhall commit, which I believe will be many. I ſhall ſpend your Lordſhips time as little as I can; tho theſe Gentlemen of the Houſe of Commons believe I deſire to protract it, yet I profeſs before God I do not. And I declare before them all, and your Lordſhips, I am ſo ſatisfied of my own Innocency, that I would never beg a moment's time of delay; and I know your Lordſhips will take care of the Life of the meaneſt Subject: and tho I have had the honour to ſit among your Lordſhips as a Peer, yet I ask not for your Favour, but with your Juſtice too; I ſhall therefore ſum up my Defence as well as I can. For the firſt Witneſs, *Dugdale*, he ſwore I was at a Conſult at *Tixall* in the end of *Auguſt* or the beginning of *September*; I have ſufficiently proved that in all *Auguſt* I was not there, nor till the 12th of *September.* I have proved that his firſt Oath was, I was there in

Auguſt,

Auguſt, and a Man that will ſwear falſe in one thing, is not to be credited in any. I have made it appear to your Lordſhips, that upon the 20th of *Septemb.* when he ſays he was in my Chamber and I ſent the Page to call him, that that is falſe; it was only he deſired he might come to me to get leave that he might go to the Race, my Lord *Aſton* being angry with him for it. This I conceive is proved ſufficiently by two Witneſſes, my Man and my Boy, and this I think I have proved as poſitively as can be done. My Lords, 'tis true, 'tis objected againſt me, That I had ſaid *Dugdale* was never ſeen alone with me in my Life, 'tis true; and 'tis true *Anſell* ſwears he brought a Footman to me, but he ſwears it was in the Morning, when it was at Supper, and does not ſay that he was alone with me. My Lords, *Dugdale* ſwore that he told Mr. *Philips* and Mr. *Sambidge* of the death of Sir *Edmundbury Godfrey* on the Monday, ſome ſwore he ſaid it was on the Tueſday, but they deny that ever he told it them; and ſo he is forſworn in that. And, my Lords, whether he be a Man of any great Credit, I think I have proved enough to your Lordſhips. 'Tis proved by two Witneſſes, *Holt* and *Morrall*, that he offered them Money to ſwear, as likewiſe he did to another, one *Robinſon*; whom I do believe, by the Information that was given of him, to be a wicked ill Man, and not to be credited; but being ſo, my Lords, he was the fitter for *Dugdale*'s turn. And yet he had ſo much Conſcience, tho he was a poor and needy Fellow, he would not ſwear a Man's Life away for Money. The other two are without Exception, the one they ſay is an idle Fellow, and t'other a Man but of an indifferent Reputation; how far that will move with your Lordſhips, I ſubmit it to you. I ſuppoſe 'tis alſo clear by my Witneſſes, that *Dugdale* is a Man of no Reputation, having forſworn himſelf in ſeveral Particulars; and I ſumbit the Credit of all he ſays to your Lordſhips upon that.

The next Witneſs, my Lords, is Mr. *Oates*, whether he be a Doctor or no, I know it not, he would not own it here; he, my Lords, ſwears that he ſaw a Commiſſion delivered to me to be Pay-maſter of an Army to be raiſed, God knows when, I never heard when, or where, I ſuppoſe it was in the Clouds, for I never knew where elſe. Mr. *Oates* all along before ſwore only that he believed I was in the Plot, now he ſwears I was in it, at Mr. *Fenwick*'s Chamber, a Man I never ſaw in my Life, nor heard of till this Diſcovery. And that he ſaw Letters ſubſcribed by my Name; but that, my Lords, I conceive is no Evidence at all, for he never ſaw me write, nor does know my Hand, nor does he pretend to know me then: and when he had told your Lordſhips he had a Letter of mine, he pretended to look for it, and then ſaid he had loſt it, that is, never had it. But beſides, my Lords, his Evidence now does not agree with his former: for I do appeal to your Lordſhips that were in the Houſe then, that he ſwore the firſt time, He only ſaw my Name to Letters; afterwards he ſwore (that is, ſome days after he had ended all his Evidence, and knew no more than he had put down then, afterwards he remembers what he knew not before and ſwears) a Commiſſion he ſaw delivered to me: So his Memory increaſes as he hath time to invent, and perhaps by another time it might be much more. But, my Lords, I think that one particular, his ſwearing before your Lordſhips, as 'tis entred in your Journal, that he had no more to ſay againſt any body, and afterwards naming the Queen, and now me to have a Commiſſion, I conceive, is perfect Perjury. My Lords, Mr. *Oates* told your Lordſhips, That he had never been a Papiſt in his Heart, but ever feigned it; truly, my Lords, I cannot poſſibly give over that Point, That a Man that feigns himſelf to be a Papiſt, or any thing that in the Opinion of Proteſtants is ſo wicked a thing as that, is fit to be believed, if he ſhall not heartily repent himſelf, and own it to God and Man as an ill thing to diſſemble ſo. But yeſterday he with a ſmiling Countenance, and as it were in Deriſion, owns that which muſt be a very great offence to God Almighty, to pretend to be of an Idolatrous Church. I appeal to your Lordſhips whether he be a fit Witneſs, I conceive he cannot be thought a Chriſtian, nor to believe in God. I know many wicked and infamous Perſons have done many wicked things and yet have been Witneſſes; but never did any wicked Man own a wicked thing, that he might have concealed, with boaſting of it, that ever was credited in any thing: for if he had ſaid I do acknowledge I did diſſemble with God and my own Conſcience, but I ask God forgiveneſs, it was for a good End, and a good Intention, it had been ſomething (tho that could not have atoned for ſo ill a thing) but ſhewing no Repentance, but rather an impudent affronting of God Almighty, I think he is not a fit Witneſs, I appeal to your Lordſhips and the whole Chriſtian World if he be. I cannot believe your Lordſhips will condemn me for an Opinion which I will go to my Death with, and it ſtands upon me ſo to do.

The laſt Witneſs, my Lords, is *Turberville*, and he ſays, in the Year (75) he often diſcourſed alone with me for a Fortnight together at *Paris*. My Servants he owns he never ſaw them, and how he could come for a Fortnight together, and not ſee my Servants, I refer it to your Lordſhips Conſideration whether it be poſſible. For I'll tell your Lordſhips, when I had been a few days at *Paris*, my Landlord came one day to me, and ſaid, You do not do well to ſuffer any body to come to you without your Man be by; for there came yeſterday a *Frenchman* to ſpeak with you, and I do not know him, and he went ſtrait up to your Chamber without any body with him; 'tis a dangerous thing, ſaid he, for I know that *Frenchmen* and People have come up and been alone with Perſons, and put a Piſtol to them and made them deliver their Money for fear of their Lives: therefore pray, ſaid he, do it no more. From that time, which was a few days after, I came to *Paris* the latter end of *October*, or the beginning of *November*, no Chriſtian Soul was permitted to come to me without my Servants; how then could he come to me for a Fortnight together, and none of my Servants ſee him? My Lords, this Gentleman very civilly the next day after he had made an Affidavit againſt me, would needs mend it; and Sir *William Poultney* did acknowledge that he made Affidavit one day, that he came to my Lord *Powis*'s in the Year (73) and the next Day amended it to (72.) Now I humbly conceive, my Lords, a Man that ſwears one thing to-day, which he forſwears to-morow, is not to be believed: And the truth of it is, as his Brothers prove to your Lordſhips, he came to my Lord *Powis*'s in the Year (71) and ſo he forſwears himſelf in every thing, and is in no wiſe to be believed. He ſwears to your Lordſhips I writ a Letter to him to acquaint him that I would go by *Calais*, and not by *Diep*; but I have proved I went by *Diep*, and I aſſure your Lordſhips I have not been at *Calais*, I think, theſe twelve or fourteen Years.

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I conceive theſe things are very manifeſt and clear Proofs againſt him that he hath not ſwore one true word. He ſwears that my Lord *Powis*, my Lady *Powis*, and his Friends, perſuaded him to go to *Doway* to be a Fryar, but not liking it, he came over again and was in danger of his Life by them; but the Evidence is ſufficiently ſtrong in Proof that he afterwards was at my Lord *Powis*'s, and was well received, that he lay in the Houſe, and was not in the leaſt injured by them. And for his other Relations, his Brother proves he was not ill uſed by them. They gave him ſeven Pound to be gone and trouble them no more. He ſays, I ſaid, he was a Coward; and I'll tell you why I ſaid ſo, becauſe a Captain, that is now out of *England*, told his Siſter ſo, who told me, but that is not very material. My Lords, there is one Witneſs more, *John Porter*, that ſwears to your Lordſhips this one thing, That this *Turberville* ſwore to him at ſuch an Ale-houſe, he knew nothing of the Plot. And then my Lords, there is Mr. *Yalden*, and he is a Gentleman of Reputation, he ſaid in his Company, there was no Trade good but that of a Diſcoverer, God damn the Duke of *York*, *Monmouth*, Plot and all, for I know nothing of it. Truly, my Lords, whether he got Money by it or no, is known ſince he hath been a Diſcoverer, telling what he knew not ſo many Months ago; and therefore I ſubmit it to your Lordſhips what he is.

My Lords, theſe People that ſwear againſt me, there is not one of them a Perſon of any Quality or Condition; and whether they have not rather ſworn for Money than the Truth, by things that are known, and need no Proof, I ſhall obſerve when I come to it to argue that Point in Law, Whether a Man that ſwears for Gain is a credible Witneſs, or no?

My Lords, I have as well as I can ſummed up that little Evidence that was given againſt me, I cannot better do it in ſo ſhort a time; for indeed I had but a very ſhort time laſt night, and I have not ſlept, I had the Cramp ſo much in extremity, that my next Neighbour heard me roaring out. My Lords, I ſubmit my ſelf to your Lordſhips, and doubt not but that the Matters charged upon me will appear to your Lordſhips ſufficiently anſwer'd. And I beſeech your Lordſhips well to conſider that one thing againſt Dr. *Oates*, his diſſembling with God Almighty, and his impudent owning of it. This I do inſiſt upon; and I proteſt before God Almighty, if I were a Judge, I would not hang a Dog upon ſuch Evidence. My Lords, I have many Points in Law to offer to your Lordſhips, and when you pleaſe I ſhould do it, I'll name them to you.

L. H. S. Name them, my Lord; if you have any Doubts in Law, propound them.

Lord *Lovelace*. My Lords, I would not interrupt my Lord, but I think indeed it is no Interruption, ſince his Lordſhip broke off, and was going on to another Point. But I think I ſee one of the impudenteſt things that ever was done in a Court of Juſtice; whilſt we are trying a Perſon here for a Popiſh Plot, I do ſee a profeſſed Papiſt ſtanding in the Body of your Houſe, and that is Sir *Bernard Gaſcoyn*.

(*Who thereupon went out of the Court.*)

L. Staf. My Lords, I do conceive I have cleared myſelf to your Lordſhips of what I am accuſed of. My Lords, the Courſe of my whole Life hath been otherwiſe; I defy any Creature in the world to ſay, that I ever uſed one diſobedient or diſloyal Word of the King, or did any ſuch Act. I waited on the King that now is, in the unhappy War that is paſſed, when I was in a low Condition enough as to Fortune, and my Wife and Family were thereby reduced to great Straits, for my Wife and Children lived ſome five or ſix Years upon ſome Plate and Jewels that we had; whereas if I would have come, and been at *London*, and joined with that Party, I could have ſaved my Eſtate, and lived quietly as others did. But my Conſcience told me, I ought to wait upon the King, and offer him my perſonal Service, when I could do him no other. I have ſhewn how the Witneſſes have forſworn themſelves; I ſhall now, if your Lordſhips pleaſe, deſire your Opinion in ſome Points of Law. And though perhaps I may name to your Lordſhips many things that are impertinent, or not to the purpoſe, I beg your Lordſhips pardon, 'tis out of the Weakneſs of my Underſtanding; and I hope you will not think ill, neither your Lordſhips, nor the Houſe of Commons, if I ſhould, through Ignorance, move things impertinent. The firſt Point of Law is this:

Firſt, I conceive there is no Example or Precedent for it, that Proceedings Criminal ever did continue from Parliament to Parliament, and this is continued to three.

L. H. S. Speak out my Lord, and go on.

L. *Staf.* Secondly, my Lords, I do not queſtion the Power of the Houſe of Commons in the leaſt; but, my Lord, I know they impeach when they find Grounds for it without diſpute: but I queſtion whether any Man, by the known Laws of this Kingdom, in Capital Caſes, can be proceeded on, but by Indictment firſt found by the Grand Jury, and not by Impeachment by any Perſon, or other Body of Men.

L. H. S. Say on, my Lord.

L. *Staf.* Thirdly, my Lords, I conceive there are many Defects in the Indictment or the Impeachment, (Indictment there is none.) There is no Overt-Act alledged in the Indictment or Impeachment, I know not well what it is called. And, my Lords, by the Act of Parliament in 1 *H.* 4. *c.* 10. nothing from thenceforth is to be Treaſon, but according to the Statute of 25 *Edw.* 3. which includes an Overt-Act.

Fourthly, My Lords, I deſire that I may prove that by Law they are not competent Witneſſes, for they ſwear for Mony. But, my Lords, I forgot one thing to ſay to your Lordſhips as to the Evidence, that theſe Gentlemen did endeavour to prove (I do not ſpeak whether they did or not) a general Plot of the Papiſts; whether they did not, I am not concerned in it, for I ſay they have not proved me a Papiſt, which I ſubmit to your Lordſhips: and though any Man may know me ſo in his private Knowledge, yet they having not given any proof of it, 'tis not to affect me.

Fifthly, There is one Point of Law more, That no Man can be condemned for Treaſon, as I conceive, by one Witneſs; and there are not two Witneſſes to any one Point. Theſe are the Points of Law, I humbly beg your Lordſhips pardon for the trouble, and deſire your Opinion in them.

Sir *W. Jones*. My Lords, before we make anſwer to what my Lord hath ſaid, I do humbly deſire, That for the Objection which he hath made againſt Mr. *Southall*, proved by a Noble Lord of this Houſe (tho I muſt obſerve it was not of his own Knowledge, but by Hear-ſay, and that Matter of Hear-ſay contrary to the Act of Oblivion) to the end there may no doubt remain of Mr. *Southall*'s Credit, that a Noble Lord of this Houſe, and a Gentleman

Gentleman of the Houſe of Commons (who both know Mr. *Southall*) may be heard to his Reputation.

Sir *F. Win.* My Lord *Ferrers* knew him not himſelf, but my Lord *Brook* and Mr. *Gower* will give a better account of him.

(*Then the Lord* Brook *was ſworn.*)

Lord *Brook.* My Lords, what I have to ſay concerning this Mr. *Southall* is, That he hath been often employ'd both by my Brother and my Mother; and they have ſo good an Opinion of him, that they employ him ſtill; and therefore we take him for an honeſt Man, and an able Man, or he would not be ſo much truſted and employed: and I take him to be a very good Churchman; for if he was not, I would not employ him.

L. H. S. An honeſt Man, an able, and a good Churchman, your Lordſhip ſays?

Ld *Brooke.* He receives the Sacrament four times a Year.

Sir *W. Jones.* Then ſwear Mr. *William Leveſon Gower*, a Member of the Houſe of Commons; (which was done in his Place.)

Mr. *L. Gower.* My Lords, I have been near ſeven Years of *Staffordſhire*, but did not know Mr. *Southall* till this Popiſh Plot was diſcovered. After that I came acquainted with him (being a Juſtice of the Peace in that County) in Court, where I found him to be the moſt zealous Proſecutor of the Papiſts in that Country, no Man like him. I likewiſe found ſeveral Popiſh Prieſts had by his means been apprehended and impriſon'd, and one of them ſince convicted, who by the way ſtill remains unexecuted in *Stafford*-Goal. What Opinion ſome may have heard or had of him formerly, I cannot tell; but this I know, that he hath more than once come to deſire my Aſſiſtance, that he might proſecute the Papiſts the moſt effectual way upon the Statutes made for that purpoſe, and that he did complain to me that he had not met with good Uſage elſewhere.

My Lords, I take Opinion to be grounded upon Principles; and I do obſerve that thoſe of this Country who do believe this Popiſh Plot, and know Mr. *Southall*, and are principled for the Preſervation of the King, the Proteſtant Religion, and the Government, do at this time ſpeak well of him, and thoſe who are not ſo principled ſpeak otherwiſe.

My Lords, I was ſurprized when I heard my Name mention'd upon this occaſion: I have told your Lordſhips all the Matter of Fact that upon the ſudden occurs to me, (with my own Opinion, which I offer with all ſubmiſſion;) and had I had notice, I might poſſibly have recollected more, which I would freely have declared to your Lordſhips, but this is all that I can now ſay.

L. *Staf.* My Lords, if your Lordſhips pleaſe, I would ſay one word, if you will give me leave; I am very ignorant, and beg your Lordſhips pardon for troubling of you: I humbly deſire to know, Whether after the Points of Law are argued, I may ſpeak ſomething, not concerning the Evidence of the Plot, but concerning myſelf.

Sir *W. Jones.* My Lords, we ſhall not oppoſe the ſaying any thing he can for himſelf; but we muſt conclude, and have the laſt word.

L. H. S. My Lord, the Gentlemen that are for the Houſe of Commons muſt conclude. My Lords will give you all the Favour they can, but they muſt have the laſt word.

L. *Staf.* I do not oppoſe it.

L. H. S. Therefore you will do well to ſay all you have to ſay together. For the Points of Law, my Lords will give no Judgment till the Commons have anſwered them, and they I ſuppoſe will firſt ſum up the whole Proofs; then you may ſay what you have to ſay, for they muſt make an end. Gentlemen, will you ſpeak firſt to the Law?

Sir *W. Jones.* No, my Lords, firſt to the Fact.

L. H. S. Go on then.

Then Sir William Jones, *one of the Committee appointed to manage the Evidence, began to ſum up the ſame as followeth.*

May it pleaſe your Lordſhips,

WE have now done our Evidence as to Matter of Fact; and that which I have in charge at this time, is to remind your Lordſhips of our Proofs, to anſwer the Objections that have been made againſt them, and to make ſome Obſervations upon the whole.

My Lords, The Members of the Houſe of Commons that were appointed for the Service of the Management of this Tryal, thoſe of them I mean who began the firſt day, made a Diviſion of our Evidence into two parts; the one that which concerned the Plot in general, and the other what related to this Lord in particular.

My Lords, as to the Plot in general, we did call ſix Witneſſes; I know ſome of your Lordſhips have taken Notes, and you have their Names: they were *Smith*, *Dugdale*, *Prance*, *Oates*, *Dennis* and *Jeniſon*.

My Lords, becauſe I will ſave as much of your time as I can, I will not take upon me to repeat what each Witneſs ſaid as to the Plot in general; but when I come to the Evidence which immediately concerns my Lord, I muſt beg your Favour that I may be more particular. I will ſay thus much for the Proofs of the Plot in general, that there was by thoſe Witneſſes ſo much fully proved, that made it moſt apparent that there was a general Deſign amongſt the Roman Catholicks to introduce their falſe Religion into this Kingdom, that the Jeſuits had ſeveral Meetings to that end, that they endeavoured to do it by ſeveral ways, by raiſing of Arms, by collecting of Monies, and by deſigning againſt the King's Life; nay, they had ſo far advanced their Deſigns, and were in ſo much readineſs, as they thought it time to appoint Officers not only for their Army, but for the Civil Government, as if the Work were already accompliſhed.

Your Lordſhips were told by one of the Witneſſes of a Lord Chancellor, and of a Lord Treaſurer, (Lords now in the *Tower* yet to be tried;) and you were told alſo of Officers for the military Part, a General, a Lieutenant-General, and this Lord at the Bar to be Pay-Maſter of the Army.

I ſhall, my Lords, deſire to take notice to your Lordſhips, that this Deſign, though it was to be finally acted by other hands, yet was it firſt contrived, and afterwards carried on by the Prieſts and Jeſuits. You will find them preparing for it, by making Sermons to juſtify that Doctrine (which I confeſs this Noble Lord denies) of the Lawfulneſs of killing Kings. You will find the Prieſts and Jeſuits, in their Diſcourſes, as well as Sermons, urging and encouraging their Diſciples and Votaries, to go on with their Deſign of killing our King, and giving that common Reaſon for it, That he was a Heretick, and it were meritorious to take him out of the way.

My Lords, I take notice of theſe Particulars in the general Plot, becauſe it may give great light

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to, and add much to the Confirmation of the particular Evidence. And, my Lords, (I think) I may take leave to ſay, That the Plot in general hath been now ſufficiently proved. And if we conſider what hath been proved at former Tryals (upon which many of the Offenders and Traytors have been executed) what hath been publiſhed in Print; and above all, *Coleman*'s Letters, written with his own Hand, and for that reaſon impoſſible to be falſified; we may juſtly conclude, that there is not a Man in *England*, of any Underſtanding, but muſt be fully convinced of the Truth of the Plot in general. I ſhall ſpare to mention the Reſolutions and Declarations of two Parliaments, and of both Houſes in thoſe two Parliaments, without (as I remember) one diſſenting Voice, expreſſing their full Satisfaction of the Reality of the Plot: ſo that I think now none remain that do pretend not to believe it, but two ſorts of Perſons; the one, thoſe that were Conſpirators in it; and the other, thoſe that wiſh'd it had ſucceeded, and deſire it may ſo ſtill.

But, my Lords, I will be the ſhorter on this part; for perhaps it will be objected, You have offered a fair Proof of a general Plot, here are Records, Votes of both Houſes, Papers and Evidences printed, and Witneſſes *viva voce* to prove it; but what is all this to my Lord *Stafford?* My Lords, it goes a great way to him; I do not ſay to be a convincing Evidence, but to make the particular Evidence againſt him highly credible.

Your Lordſhips cannot imagine, that there are ſuch a ſtore of Lords and great Men amongſt that Party (though there be too many) that they ſhould have great Choice for great Offices. Your Lordſhips hear how the other great Offices were diſpoſed of, and truly I think the Merit of this Lord amongſt that Party might very well intitle him to an Office as great as this of Treaſurer of War, or Pay-Maſter to the Army. But what is the Evidence of the general Plot (may ſome ſtill ſay) to my Lord *Stafford?* What do you mention the raiſing an Army? What do you mention the collecting of Money? What do you mention the providing of Arms for? Yes, my Lords, they are very uſeful, for they give a fair Introduction to prove againſt this Lord, that he was to have this Office. If it be proved by other Witneſſes than thoſe who ſware directly againſt this Lord, That there were Arms provided, that there was an Army to be raiſed, and the reſt; it proves at leaſt, that there was Occaſion for ſuch an Officer as the particular Witneſs proves my Lord was to be.

My Lords, for the other matter that relates to the Conſultations of the Prieſts and Jeſuits, and their Sermons and Diſcourſes, I deſire your Lordſhips to obſerve that alſo; which if you do, your Lordſhips will eaſily perceive what a great Influence even that matter hath upon the particular Evidence, and how credible it renders the Teſtimony of the particular Witneſſes. Your Lordſhips will find, when my Lord was at *Tixall* (as *Dugdale* gives you an Account) there was *Evers* the Jeſuit, and other Prieſts ſtill at my Lord's Elbow, and egging him on to this buſineſs. Your Lordſhips will find where *Oates* ſpeaks of him, it is at *Fenwick*'s Chamber, who was a Jeſuit, giving him Ghoſtly Counſel. Your Lordſhips will find, That at *Paris*, where Mr. *Turberville* ſpeaks of him, there were Father *Sherborne*, Father *Nelſon*, and Father *Anthony Turberville*. Still the Prieſts are about my Lord; and when my Lord is among them, or but newly come from them, then he utters the Treaſon of killing the King. And doubtleſs this traitorous Purpoſe of his did ariſe from their Counſels: So that though our Witneſſes ſpeak of my Lord's Diſcourſes at ſeveral times about killing the King, yet they make them flow from one and the ſame Fountain, the Inſtigation of the Prieſts and Jeſuits.

But now, my Lords, to come to the particular Evidence, I think I may ſay, if ever Evidence was convincing, this is ſo. We have brought three Witneſſes which ſpeak each of them that which is ſufficient to prove my Lord guilty; and they ſpeak of Overt-Acts too, as I ſhall obſerve anon.

His Lordſhip was pleaſed at the beginning of our Evidence to deſire that the Witneſſes might look him in the face; and for that he cited two Statutes, I ſuppoſe he intended the Statutes of 1 & 5 of *Edw.* 6. which Statutes, or at leaſt one of them, do ſay, That there ſhall be in caſe of High Treaſon, two Witneſſes to accuſe, and thoſe two Witneſſes brought face to face at the time of Tryal: And my Lord hath had the Benefit of thoſe Laws; he hath had two, nay three Witneſſes to prove him guilty, brought face to face before your Lordſhips; and if theſe three, or any two of them deſerve to be credited, my Lord in this Caſe is guilty of High Treaſon. My Lords, I muſt beg the favour of looking upon my Paper of Notes; for the truth is, the Witneſſes are ſo many, and the Proceeding hath held ſo long, that it is impoſſible for my weak Memory to retain all that was ſaid.

My Lords, the firſt Witneſs we began withal was *Dugdale*; and I know your Lordſhips did take notice what he ſwore: but it will be my Duty to remind your Lordſhips, that he tells you, That he had heard of a general Deſign of making Preparations to be ready againſt the King's Death, and this for ſeveral Years paſt. But as to the matter of haſtening the Death of the King, that was but a late Counſel. He tells you, I think, that about the latter end of *Auguſt*, or the beginning of *September*, 1678. *Evers* and other Jeſuits were at *Tixall*, that there was a Conſult then about the King's Death; and that (by the means of *Evers*, who was a very great Man among them, but ſince fled, and is mentioned in the Impeachment) he was admitted to that Conſult, and heard particularly what every Man ſaid; and he does take upon him to ſay, That at that time the matter of taking away the King's Life was propounded, and that my Lord, the Priſoner at the Bar, did conſent to it.

My Lords, he tells you further, That upon a Sunday-Morning my Lord came from *Stafford* to *Tixall* to Maſs: my Lord was pleaſed to obſerve, that we do not prove him a Papiſt; but we prove my Lord came to Maſs, and that, I think, is one good Proof of his being a Papiſt. Beſides, *Dugdale* ſwears my Lord did then complain, That they had not the free Exerciſe of their Religion; that they could not ſay their Prayers openly: What were they? Not the Prayers of *Proteſtants*, not thoſe contained in the Liturgy of our Church. He could not complain of any Reſtraint as to them; but complain he did, that they had not the free Exerciſe of their Religion, but he did hope, if things ſucceeded well, in a ſhort time it would be otherwiſe. This is particularly ſworn by *Dugdale*.

My Lords, his Lordſhip was very much unſatisfied, that *Dugdale* was not particular in point of time; he did talk of ſome matters to be in *Auguſt* or *September*, but could not fix to any Day. But your Lordſhips will remember, that as to one Particular, and which mainly concerns his Lordſhip to

anſwer, he comes to a Day, or within a Day; for he ſwears poſitively, That upon the 20th or 21ſt of *September* he was ſent for to my Lord's Chamber, the Servants were put out; that there my Lord did propoſe to him, in expreſs Terms, the matter of killing of the King: He would have him be an Actor in it, and he offered him a Reward of 500*l.* to perform it. For this which is the moſt material part of his particular Evidence againſt my Lord, he is certain 'twas either on the 20th or 21ſt of *September*; and he tells your Lordſhips how he comes to remember the time, by a good Token, by the Foot-Race that was then to be run; and I do not perceive that my Lord does deny, but rather acknowledge that *Dugdale* was in his Chamber at that time. 'Tis true, he does deny ſome other Circumſtances which I ſhall anſwer anon. And here I do think *Dugdale* undertakes to ſwear to that which will amount to an Overt Act, and a damnable one too, that is, the offering 500*l.* to kill the King.

But *Dugdale* (it ſeems) was not willing to depend upon the Promiſes of my Lord for ſo much Money, his Lordſhip had not that Credit with him; he repairs to *Evers*, and deſires to be ſatisfied from him, whether he might rely upon my Lord for ſo much Money? *Evers* told him he might be ſure to have the Money; and that there was enough in *Harcourt*'s and other Mens hands for the carrying on that bleſſed Deſign; and that he ſhould have it thence. I might, my Lords, remember to your Lordſhips how *Dugdale* does particularly ſwear concerning another Diſcourſe he had afterwards with my Lord; That my Lord complained of the great Loſſes that had been ſuſtained by him and his Friends for the King; how, in particular, my Lord *Aſton*'s Father had loſt 30000*l.* and what Reſentments my Lord had of it. He ſaid, That Places of Profit were rather beſtowed upon thoſe that deſerted the King, and were Rebels and Traytors, than on thoſe that did him faithful Service: And what does he conclude from thence? He is very angry with the King, and does ſay, that next to the Cauſe of Religion (which was the ſtrongeſt Motive with him to take away the King's Life) the King's Ingratitude to his loyal Subjects, was that which did moſt offend him.

I ſhall not trouble your Lordſhips with other particular Matters which were to ſerve as Incouragements to the Deſign, as that there was to be a Pardon from the Pope; That my Lord did write a Letter to *Evers*, which was ſhewn to *Dugdale*, wherein he ſays, That things did ſucceed very well abroad, and he hoped they would do ſo at home. I ſhall only obſerve, that *Dugdale*'s Evidence, as to my Lord's damnable Deſign of killing the King, is poſitive and full. And if this be to be believed (as I hope we ſhall ſhew there is no Reaſon but it ſhould be) then here ſurely is one ſufficient Witneſs to prove my Lord guilty of the Higheſt Treaſon.

My Lords, the next Witneſs we called for againſt my Lord, was Dr. *Oates*; and I think Dr. *Oates* is not only poſitive, but he is poſitive in that which moſt certainly will amount to an Overt Act; nay, I think to more Overt Acts than one. The Doctor tells your Lordſhips, That having been at *St. Omers* and in *Spain*, he ſaw ſeveral Letters that were ſubſcribed *Stafford*; he did not then know my Lord's Hand, but he ſaw the Letters, and he tells you the effect of thoſe Letters. And I remember in one of them there is this Expreſſion, That my Lord (the Priſoner at the Bar) does give aſſurance to the Fathers, that he is very zealous and ready to do them ſervice.

Dr. *Oates* tells you, my Lords, That afterwards coming into *England*, my Lord *Stafford* did write a Letter, I think it was to his Son; but ſure I am, the Doctor ſaid, he had the Carriage of it to the Poſt-houſe; That he ſaw my Lord write it; he read the Superſcription, and he ſwears, that the Hand which writ that Letter, was the Hand which ſubſcribed to all the former. And ſo then joining the one to the other, it amounts to as good an Evidence as if he had known my Lord's Hand from the beginning.

But that which comes home to my Lord, is that which Doctor *Oates* ſaw, and that which Doctor *Oates* heard; and they are theſe Particulars which I now mention.

Firſt, He ſaw a Commiſſion directed to my Lord to be Pay-maſter of the Army, he ſaw it delivered to my Lord's own Hand, and my Lord accepted it. Doctor *Oates* read the Commiſſion, and he tells you by whom it was ſigned, *Joannes Paulus Oliva*, a Perſon ſubſtituted by the Pope to iſſue out Commiſſions: He tells you the Contents of it, and of this he ſwears he was an ocular Witneſs.

He tells you of another Matter he heard my Lord ſay, as conſiderable as the other, That when my Lord had received the Commiſſion, my Lord declared, that he was to go down into *Staffordſhire* and *Lancaſhire*, where he was to put things in readineſs. What were thoſe things? He had now a Commiſſion, by virtue of which, in *Lancaſhire* and the other Places, he was to prepare and gather Monies for that Army which he was to pay. So much Doctor *Oates* doth ſwear he heard from my Lord's own Mouth.

But there is one thing further, which I had almoſt forgot. He doth ſwear, that my Lord was privy to, and approved of, the Matter of killing the King: For he doth ſwear he did hear my Lord ſay at that time, *He hoped before he returned, Honeſt* William (who was *Grove* that was executed for this Attempt) *would have done the buſineſs.* And what that Buſineſs was, every Man who hath heard of *Grove*'s Treaſon, muſt needs underſtand.

There is but one thing more that I remember of Doctor *Oates*'s Teſtimony. Your Lordſhips that have a better Advantage to write than we, who are crowded together, may have taken Notes of more; but this one thing I do obſerve: Doctor *Oates* doth expreſly ſwear, That my Lord bore a very ill mind towards his Majeſty; for my Lord did in his hearing complain, *That the King had deceived them a great while, and that they would bear with him no longer, he ſhould deceive them no more.*

My Lords, our third Witneſs was Mr. *Turberville*, who doth give you an account, That he being firſt ſent to *Doway*, and intended to be entred there in one of the Societies, (he was ſent by my Lord *Powis* and my Lady *Powis*, and ſome of his Relations of that Religion, for that purpoſe) he did not like the Company, he was not pleaſed with the Exerciſes of that Religion, and that with much difficulty he eſcaped thence and came for *England*. But finding he was not well looked upon here, nor well received by his Relations, he went over to *France*: That being at *Paris*, he came into the Company of the three Fathers I named before, Father *Sherborne*, Father *Nelſon*, and Father *Turberville*; the laſt whereof, he tells you, was his own Brother: That by the means of theſe Prieſts he was brought acquainted with my Lord *Stafford*; and doubtleſs they were able to make him intimate-

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ly acquainted with my Lord. And it did prove ſo, for he tells you, after ſome time, that in a lower Room of my Lord's Lodging, my Lord propoſed to him the buſineſs of killing the King. That he did not at all like it, was very unwilling to undertake it, but my Lord bid him conſider of it, and that he ſhould give him his anſwer at *Diep*, having enjoined him Secrecy; but my Lord after ſent him word he would go by *Calais*: and the Witneſs afterwards went into *England*, and from thence into the *French* Army. And this is the ſubſtance of what *Turberville* depoſeth.

And, my Lords, I think it will not be doubted by any Man that will conſider theſe three Mens Teſtimonies, but that here are two Witneſſes, if not more, to prove my Lord guilty of Treaſon.

But my Lord has been pleaſed againſt them to make ſeveral Objections; ſome have been by Witneſſes which he hath produced to encounter the Proofs that we have offered; and ſome of them have been by Obſervations that he hath made upon what hath been ſaid by our Witneſſes and his. I will keep to Order as much as I can, and not confound the Order and Method of his Defence.

The Witneſſes he firſt brought were againſt *Dugdale*, and of them his Lordſhip was pleas'd to begin with his Daughter, the Lady Marchioneſs of *Wincheſter*, and his Niece Mrs. *Howard*. Your Lordſhips, I preſume, are pleaſed to obſerve what they were called to. They did teſtify, that being at *Wakeman*'s Tryal, they did hear *Dugdale* ſwear (ſays my Lady Marchioneſs of *Wincheſter*) that my Lord *Stafford* was to come down into *Staffordſhire* in *June* or *July*, and Mr. *Dugdale* was then to receive Orders from my Lord; and he ſwore (as ſhe was pleaſed to ſay) that there was a Conſult in *Auguſt* at *Tixall*, and my Lord *Stafford* was there preſent. Mrs. *Howard* (for I put them together) was pleaſed to ſay that ſhe was preſent at that Tryal, and there *Dugdale* ſwore that my Lord *Stafford* did come down in *June* or *July*, and that my Lord was at the Conſult in *Auguſt*.

My Lords, I will not make Objections neither to the Religion of theſe Ladies, nor to their Relation to my Lord, though thoſe be matters that are to be conſidered. But that which I ſhall obſerve to your Lordſhips, is this, That they do not agree one with another: For my Lady *Wincheſter* ſays *Dugdale* did ſwear that my Lord was to come down in *June* or *July*, and Mrs. *Howard* ſays, that he ſwore he did come down then. Now there is a great difference betwixt ſwearing an Intention that a Man was to come down, and ſwearing the very Act that he did come down at that time. By which your Lordſhips may obſerve how hard a matter it is for Witneſſes that are preſent at a Tryal (eſpecially at a Tryal which did not directly, though it might in conſequence concern another Perſon of their Relation) to take notice exactly of things.

And truly, my Lords, theſe Ladies being of that Religion, might have ſo much concern upon them for Sir *George Wakeman* the Popiſh Phyſician, and in him for other their Friends of that Party, that they might not have ſo much Liberty of Thought, as to obſerve exactly all Circumſtances ſworn to by the Witneſſes; and therefore it is no great matter if they are miſtaken in them. But I believe if any one do conſult the Print (though it be no Evidence, nor offer'd as ſuch) he will find no ſuch thing was at that time ſworn; for it is not ſo printed, and thoſe that took Notes did not underſtand it ſo.

My Lords, The next Witneſs my Lord is pleaſed to bring, is his Servant *Furneſe*; and what is it that he teſtifieth? He ſaith, that he was with my Lord the whole time that *Dugdale* was in my Lord's Chamber, and he doth not remember that ever *Dugdale* was there but once, and he doth not remember that ever my Lord bid him go out of the Room.

My Lords, It is a very hard matter for a Man to come thus in the Negative, to remember how often *Dugdale* was there, eſpecially there being no more occaſion to take notice of it then, than here appears to be, and that after ſo long a time. And it is a very hard matter for a Servant to gain Credit, by ſaying his Maſter never bid him go out of the Room in his Life. Theſe things may be done or ſaid, and yet eſcape the Memory of a Servant of more Age, and of leſs Inclination to favour his Maſter than this Perſon appears to be of and to have. Therefore I think there will be but a very ſmall matter made of what he ſaid, no force at all in it, and I believe your Lordſhips will give very little regard to it; but rather believe thoſe Witneſſes that ſwear poſitively, that they have ſeen him with my Lord, and ſpeak to a Familiarity at that time between them. This young Man, *Furneſe*, was my Lord's Servant, and of his Religion; and it is conſiderable, whether we have not reaſon to be afraid that more than ordinary Practice has been uſed to prepare Evidence on my Lord's behalf, which I ſhall have occaſion to ſpeak to when I come to the other Witneſſes.

His next Witneſs, my Lords, was his Boy *George Leigh*, who is 15 Years of Age now, and was eight Years old when he came to my Lord ſeven Years ago. And he atteſts the ſame thing, and to the ſame purpoſe with the other. And I think I may leave him with the ſame Anſwer, for we are nothing more concerned with him than we were with the other. Only one thing I would obſerve, to ſhew that his Memory was imperfect; he doth not remember that *Dugdale* was with my Lord at all that Day, which my Lord himſelf doth acknowledge he was, and the other Witneſs agrees: So that there cannot be any great weight laid upon what he ſaith.

My Lord's next Witneſs was *Thomas Sawyer*, and he is one of my Lord *Aſton*'s Servants, that I deſire to obſerve of him firſt. And what does he ſay? He ſaith, That *Dugdale* went away for Debt. The contrary to which was apparently proved, for we, by our Witneſſes, made it manifeſt, that *Dugdale* went away for the Matter of the Plot; the fear and dread he was in upon that ſcore: and the Circumſtance of his being apprehended by the Watch at Night in his Flight, and how he was put to take the Oaths, do manifeſtly prove this. But he ſays another thing, which I deſire may have no weight with your Lordſhips, that *Dugdale* ſhould threaten, that becauſe my Lord *Aſton* would not own him for his Servant, he would be revenged of him. Truly, if my Lord *Aſton* were here to be tried, it would have ſome weight. But to think, if it were true, that he had ſo ſworn, that therefore he would be ſo wicked as to do miſchief to another Man, that he would be revenged of every Man of that Religion, or of every Man that came to my Lord *Aſton*'s Houſe; that cannot be imagined. So I cannot ſee what great ſtreſs, my Lords, the Priſoner can lay upon it, as to the preſent Tryal, which concerns my Lord *Stafford*.

But, my Lords, I deſire to obſerve, that he ſays further, That when *Dugdale* went away there was a Diſcourſe of a Plot; (this he helps out *Dugdale* in:) and that there was a Diſcourſe of the killing of a Juſtice of Peace. So that certainly it does ſhew, that *Dugdale* was apprehenſive of the Plot. And as to that which he is pleaſed to ſay, That *Dugdale* ſhould deny his knowledge of the Plot, and take Drink, and with Execrations forſwear it; it will be no manner of Objection at all. For I ſhall have occaſion to ſhew hereafter, that *Dugdale* at that time was very far from revealing the Plot, he had been ſo long ingaged in; he was in apprehenſion of the danger of his own Life, and *Southall* tells you how and when he revealed it, and by what inducements he was prevailed upon to do it.

The next Witneſs my Lord called, was *Philips*, the Miniſter of *Tixhall*; and truly all that I can accuſe him of, is want of Memory, and that is no fault in a Man, that perhaps is very ſtudious and careful in his Imployment, as I hope he is. He tells you, that whereas *Dugdale* ſwore at a former Tryal, that he acquainted Mr. *Philips* with the Death of a Juſtice of Peace of *Weſtminſter* on the Monday, that he did not acquaint him with it; that is, he does not remember it, for no Man that ſwears a Negative, can ſwear more. But whether Mr. *Philips*'s Evidence be of any conſequence to us, we ſubmit to your Lordſhips Conſideration; when we oppoſe to his want of Memory, two Witneſſes that ſwear he was by when this News was told: and we are told likewiſe, as a Confirmation of that, by two Gentlemen of Quality, that the Report of ſuch a thing was ſpread abroad all over that Country, before it was poſſible for it to come by the way of ordinary Intelligence. Whether therefore what Mr. *Philips* teſtifies, proceeds from any other Cauſe, than want of Memory in Mr. *Philips*, I muſt leave to your Lordſhips Conſideration.

But this I would obſerve to your Lordſhips, that when Mr. *Philips* was asked by my Lord, whether or no *Dugdale* were a Perſon likely to perjure himſelf, he could not ſay ſo: Nay, being asked of what Reputation he was of, he ſaid, by ſome he was very well ſpoken of, by ſome but indifferently; but I do not remember, that he ſaid, he was ill ſpoken of by any. So I think Mr. *Philips* has rather advanced than prejudiced Mr. *Dugdale*'s Reputation and Credit.

My Lords, I think I may lightly paſs over the three Juſtices of Peace that were brought to give an Account of *Dugdale*'s Behaviour before them, and not mention them diſtinctly, becauſe they ſwear all to the ſame purpoſe, That Mr. *Dugdale* was apprehended upon ſuſpicion of the Plot, that he took the Oaths, that he was invited and urged by them to make a diſcovery of the Plot, which he then denied to have any knowledge of: For all this will be anſwered, when we come to remind your Lordſhips of Mr. *Southall*'s Teſtimony.

His Lordſhip was pleaſed in the next place, to offer to prove *Dugdale* an ill Man, by endeavouring to ſuborn Witneſſes: And in the firſt place he called *Robinſon*, who teſtified a very unlikely thing, that Mr. *Dugdale* ſhould call him in the Street, and bring him to an Houſe, and offer him Money, to ſwear againſt my Lord *Stafford*; which Money he had in an Handkerchief, but did not tell him what Particulars he ſhould ſwear to: Nay, and this after he had told him he could ſwear nothing. And it does not appear, that *Dugdale* had any manner of knowledge of him, or that this Gentleman, *Robinſon*, had any knowledge of my Lord *Stafford*: So that it was a very raſh and preſumptuous thing, that *Dugdale* ſhould attempt a Man that he knew not; and a very imprudent thing, that he ſhould ſuborn a Witneſs, to ſwear againſt a Man that the Witneſs to be ſuborned did not know. But I ſhall ſay no more of him, becauſe I think upon the Account that has been given of him by a Noble Earl of this Houſe, and an Honourable Member of the Houſe of Commons, if he had ſaid things in themſelves probable, he deſerves not in the leaſt to be believed.

My Lord's next Witneſs upon the ſame Head of Subornation was one *Murral*, a poor Barber; and what ſays he? He teſtifies that Mr. *Dugdale* did offer him 50 *l.* to ſwear againſt Sir *James Symons* and ſome others. My Lords, Whether this be probable or no, we muſt leave to your Lordſhips. We have called Witneſſes that prove him a Man of no Reputation, one that runs up and down the Country, a kind of Vagabond, and I think (upon the Endeavours that have been proved to have been uſed as to others) it is no very hard matter to bring a Man of his Condition to ſay as much as he hath done.

The next Witneſs is *Samuel Holt* the Blackſmith; and he tells ſuch a Story, that if it were true, would be ſome Diſparagement to *Dugdale*: and what is that? He ſays, That *Dugdale* ſent a Man and a Horſe for him, to bring him to the Star in *Stafford*; and there offer'd him 40 *l.* to ſwear that one *Moore* carried away *Evers*. My Lords, How this Story comes in, I cannot imagine; why Mr. *Dugdale* ſhould bear any Ill-Will to *Moore*, or what ſhould induce him to intice this Man to ſwear againſt *Moore*, or what elſe was in it, it doth not appear. But no matter what it is for; we prove againſt this Man by two Witneſſes, *Rawlins* and *Lander*; by the firſt, that he is a Man of ill Reputation, very zealous to ſupport the Plot, and cry down Mr. *Dugdale*, ſaying, that he was a Rogue, and all they were Rogues that took part with him. And by the other Witneſs *Lander*, that *Holt* did make an Aſſault upon him, and would have killed him for being ready to appear againſt my Lord *Aſton* at his intended Tryal. So that he is a Man that has more Zeal than Honeſty: Zeal in no good matter, namely to hinder the Truth from coming out againſt my Lord *Aſton*; and therefore we have little reaſon to wonder: Nay, all the reaſon in the World to believe, that he ſays that which is untrue about Mr. *Dugdale*.

My Lords, There was another Witneſs, Mr. *Lydcott*, that ſaid, he was a Fellow of *King's-College* in *Cambridge*. He has offer'd no Proofs that he was ſo; and truly it is very improbable he ſhould be ſo: For I hope Fellowſhips in the Univerſity, eſpecially in one of the chief Colleges (as this is) are beſtowed upon more deſerving, and leſs ſuſpicious Perſons than he appears to be: A Man that owns himſelf the continual Companion and Secretary of one ſo famous in the Popiſh Party as my Lord *Caſtlemain* is: A Man that pretends he was never out of his Company; and a Man that owns, that two Years ſince, he was taking of Notes at a Tryal for this Plot, not only for his own Curioſity, but for the Service of his Lord, who was concerned in the Accuſation. That this Man ſhould be a Fellow of *King's-College*, ſeems ſtrange, and till it be better proved, will hardly be believed; nor will he deſerve any Credit. It is true, he doth acknowledge himſelf a Proteſtant, and to be of the Church of *England*, and educated, as he ſays, a

Preſ-

Presbyterian; but when he was asked, when he received the Sacrament laſt, I do not remember, that he gave your Lordſhips any Anſwer.

This Witneſs ſays, That he was at the Tryal of the five Jeſuits; and there *Dugdale* did ſwear, that he gave notice to Mr. *Philips* and Mr. *Sambidge* of Sir *Edmundbury Godfrey*'s Death: And this they would make to be a great Fault in *Dugdale*, becauſe neither *Philips* nor *Sambidge* remember it. Now whether *Dugdale* ſwore true in that or no, does not depend upon *Dugdale*'s own Credit alone; but you have heard other Witneſſes have made it appear, that he did ſwear true: So that we need not ſay any thing more to this Witneſs, nor to *Gifford*, who teſtifies to the ſame purpoſe; becauſe that point, as to the Report of the Death of the Juſtice of Peace, is by other Witneſſes clearly proved.

And as for Mr. *Sambidge*, I do not wonder much, that he ſhould ſay, he did not hear it, becauſe he could hardly hear what was ſaid to him by the Court, or any of the Officers ſet near him on purpoſe. But, my Lords, I deſire your Lordſhips to take notice that he was a very angry Witneſs; he ſaid, he had formerly had a Controverſy with *Dugdale*, that *Dugdale* had cited him into *Litchfield* Court, and had there a Suit againſt him for Defamation; and he ſaid that againſt *Dugdale*, which, unleſs better proved, muſt needs make *Sambidge* much ſuſpected: He ſaid, that *Dugdale* was the wickedeſt Man on Earth; but what Proof he offer'd of that, or whether he did inſtance in any one Particular, I leave it to your Lordſhips Memories.

My Lords, There is another Proof relating to Mr. *Dugdale*, not out of the Mouth of a Witneſs, but out of a Paper, which I deſire to give an Anſwer to. It was an Objection the Priſoner at the Bar was pleaſed to make to *Dugdale*'s Information, taken the 24th of *December*, 1678. before the Juſtices in the Country, wherein he had ſaid to this purpoſe; Preſently after one *Howard*, Almoner to the Queen, went over, he was told by *George Hobſon*, that there was a Deſign, *&c.* This, ſaith my Lord, is moſt impoſſible to be true: For you ſay, that immediately after the Almoner was gone away, *Hobſon* told you this, whereas *Hobſon* went away with the Almoner; and he came not to live with my Lord *Aſton* till many Years afterwards.

This my Lord is pleaſed to offer as a Falſification of *Dugdale*'s Teſtimony; but, my Lords, I do deſire to obſerve that this is an Information taken before two Juſtices of Peace in the Country; and if you look upon it, you will ſee it was written by a Country Clerk, and not very skilfully done. 'Tis rather ſhort Notes of an Examination, than a compleat Examination. And your Lordſhips will pleaſe likewiſe to obſerve, that this is not really an Expreſſion that is clear one way or the other, but capable of two Senſes; that is to ſay, either it may import *Hobſon* told him there was a Deſign ever ſince the Almoner *Howard* went away; or it may import, *Hobſon* told him preſently after the Almoner went away, that there was a Deſign. Read but the words with a different Comma, and it makes the Senſe one way or t'other. Now it is plain, *Dugdale* could not intend that *Hobſon* told him ſo as ſoon as the Almoner went away, becauſe *Hobſon* went away with the Almoner. And it was better to his purpoſe, that *Hobſon* ſhould tell him ſo after his return than before, for that ſhews the Deſign had been long a carrying on.

Therefore it being a doubtful Expreſſion that may refer either to the Time he told it him, or to the Matter he told him of; and being taken in the latter Senſe, the Objection faileth: I think this Matter can have no weight at all in it to falſify a poſitive Teſtimony.

My Lords, The next Witneſs we did call, and which was objected againſt by my Lord, was Dr. *Oates*; and truly I muſt obſerve, that his Lordſhip was not pleaſed to call any one Witneſs materially to falſify Dr. *Oates*'s Teſtimony: and I muſt likewiſe obſerve, that Dr. *Oates* is in the material part of his Evidence ſupported by other Evidence.

When Dr. *Oates* gave Evidence at former Tryals, it was the common Diſcourſe of the Men of that Religion, that Dr. *Oates* had never been in *Spain*, nor had ever any Credit with the Prieſts or Jeſuits, but was a mean contemptible Perſon, and that all he ſaid was improbable. But now your Lordſhips have heard that Dr. *Oates*, even by the Teſtimony of *Dennis* a Popiſh Prieſt (that is ſo to this day) was in *Spain*, was, according to what he ſaith, brought up in the College of the Jeſuits; that he was in ſuch eſteem there, that the Archbiſhop of *Tuam* commended him very much in the preſence of *Dennis*, and ſpoke of what Expectation there was of him. So that *Dennis* the Prieſt doth ſupport Dr. *Oates* in ſome parts of his Evidence. I do not ſpeak of that part of it which concerns this particular Lord, but of his Teſtimony touching the general Plot.

There is another thing wherein Dr. *Oates* is ſupported by another Witneſs, and that is the Eſteem and Intimacy he had with the Jeſuits. For Mr. *Jeniſon* ſwears, that Dr. *Oates* was a Man in eſteem among them, that he was at *Ireland*'s Chamber, and had diſcourſe with *Ireland*, and did appear to be frequently imployed by them. And I take theſe two Witneſſes to be a great ſupport to Dr. *Oates*, as to the general Matters which he evidenceth of the Plot.

What now doth my Lord object againſt Dr. *Oates?* He call'd no Witneſſes againſt him, but only an Honourable Earl of this Houſe, I think I may name him, the Earl of *Berkley:* And that which his Lordſhip was pleaſed to teſtify againſt him, was;

Obj. That being examined at the Houſe of Lords after he had given a long Evidence againſt many Perſons, he was asked this Queſtion, Whether there were any more Perſons of Quality he could ſpeak againſt, or could accuſe; and he ſaid no.

Anſw. Firſt, your Lordſhips will be pleaſed to obſerve, that this was after he had accuſed my Lord *Stafford*; my Lord was ſecured in the *Tower* long before that, upon Dr. *Oates*'s Teſtimony, and ſo he could not exclude this Lord. But that which it is brought for (I ſuppoſe) is to make him a Perſon of no Credit; for after he had ſaid this, he proceeded to an Accuſation of the Queen. My Lords, I humbly conceive this may receive a very fair Anſwer. For,

Firſt, My Lords, I appeal to your Lordſhips Memories (for, I think, the matter was before you all, or at leaſtwiſe before ſome of your Lordſhips) that the Accuſation which Dr. *Oates* made of the Queen was not poſitive, nor of his own certain Knowledge; but words which he heard ſpoken in a Room in which he was not himſelf, but coming in afterwards, he ſaw the Queen was there. So it was not poſitive, but circumſtantial Proof, and queſtionable whether what he teſtified would amount to the proof of one Witneſs.

And

And I muſt obſerve in the ſecond place, it might not be ſo clear to Dr. *Oates*, whether the Queen were a Perſon capable of an Accuſation, ſo as to be proceeded criminally againſt; the King and the Queen are to ſome purpoſes but one Perſon in Law. 'Tis true, ſome Queens have been tried for Treaſon; but whether Dr. *Oates* underſtood that ſhe might be brought to a Tryal, may be a Queſtion.

But, that which I rely upon as an Anſwer, and which I deſire may be conſidered, is, that Dr. *Oates* had given an Account of a great many Perſons, and a great many Things he had ſworn againſt ſeveral Perſons, ſome of which were executed, ſome to be tried; and his Narrative againſt them, and of the whole Plot, conſiſted of a great number of Particulars. Here is a Queſtion comes to the Doctor on a ſudden, *Have you any more to ſay, or can you ſpeak againſt any other?* 'Tis poſſible a Man that had ſaid ſo much, and of ſo many, might not upon an inſtant recollect whether he had ſaid all, or againſt all that he could ſay: Nay, 'tis eaſily to be imagined he could not on a ſudden comprehend all he had ſaid or could ſay. Therefore that the Anſwer of a Man to ſuch a Queſtion, put ſuddenly to him, having ſo much in his Mind, and having ſaid ſo much, ſhould be taken ſo very ſtrictly, and to hold him as perjured, becauſe he did not at that inſtant time remember this Particular of the Queen, I think is a ſevere Conſtruction.

His Lordſhip is pleaſed further to object againſt Dr. *Oates*, that he is of no Credit: Why? Becauſe he went to be of the *Romiſh* Religion, and ſo was of that Religion which is Idolatry: I ſuppoſe his Lordſhip will not call that Religion Idolatry another time, and in another place; but it ſerves his Lordſhip upon this particular Occaſion, to call it ſo. But ſuppoſe Dr. *Oates* did, out of Levity, or for want of being well grounded in his own, turn to another Religion, he is not the firſt Man that hath done ſo: There have been Men of great Fame in our Church, and of great Learning too, that have changed their Religion more than once. I think he that knew that famous Man Mr. *Chillingworth*, could not but know he was firſt a Proteſtant, and afterwards a Papiſt, and afterwards a Proteſtant again: So that unleſs my Lord could accuſe the Doctor of ſome great Crime, or Immorality, it will be hard, that the matter of changing his Religion ſhould hurt his Teſtimony. I am ſure, it was happy for us he did change; without that, we had not had the firſt knowledge of the Plot, nor of many Particulars which he could not come to know but by occaſion of that Change.

My Lord was pleaſed to object, that the Doctor was a Man ſubject to Paſſion; and he brought in the Lieutenant of the *Tower*, to ſpeak of ſome hot Words that paſſed between them. My Lords, I will allow the Doctor to be a Man of Paſſion; nay, if my Lord pleaſe, a Man that is not of the deepeſt Reach: but your Lordſhips will obſerve, that paſſionate Men are not often malicious; and that a Man who is not of a deep Judgment, could never have contrived and invented a Narrative conſiſting of ſo many Particulars, and they ſo coherent, if they were falſe: And if his Narrative be not true, he muſt be indued with more Subtilty and wicked Policy, than upon Tryal we can find in him. So that what my Lord hath objected as to his Infirmities, is no Diminution to the Truth of what he ſays, but rather a Confirmation of it.

My Lords, The laſt Witneſs whom my Lord endeavoured to impeach, is Mr. *Turberville*; and againſt him my Lord thinks he hath a great Advantage: But, my Lords, by that time I have reminded your Lordſhips of what hath been already ſaid, and what was before proved in anſwer to my Lord's Objections againſt him, Mr. *Turberville* will ſtand as clear in this Court, as any of the former Witneſſes.

Your Lordſhips will be pleaſed to take notice, That Mr. *Turberville* was at the beginning, when he came to the Houſe of Commons, a little uncertain, as to matter of Time: For when he had made in his Affidavit, the times to be (73) and (76) he craved leave to alter it to (72) and (75.) Surely, my Lords, this will be far from being any Imputation to Mr. *Turberville*; becauſe, Firſt, he gives the Reaſon, how he came afterwards to underſtand the Time better, by viewing his Papers and Letters; he likewiſe gives you an account, and ſo did Sir *William Poultney*, when he did this, the next Morning, before any Man in the World had queſtioned him upon it. So that it ſhews the Man's Care and Conſcience both, when he is ſo careful, even in matters of the ſmalleſt moment, to ſet things right.

There is no Man that knows the Practice of the Court of *Chancery*, but knows, that for a Man to mend his Anſwer after it is ſworn in a Point of Time, or other Circumſtance, is no diſparagement to him: Nay, to do it, before the other Party did except or take notice of it, is no Objection, but rather a Reputation to him: And your Lordſhips will be pleaſed to take notice, that one of the times rectified, is of 7 or 8 Years, the other of 4 Years ſtanding. And I do not think the worſe of a Witneſs that is not poſitive in a time, when that time is ſo far elapſed.

The next matter is, That this Man was never with my Lord; how was that proved, for 'tis a Negative? Why, my Lord is pleaſed to call his own Servants, *Furneſe*, and the Boy *Leigh*; and what ſay they? they never ſaw any ſuch Man. My Lords, I deſire your Lordſhips to obſerve, That Mr. *Turberville* was introduced by greater Confidents than either of theſe Servants. Mr. *Turberville* came in the Company of the Prieſts, and you hear the Boy deny that he knew *Anthony Turberville*, but not that he knew Father *Turberville*; nor doth my Lord himſelf deny it, nor doth either Maſter or Man deny my Lord's Correſpondency with the other two Fathers. And it might be very eaſy for Mr. *Turberville* to come in the Company of the Prieſts, and the Boy not take particular notice of him. And 'tis as little an Objection what my Lord ſays, that *Turberville* himſelf ſaid he did not know the Boy: How many are there that come to the Houſes of another, and unleſs they lodge there or dine there often, do not remember the Servants of the Houſe? And 'tis no greater an Objection, to ſay, the Servants did not know him: The Prieſts they knew him; they were his Guides; they were the likelieſt to gain him admittance, not only into my Lord's Houſe, but into my Lord's Heart.

My Lords, Your Lordſhips will be pleaſed likewiſe to obſerve, They have alſo gone about in very little matters to diſprove Mr. *Turberville*; as that whereas he ſays, he was not well uſed by my Lord *Powis* and his Lady, when he returned from *Doway*, that he was very well uſed: and as one Witneſs (I think *Minehead*) ſays, he was permitted to lie in a Room near my Lord's Chamber. My Lords, Mr. *Turberville* does not pretend to ſay, that my Lord *Powis* ſhut him out of doors; but what Reproaches

proaches or unkind Words might paſs between them in private, *Minhead* might not hear: So that to ſay, that he lay in my Lord's Houſe, is no anſwer to this Matter. And for the other Witneſs (his Brother) that ſpeaks of his Kindreds being kind to him, that, under favour, does not at all diſprove him; for, what was the Kindneſs? His Brother and Siſter were ſo kind as to give him 7 *l.* never to ſee him more; a great matter when a younger Brother lies upon a Family, that the trouble of his ſtay there is redeemed at the price of 7 *l.* This was a very great Kindneſs, a Kindneſs indeed that one would ſcarce deny to a Stranger, if in Poverty. I mention the leaſt matters I can remember, becauſe I would have nothing ſtick with your Lordſhips.

Then Secretary *Lydcott* (the Fellow of *King's-College*) was called again; but indeed, my Lords, he was ſo out in his Arithmetick, ſo miſtaken in the Year, and uſed the New Stile (the Romiſh) ſo much more than ours, that it makes me ſuſpect he is not ſo great a Proteſtant, as he pretends to be. He promiſed us his Book, which he was not then prepared to produce; but becauſe we do not hear of him, nor of his Book ſince, we ſay no more of him.

My Lords, *John Porter*, my Lord *Powis*'s Butler, comes next, and what does he tell your Lordſhips? Why, that Mr. *Turberville* came not to *Powis*'s Houſe (it ſeems he did not appear there) but that he came to a Victualling-Houſe hard by; and he telling *Turberville* he muſt know ſomething of the Plot, he denied that he knew any thing. To the ſame purpoſe, or rather to leſs, and more improbably, does *Yalden* (the Gentleman of *Grays-Inn*, as he calls himſelf) teſtify, who ſays, that walking in *Grays-Inn* Walks, he had a Diſcourſe with *Turberville*; and that he then ſwore, there was no Trade good now but that of a Diſcoverer; and damned himſelf becauſe he could make no Diſcovery. Truly, my Lords, this looks in it ſelf to be ſomething prepared for the purpoſe: It is not probable, that a Man that ſhould uſe thoſe horrid Oaths, and ſhould have ſuch a mind to be a Diſcoverer, ſhould diſable himſelf ever to be ſo by ſwearing he knew nothing.

But I will not only anſwer that matter, with ſaying 'tis improbable; but I ſhall deſire your Lordſhips to remember, that Mr. *Powel*, a Gentleman of the ſame Houſe, and of good Reputation, does ſwear, that *Turberville* did acquaint him, that he could diſcover a conſiderable matter; and this was above a Year ſince. And Mr. *Arnold*, a Member of the Houſe of Commons, does confirm it, that he did ſeveral times acquaint him, that he could make an important Diſcovery; and gave him ſeveral Reaſons, why he thought not fit to do it at that time, becauſe of the Dangers which might ariſe from ſome Great Men; and therefore till he had a more convenient Opportunity, he would not diſcover. But as ſoon as the Parliament ſat, very early he did begin to diſcover: So that I ſhall oppoſe the Teſtimony of Mr. *Powel* and Mr. *Arnold*, to the Teſtimony of my Lord *Powis*'s Butler, and Mr. *Yalden*; the latter of whom ſpeaks ſo improbably, and of a Diſcourſe half a Year ago; whereas Mr. *Powel* ſpeaks of what Mr. *Turberville* ſaid above a Year ſince, and Mr. *Arnold* of a longer time.

My Lords, It hath been ſometimes objected, that Mr. *Turberville* was a ſtranger to my Lord; and it was too great a Truſt to commit to a Stranger, too great a Secret for a Stranger to be acquainted with: My Lord's deſign of the King's Death was too great a matter to lodge with one, with whom my Lord had more Acquaintance than he had with *Turberville*.

Your Lordſhips will be pleaſed to obſerve who they were that did introduce him, and who probably gave the beſt Character of him; they were the three Prieſts: And I do not wonder when theſe Prieſts had brought my Lord up to ſuch a purpoſe, that they ſhould prevail with his Lordſhip to give credit to, and deal with a Man that was not very unlike in his Circumſtances to attempt ſuch a Buſineſs: For your Lordſhips will obſerve, he was a Man that was very ſtout; for againſt my Lord's Reflection upon him as to Cowardice in deſerting the Army, Mr. *Turberville* hath produced the Certificate of his Diſmiſſion, which gives him a very good Character. Beſides, he was a Man indigent; and therefore I think there could not be a fitter Man choſen for the purpoſe, if he had been ſo void of all Grace as to undertake it; and that Prieſts having gotten a Man ſo qualified, as they thought him, were not likely to let ſlip ſuch an Opportunity.

But, my Lords, to come to that which is the Sum of the Buſineſs, and which my Lord lays more weight on than all the reſt; and that is the Affidavit which Mr. *Turberville* ſwore before the Juſtices of the Peace (which was, in effect, what he informed the Houſe of Commons) and in that Affidavit, beſides his Alteration of Times (which I have ſpoken to already) it is objected, that he does ſay that which is manifeſtly untrue: For he ſays my Lord came by the way of *Calais*, with Count *Gramont*, neither of which my Lord did do.

My Lords, I will not mention the Maſter of the Yacht, nor the Witneſſes from the Admiralty, which make out, that my Lord came from *Diep*, and not from *Calais*. Nor do I deny that my Lord came by himſelf, and not with Count *Gramont*; and therefore 'tis moſt certainly true, that what *Turberville* ſwore, as to thoſe two Particulars, was not true. Yet if your Lordſhips pleaſe to obſerve the Circumſtances, tho what he ſwore herein was not true, it will appear a very innocent Miſtake.

For in *Turberville*'s Affidavit he tells your Lordſhips, That he came away without my Lord to *Diep*, and came from *Diep* to *England* before my Lord *Stafford* left *Paris*. Mr. *Turberville* tells you, afterwards my Lord came from *Calais* with Count *Gramont*: Mr. *Turberville* could not poſſibly be thought to ſpeak this of his own knowledge, becauſe he does in the ſame Affidavit tell you too, that he came away before my Lord, and had not his Paſſage with him. So that, my Lords, I deſire you would obſerve, it could be no Deſign of his to affirm this of his own Knowledge: For if it were, he took a very ill courſe to diſcloſe in the ſame Affidavit that he was abſent, and ſo could not ſpeak of his own Knowledge. And, my Lords, ſuppoſe a Man did ſwear ſuch a Man and he were in ſuch Company, and that he came home and left the Man there, and that afterwards the Man ſaid ſuch and ſuch things in that Company; what ſhould I ſay of this Oath? I might well ſay the Words of his Oath were not proper, or that he was unwary in expreſſing himſelf; but I could not ſay, nor would any Man juſtly be able to ſay, he had a Deſign to make the World believe he heard him ſay ſo, becauſe he ſwears in the ſame Breath, he came away before the Words were ſpoken. If Mr.

Turberville

Turberville had underſtood how ſtrict and nice a Man ought to be in expreſſing himſelf in an Affidavit, he would have ſaid (as he had been told) my Lord came to *Calais*; and that Count *Gramont* came with him, as he underſtood. 'Tis true, he hath not put in thoſe Words; but, I beſeech you, when the Matter it ſelf will bear it, nay, when 'tis moſt apparent, that Mr. *Turberville* could have no other meaning than to relate what he was informed by others, and what he could not know himſelf; what Corruption, what Obliquity can there be in this Oath? All that can be ſaid, is, it was not cautiouſly worded; but it does certainly diſcloſe ſo much in it ſelf, that every one that hears it muſt ſay, That he did not take upon himſelf to ſwear it as of his own Knowledge, becauſe he tells you he was not there; ſo that it was rather want of knowledge how to expreſs himſelf properly, than any Corruption in his Oath, or forſwearing himſelf.

But, ſays my Lord, how ſhould he come to know this? Why Mr. *Turberville* ſaid, he had a Letter whereby he knew my Lord would come by the way of *Calais*: but where is that Letter? Is it neceſſary to keep, or does any Man almoſt keep Letters of no greater Concernment than this, that my Lord writ him word how he would go by the way of *Calais*, and this after five Years, and after he was in the Wars, and where I have heard he was taken Priſoner? To be ſure he was much tumbled up and down from place to place. And under all theſe Circumſtances might not ſuch a Letter be loſt? But, my Lords, I beſeech you, are there not ſome Proofs that look much this way, made out by another Witneſs? Does not Mr. *Mort* tell you ſomething of this nature? Firſt, He agrees as to the matter of an *Engliſh* Lord lying about ſuch a Street in *Paris*, he tells you he was with Mr. *Turberville*, and that he himſelf walked about *Luxemburgh-Houſe* whilſt Mr. *Turberville* went to ſpeak with that *Engliſh* Lord: He does ſay, He believes his Name was my Lord *Stafford*, but he is not poſitive; and the Times which he ſpeaks of do agree with what Mr. *Turberville* depoſeth. And there is one thing, which, though I ſhould not mention upon any other occaſion, becauſe it was but a fooliſh Joke, yet I ſhall crave leave to ſpeak of it now. He tells you, That one Day, while they were at *Diep* in expectation of my Lord's coming, and hearing that he went another way, they had this piece of minute Wit upon it, *Curſed is he that relies upon a broken Staff*: Whereby, he thinks, was meant the Name of *Stafford*. So then, I beſeech you, if *Mort* ſay true, are not here Footſteps, and a Foundation whereon to ground a Belief, that there was a Correſpondence between *Turberville* and my Lord; and that Mr. *Turberville* had an Information, that my Lord would come by the way of *Calais*? And one thing more *Mort* ſays, That *Turberville* told him, if he would make haſte to *Calais*, he might go over with my Lord. And here I would obſerve, how ſhould Mr. *Turberville* come to know that my Lord went that way? and how ſhould he tell *Mort* that he might go over with my Lord from *Calais*, unleſs he had received ſome ſuch Information? Therefore, my Lords, taking into Conſideration what is confirmed by *Mort*, and taking into Conſideration the whole Scope of the Affidavit, I cannot ſee that there can be any material Objection againſt Mr. *Turberville* for ſaying that my Lord came by *Calais* in the Company of Count *Gramont*.

My Lords, I have done now with the Witneſſes, and I told you as I went along (becauſe I would not trouble you with a double Repetition) what Evidence we have given in contradiction to thoſe Witneſſes which my Lord hath brought in order to defame our Witneſſes.

But, my Lords, I am to acquaint you, That beſides theſe particular Anſwers, your Lordſhips have had Men of very great Credit brought to teſtify the Reputation of Mr. *Dugdale* and Mr. *Turberville*. As to Mr. *Dugdale*, we have brought Men that have known him a great while; one hath ſworn what Opinion even my Lord *Aſton* himſelf had of him: for it ſeems he lived with ſo much Credit there, that he would not believe any Ill of him. You have heard from other Witneſſes how he did behave himſelf. It was objected ſometimes, Tradeſmen were not paid; but what then, can a Man pay without Money? I believe there are ſome Lords here, whoſe Stewards are very honeſt Men, and yet the Tradeſmen ſuch Lords deal with, are not always readily paid.

He was, as you obſerve, believed to be in the Plot, and my Lord's Servants ſay he ſeemed much troubled about it; he went away upon that account, and was ſo much concerned, that he burnt his Papers, which I make uſe of for two Purpoſes, The one to ſhew that he did apprehend he was in great danger; the other to ſhew what was the Reaſon why the Letters and Papers he ſpeaks of are not now produced, becauſe he looked upon himſelf, and them who were then his Friends, to be in ſuch danger by them, that he burnt them.

My Lords, I know your Lordſhips will take notice that there hath been a very good Account given you, how it was that *Dugdale* came to be prevailed upon to make a diſcovery of the Plot, it was with great difficulty; there were indeed perſuaſions uſed by ſome of his Friends to bring him to it. The Juſtices, as they themſelves have ſworn, endeavoured the ſame thing, but all without Succeſs. Then the Coroner Mr. *Southall* (who tho he was no great, yet ſeems to be a very underſtanding Man) takes him in hand, and he had the good Fortune to ſucceed. I call it Good, not only for Mr. *Dugdale*, but for the Nation. I ſhall not trouble your Lordſhips with the Particulars of the Arguments Mr. *Southall* uſed to him, but 'tis plain (if you believe Mr. *Southall*, whoſe Credit is now ſupported by an Honourable Lord, and by a Member of the Houſe of Commons) that *Dugdale* did at the firſt time that he did make a Diſcovery, depoſe as much in ſubſtance againſt this Lord, as now he does. And from thence I deſire to make one Obſervation, and that is this;

'Twas impoſſible it could be a Contrivance among the Witneſſes themſelves to depoſe the ſame Crimes againſt this Lord; for Dr. *Oates* never knew Mr. *Dugdale* till *Dugdale* was brought up, which was long after Dr. *Oates*'s Accuſation of this Lord; nor could *Dugdale* know what Evidence *Oates* had given here, for *Dugdale* was a cloſe Priſoner in *Stafford*-Goal before *Oates* accuſed this Lord, and long after. And yet the firſt Evidence *Dugdale* gives againſt this Lord, doth in ſubſtance concur with that given by Dr. *Oates*. So that ſince there could be no Intercourſe nor Conference between them, but as much diſtance as from the Priſon-Doors in *Stafford* to *London*, there could be no Contrivance between them for both of them to accuſe this Lord of the ſame Matters. And this I deſire may be looked upon by your Lordſhips as

a matter of great Weight to ſupport the Credit of the whole Evidence. And *Dugdale* does ſeem to be a Perſon of an unqueſtionable Credit, and every one that hears him, muſt obſerve he does give his Evidence with great Modeſty, and all probability of Truth.

There is another thing, my Lords, that I would pray your Lordſhips to obſerve: Theſe Witneſſes, Mr. *Dugdale* and Dr. *Oates*, do give ſuch an Evidence as is impoſſible to be given, unleſs it were true; for other Witneſſes when they are put out of the Road, and asked Queſtions they did not expect, are commonly to ſeek, and muſt pump for an Anſwer, and then anſwer with great difficulty and wareneſs. But theſe two Witneſſes do not only anſwer with readineſs when you ask them any Queſtions, but what is contained in every new Anſwer doth add a further Probability and Confirmation to what they ſaid before. And I muſt needs ſay of them, I think it were impoſſible for any Men in the World to contrive a Story of ſo many Particulars, and ſo conſiſtent in every part of it, and yet the ſame ſhould be falſe; and which is more, after ſo many Tryals, not one material Circumſtance of what they ſay contradicted by any ſolid Proof.

My Lords, There may be other Particulars which I may have forgotten, I know not whether I obſerved that my Lord objected that we do not prove him a Papiſt: I hinted ſomething before about his coming to Maſs to my Lord *Aſton*'s at *Tixall*, which is one ſort of Proof of his being of the *Romiſh* Religion. Beſides his perpetual Converſation with that Party, and his Endeavours to promote their Religion and Deſigns, all which have been fully prov'd: I think alſo my Lord deſerted the Houſe of Peers, for that he would not take the Teſt appointed by the late Act; your Lordſhips beſt know whether he did ſo or no. But, my Lords, let him if he will be a Proteſtant for this time; let that be ſuppos'd: If he were a Proteſtant, and ſhould be guilty of the Offences proved upon him, he would not deſerve more Favour from your Lordſhips.

My Lord hath been likewiſe pleas'd in further Proof of his Innocency to alledge, that after the Plot was diſcovered, he had ſeven Poſts time to have eſcaped, and yet never fled. My Lords, 'Tis true he might have fled, ſo might *Coleman* too; that *Coleman* that left ſo fatal an Evidence againſt himſelf and all his Party under his own Hand, and for that had reaſon to believe himſelf very guilty: and ſo might the Jeſuits have eſcap'd too, but that they had hopes the Oath of Secrecy, and the Means they had uſed to conceal their damnable Deſigns, would have been a ſufficient Security againſt revealing it. They had that opinion of their Prieſts, and of the Fidelity and Conſtancy of thoſe that had been ſeduc'd by them, and recommended by them, that they apprehended nothing leſs than a Diſcovery. And thoſe other Perſons that were executed, did all ſtay about the Town after the Plot was diſcovered, as well as this Lord ſtay'd in the Country.

My Lord did very much complain, that our Witneſſes were not poſitive in point of Time; I think *Dugdale* was poſitive enough as to the time of the Offer of 500 *l.* but for other Matters, he would not confine himſelf to a Month: he talk'd of the latter end of one Month, and the beginning of another, I think he is the more to be believed; for I conceive unleſs a Witneſs hath ſome notorious Circumſtance in his Memory to ſatisfy him about the Certainty of the Time, (ſuch as was that of the Foot-Race, as to the time of the Offer of 500 *l.*) it is rather a Mark of Preſumption than of Sincerity for a Witneſs to be too poſitive as to the Time. And is there ſo great a Diſtance between the latter end of one Month, and the beginning of another, that a Witneſs need to be poſitive as to the very Day? But ſays my Lord, You talk of the beginning; it was the 12th of *September* e'er I came thither. Does not every Man count that till the middle of a Month 'tis the beginning of a Month? ſure in common Speech it is ſo. Therefore I look upon that as a Matter ſcarce worth the mentioning, I am ſure not worth the ſerious Anſwering.

But, my Lords, I muſt obſerve thus much, That what my Lord complains of as a Fault in our Witneſſes, his own Witneſſes are guilty of. For I appeal to your Lordſhips, when they came to ſpeak of times, whether they did not talk at a diſtance of a Month or Months, and ſometimes of Years, and were leſs certain in point of time than ours.

But, ſays my Lord, (for I am ſtill anſwering his Objections, and you muſt take them as I find them) here is mention made by Dr. *Oates* of Letters, of many Letters, ſhew me ſome of thoſe Letters: Shew me the Letter you carried to the Poſt-houſe. My Lords, were thoſe Letters written to Dr. *Oates*? Did they belong to him? Or is it poſſible that my Lord's Letter delivered by the Doctor to the Poſt-houſe, ſhould now be ſhewn by the Doctor, or that the Letters writ to the Superior of the Society of the Jeſuits ſhould be produced by one that was a Novice of that Society? Does Dr. *Oates* talk of one Letter written to himſelf? You will then, I ſuppoſe, ſee no reaſon to expect thoſe Letters ſhould be produced by him that were not written to him, and the Cuſtody whereof belonged to others.

My Lords, I muſt obſerve to you, that there have been great Endeavours us'd to invalidate our Teſtimony; we have had Witneſſes called againſt Witneſſes, and my Lord hath had that Advantage to do it, which perhaps was never given in any Caſe before, and which I hope will never be again. The Evidence hath been printed and publiſhed to the World, before it hath been given. I ſay not that it was not neceſſary in this Caſe, which was a National Cauſe, and the Cauſe of our Religion; but I do ſay it would not be fit to be done in other Caſes; for the notifying of the Evidence is the way to have it falſify'd and corrupted.

But notwithſtanding all theſe Advantages, my Lords, I appeal to your Lordſhips Memories what conſiderable Contradiction hath been given. It is true, ſome Witneſſes to that end have been brought before your Lordſhips, but thoſe Witneſſes have been rendred incredible by more credible Perſons; and I would deſire your Lordſhips to obſerve, that tho my Lord hath fail'd of proving any Subornation in our Witneſſes, yet we have prov'd much Subornation endeavoured by his Agents.

Your Lordſhips have the Record againſt *Reading* before you; and what Reference that hath to the Lords in the *Tower*, every one does remember, and my Lord is mentioned in that Record. And I might likewiſe mention the Buſineſs of *Celier*, and what therein related to the Lords in the *Tower*. And I'll name but two Witneſſes more, that have been attempted upon in this nature: There was *Wright* the Barber; all the Applications were made to him that could be, Money given, Letters writ, Inſinuations that he was not to ſwear, he was but to write, and that was eaſily done: or if he would be ſo kind to ſwear it, he ſhould never come into

open Court, only go before a Juſtice of Peace: So that your Lordſhips will obſerve by what Steps and Degrees Men were endeavoured to be ſuborned. And then *Launder* tells you what was offer'd to him to perjure himſelf, how he was brought to *Tixall*, and what Endeavours were uſed to make him ſwear againſt our Witneſſes.

Theſe things are plain both by Records and particular Proofs upon Oath. But, my Lords, leſt we ſhould want Proof of all, this very Lord (I pity him for it) hath been ſo unfortunate as to bring that Paper out of his Pocket, which *Wright* ſays he had Money to frame, and was to ſwear to. It ſeems my Lord had the Command of it, it ſeems to have been prepared for ſuch a good time as this; and the producing of this Paper is as full a Confirmation of this Point, as can in reaſon be expected.

My Lords, I have been, I fear, too long already, and yet, I fear, I have omitted as many Particulars as I have mentioned.

My Lords, the Evidence is ſo ſtrong, that I think it admits of no doubt; and the Offences prov'd againſt my Lord and the reſt of his Party are ſo foul, that they need no Aggravation. The Offences are againſt the King, againſt his ſacred Life, againſt the Proteſtant Religion, nay againſt all Proteſtants; for it was for the Extirpation of all Proteſtants out of theſe three Nations. I mean not of every one that is now ſo, but of every one that would have continued ſo, every one amongſt us (if theſe Deſigns had been accompliſhed) muſt either have turned his Religion, or turned out of his Country, or have been burned in it.

'Tis a Deſign that appears with ſo dreadful a Countenance to your Lordſhips, to this great Aſſembly, and to the whole Nation, that it needs not any Words I can uſe to make you apprehend it. If the Matter be fully proved (as I ſee no reaſon to doubt but that it is) I am ſure your Lordſhips will do that Juſtice to your King and Country as to give Judgment againſt theſe Offenders, which will not only be a Security to us againſt them, but a Terror to all others againſt committing the like Offences.

L. Staff. I beg of your Lordſhips to know whether you will give me leave to ſpeak a Word: And my Lords, I ſhall not ſpeak any thing but as to a Miſtake Sir *William Jones* hath made in two or three things. Pray, my Lords, may I put you in mind of them?

Sir *W. Jones.* If there be any Miſtake, pray tell us what it is.

L. Staff. Firſt, my Lords, he did omit telling you that Mr. *Turberville*'s Brother did ſay he came in 71 to my Lord *Powis*'s. Secondly, he ſays, I have proved myſelf a Papiſt, becauſe I have not taken the Teſt: My Lords, the Teſt was ſince I was in the *Tower*, and whether I will take it or not, I do not yet know, till it be offer'd me. The Third is this, that this Letter was in my Pocket, which I produc'd to you: My Lords, I knew nothing what was in it, it was given into my Hand as I ſtood here at the Bar. Fourthly, he ſaid *Hobſon* did go out of *England* with the Almoner; he did not ſo. Another thing he ſays, that I ſaid *Oates* was an infamous Perſon becauſe he went to a Church that I ſaid was Idolatrous; I only ſaid, it was ſo adjudged by Act of Parliament. I find, my Lords, theſe things he is miſtaken in; and that, my Lords, made me very willing to put you in mind of them.

L. H. S. Gentlemen, I would ask you whether you take any notice of the Points in Law?

Sir *Fr. Win.* After the Fact is ſtated, my Lords, we ſhall.

Then Mr. Powle, *alſo one of the Committee appointed to manage the Evidence, proceeded further in ſumming up the ſame.*

Mr. *Powle.* My Lords, the learned Perſon that ſpake laſt hath left very little for me to ſay in the ſumming up of this Evidence: But becauſe this noble Lord hath been pleas'd to alledge ſeveral Reaſons, from whence he would infer at leaſt a great Improbability that he ſhould be guilty of the Treaſons whereof he ſtands accuſed, I ſhall crave your Lordſhips Patience, that I may give three or four Words in anſwer to thoſe Particulars.

My Lords, in the firſt place this noble Lord was pleaſed to begin, and afterwards to continue his Defence with making Proteſtations of his own Innocency: We very well know your Lordſhips ſit now in the Seat of Juſtice, and whatſoever Credit or Regard your Lordſhips pleaſe to give to the Proteſtations of a Peer in another Caſe, your Lordſhips will proceed here only according to your Proofs, and your Evidence (*ſecundum Allegata & Probata*) and therefore all we ſhall ſay to this, is, that we hope our Proofs are ſo clear and evident, as will leave no room to your Lordſhips to believe this noble Lord's Proteſtations.

In the next place, my Lord is pleaſed to alledge, and withal to lay ſome weight upon it, the voluntary ſurrendring of himſelf to Juſtice; and he laid it down as a Rule, that as Flight is an Argument of Guilt, ſo the ſurrendring of a Man's ſelf to the Tryal of the Law, is an Argument of Innocency.

My Lords, We admit the Rule generally to be true: but in ſome particular Caſes it may be otherwiſe; for a Man that is not very confident of his own Innocency, may yet be very confident of the Strength of his Party; and whether the Conſideration of the Circumſtances of Affairs, as they then ſtood, and the Power and Prevalency of the Popiſh Party at that time, might not reaſonably create ſuch a Confidence in this noble Lord, we muſt leave to your Lordſhips Judgment.

My Lords, we do conceive that thoſe Perſons who contrived Sir *Edmondbury Godfrey*'s Murder, had ſo great Confidence in the Favour and Protection of ſome of their Party, that they thought themſelves able to outface Juſtice.

And we verily believe they intended it as an Example, to deter all Men from meddling ſo much as with the taking an Examination concerning this horrid Plot.

My Lords, I deſire to be underſtood aright in this; I lay nothing of the Death of Sir *Edmondbury Godfrey* to the Charge of this noble Lord; I only uſe it as an Argument of the Preſumption of the Popiſh Party at that time.

My Lords, in the next place, my Lord *Stafford* did obſerve from my Lord *Coke*, that in the Tryals of Treaſons we ought very much to guide our Judgments by the Nature and Circumſtances of the Fact (the Concomitants and Subſequents, as he term'd them) with reference to the Perſon accus'd, whether they were likely to induce or deter him from ſuch an Attempt; and here he was pleaſed to raiſe ſome Arguments from the whole Courſe of his Life, and did deſire your Lordſhips to conſider

ſider thoſe Circumſtances therein, that might make it improbable or impoſſible that he ſhould commit a Treaſon of this nature.

He deſired alſo your Lordſhips to remember, that he was deſcended from an honourable Family, and that his Anceſtors were very worthy and very deſerving Perſons, and ſuch as had often ventur'd their Lives in defence of their Country: And here he did likewiſe mention his own Services to the laſt King, and our preſent Sovereign in the late Wars.

It is not my part, nor will I derogate any thing from the Merits of this noble Lord, much leſs from the Honour of his Family: But in anſwer to this, we ſhall deſire your Lordſhips to conſider, that this noble Lord (however he is pleas'd to diſown it at preſent) is notoriouſly known to be a *Roman* Catholick (as they call themſelves) and ſuch we conceive we have ſufficiently prov'd him to be, in the Courſe of our Evidence: And as there is nothing in the World, ſo much as a miſguided Conſcience, that can engage the beſt of Men into the worſt of Actions; ſo we think the Principles of that Religion are ſuch, as are more likely to pervert Men from their Duty and Allegiance, than any other Religion or Perſuaſion whatſoever.

And if the Zeal of this noble Lord did engage him to endeavour the Eſtabliſhment of that Religion in this Kingdom, we may eaſily believe that his Reaſon did ſuggeſt to him the Means by which it muſt be effected, which could be no other but Blood and Confuſion.

My Lords, The laſt thing I ſhall take notice of, is, what my Lord *Stafford* was pleaſed to ſay in general as to the Doctrine of killing and depoſing Princes, which his Lordſhip was pleaſed to call a private Opinion, and not the Doctrine of the Church of *Rome*.

But by the way, my Lords, give me leave to obſerve, that this noble Lord did upon this occaſion fully own (and I much commend his Ingenuity in it) the Reality of the Gun-Powder Treaſon, ſince we know how much that Party have endeavoured to render it incredible: and as length of time hath ſo fully manifeſted the Particulars of that execrable Deſign, that it hath brought ſuch as are of that Perſuaſion to confeſs the Truth of it; ſo, we hope, this day's Tryal will convince both the Age we live in, and all Poſterity, of the Truth and Reality of this preſent Conſpiracy. But to go on with that Point from which I did digreſs: I am not, I confeſs, much verſed in the Canons and Councils of the Church of *Rome*; but, my Lords, this I know, the moſt famous and celebrated Writers of that Church, eſpecially of the Society of the Jeſuits, have publickly avowed and maintained this Doctrine. And we know in all times, when there hath been occaſion to put it in practice, it hath never failed to have been attempted; and we likewiſe know that the Church of *Rome* and the Pope have always avowed the Acts when they have been done. From all which we might very reaſonably conclude, that it is the Doctrine of that Church ſo to do.

But my Lord is pleaſed to ſay, and I admit it for Truth, That a great many private Writers do hold the contrary; I believe it to be ſo, but I do alſo believe, that it is the Policy and Artifice of the Church of *Rome*, to leave this Point of Doctrine in ſome meaſure undetermined, that ſo they may make uſe of it as the occaſion ſerves: for if it ſucceeds, then it is owned and juſtified; if it miſcarry, then the Doctrine is but a private Opinion, and the Plot but the Practice of particular Perſons that are either deſperate or diſcontented. And I am fully of opinion, that this horrid Conſpiracy which is brought this Day in Judgment before your Lordſhips, wants nothing but Succeſs to canonize it.

My Lords, As to what concerns the Evidence, it hath been ſo fully ſtated to you, and the Objections that were raiſed to invalidate it, ſo well anſwered, that I will not trouble your Lordſhips with any Repetition of what hath been ſaid already: All we have further to deſire, is, That your Lordſhips will pleaſe to take our Evidence into your Conſideration, and to do thereupon what ſhall be agreeable to Juſtice.

Mr. Serj. *Maynard*. My Lords, As to the Matter of Fact I ſhall ſay nothing but only this, (and I wiſh it may be ſpoken with Gratitude to Almighty God) that the Diſcovery of this Plot is rather the Work of God than Man. It was firſt his Act, in prevailing upon *Oates* to make the Diſcovery; and when he ſtood ſingle almoſt, what came to ſupport his Credit but the Letters of *Coleman?* which were like a Tally to what *Oates* had ſaid, for what *Oates* informs is in a great part made good by his Letters. Then when *Godfrey* was murder'd, how came that Diſcovery out, but by the voluntary Confeſſion of one engaged in the whole Plot, I mean *Bedloe?* So that tho theſe Men had engaged themſelves by wicked Oaths, yet their own Conſciences witneſſing againſt them in themſelves, they could not forbear coming in to teſtify againſt themſelves. I ſhall ſay no more, than that we ought to acknowledge the Hand of God in the Diſcovery with great Thankfulneſs; for it is he, and he alone, that out of his own Grace and Goodneſs hath done it, and thereby preſerved the Life of our Prince to us, and in Him us too.

But as to the Matter in Law:

My Lord has been pleaſed to mention firſt this, That there is no Overt-Act. I wonder that my Lord ſhould be ſo much miſtaken. When it is charged in the Articles, and proved to his Face he received a Commiſſion, is not that an Overt-Act? He is charged in the Articles of Impeachment with contriving the Death of the King, and being at ſeveral Meetings and Conſults about the King's Death, and hiring Perſons to kill the King; and are theſe no Overt-Acts? Therefore as to that, my Lord is miſtaken.

My Lords, Another Exception that is taken, is, That there is no Indictment. I conceive that an Impeachment of the Houſe of Commons is more than an Indictment. And there cannot be any doubt of that, the Impeachments of the Houſe of Commons having always been received and proceeded on by your Lordſhips.

But that which is moſt inſiſted upon, is, That this Charge that is made againſt this Lord, was preſented in another Parliament. It is true; but under favour, what is once upon Record in Parliament, may at any time afterwards be proceeded upon. It is a ſudden Objection, but I conceive it hath been done: However, in a Caſe of this nature, when the Life of the King, when our own Lives, and our Nation, and our Religion lies at ſtake, if there were not a Precedent, I hope you would make a Precedent. But under favour, Reaſon is for it, the Charge is before you, the Proof is made, and we pray you will judge according as the Evidence hath been.

Sir *W. Jones.* My Lords, as to theſe Matters of Law, I think they are of ſo little difficulty, that my Lord will not deſire to have Counſel aſſigned him; I am ſure his Counſel will not deſire to ſpeak to them.

For this laſt Matter which Mr. Serjeant ſpoke of, and which was firſt named by the Priſoner, I deſire your Lordſhips to conſider what it is. Says my Lord the Priſoner, there was an Impeachment begun in the Long Parliament, and this is now the third Parliament in which I am brought to my Tryal. It is very true, there was a general Impeachment in the Long Parliament, the particular one was in the laſt, and this Lord was pleaſed to plead in the laſt. It may be he was not ſo well adviſed then as he is now.

But, my Lords, How can this be a doubt, when your Lordſhips have reſolv'd, and have ſent it down to the Commons, and it is there enter'd in their Book, as the Law and Conſtitution of Parliaments, that not only Impeachments, but all judicial Proceedings continue from Parliament to Parliament, in the ſame ſtate that they were in at the riſing of the laſt Parliament.

This is now become the Law of your Houſe, and it is under favour, being ſo, the Law of the Kingdom; and you having thus declared it, and ſent it to the Commons, I hope the Commons had very good reaſon to proceed upon this Impeachment at this time.

The next Matter is concerning the Overt-Acts; I think there are ſufficient Overt-Acts in Proof, and ſufficient in the Impeachment. Will any Man deny that the receiving a Commiſſion to be Paymaſter of an Army is an Overt-Act? Will any deny, that the ſending for the Witneſs and offering him Money in order to hire him to kill the King is an Overt-Act? And (which anſwers to all) will any Man deny, that the meeting and conſulting of ſeveral Men together, about killing the King, and changing the Government, is an Overt-Act?

My Lords, Theſe are all Overt-Acts; and I cannot but think it was without advice of my Lord's Counſel that he made theſe Objections: for indeed theſe ſeveral Overt-Acts are laid in the Impeachment as fully as they are made out in Proof.

My Lords, There is another Objection that my Lord is pleaſed to make, and that is, that there is but one Witneſs to a particular Fact.

L. H. S. Ay, what ſay you to that?

Sir *W. Jones.* That, my Lords, is of little weight, with ſubmiſſion; for our Impeachments, and our Proofs run to this, That my Lord had a Deſign and Intention to deſtroy the King: this was to be done by Force, and this was to be done by ſecret Aſſaſſination. Now if ſeveral Witneſſes come and prove each a diſtinct Act, under this Head of killing the King, it is ſo many Proofs or Witneſſes to the Treaſon.

For, my Lords, if a Man ſhall intend to kill the King, and ſhall buy a Knife in one County at one time, and ſend for a Man out of another County at another time, whom he ſhall hire to kill the King, and theſe diſtinct Acts are proved by ſeveral Witneſſes; if they concur to the ſame general Treaſon, they are all but Parts of that, and ſo are ſo many Witneſſes to the whole. And ſo I am ſure it was reſolved in the Caſe of others of the Conſpirators in the *Old Bayley*, and before that in the Caſe of Sir *Henry Vane*. But,

My Lords, in this Caſe here is firſt a Proof that he accepted a Commiſſion, which I do not uſe as an Act for the levying of War only, but as a Deſign to change the Government, and deſtroy the King. Here is meeting and conſulting how to do this wicked Work, I mean to kill the King; that is another Overt-Act. Here is offering Money to one of the Witneſſes for that end; that is a third Overt-Act. And there is attempting another of them, tho not with Money, yet with Promiſes of Reward in general; that is another Overt-Act: all which are to this end, the killing of the King. And I am ſure of it, your Lordſhips cannot but receive Satisfaction from my Lords the Judges, that it hath always been ſo held, that tho there need two Witneſſes to prove Treaſon, yet there needs no more than one to one Act, and another to another, if the ſeveral Acts fall under the ſame Head of Treaſon.

Sir *F. Win.* My Lords, I crave your Patience but for a Word or two, and this Noble Lord will have little reaſon to ſay his Objections in point of Law are of any weight. I confeſs he had ſaid a great thing, if it were true, that the Articles of Impeachment did not alledge an Overt-Act; for then indeed they had been apparently defective: but, under his pardon, that is not a Point of Law, but a Point of Fact. Let us therefore reſort to the Articles themſelves: In the ſecond Article it is alledged that he with the reſt, did moſt wickedly and traitorouſly agree, conſpire and reſolve to impriſon, depoſe and murder his ſacred Majeſty, and to deprive him of his Regal State and Government. And then the ſame Article alledges farther, that they did contrive and conſult to effect the Murder of the King by Shooting, by Poiſoning, and by Stabbing. All theſe Particulars are expreſſed; ſo that when my Lord ſaid the Articles were therein defective, all we can ſay, is, that he was miſinformed.

My Lords, There was another Exception taken, That this is the Impeachment of another Parliament. I muſt not now repeat how this Point was agreed by both Houſes at a Conference: but it was then declared, upon ſearch of Precedents in all Ages, That it was the Law of Parliaments, which is the Law of the Land, that if once an Impeachment by the Houſe of Commons were lodg'd in the Houſe of Lords, tho that Parliament were diſſolved, the Impeachment remained in the ſame ſtate. It was the Cauſe of the Commons of *England*, who only change their Repreſentatives in a new Parliament.

It has been alſo objected, that this Proſecution ought to have been upon an Indictment: As if an Accuſation of the Houſe of Commons, who are the Grand Inqueſt of the Nation, were not as effectual to bring Offenders to Juſtice, as the finding of a particular Jury.

My Lords, I ſhould wonder to hear this Objection made, were not my Lord to be eaſily excuſed for his knowing the Law no better. None who know any thing in the Law, would have urged ſuch a thing; his Counſel, I dare ſay, did not ſuggeſt this Matter to him.

It is true, my Lords, when a Peer comes to be tried by way of Commiſſion, or in Parliament when it is not at the Proſecution of the Commons, there an Indictment is firſt found in the proper County, and brought up before the Peers by *Certiorari*, and upon that they proceed; but whether the Party be Peer or Commoner, if he be impeach'd for any Crimes, ſurely no one can deny, but that by the conſtant Uſage of Parliaments, the Lords have proceeded to Tryal, and have given Judgment thereupon without an Indictment found:

So

So that this Exception will be of no force at all.

As for the remaining Objection, That there are not two Witneſſes to prove any one Overt-Act, the King's Perſon would be in no manner of Safety, if that Doctrine ſhould be once allow'd. Conſpiring to kill the King is the Treaſon laid in the Impeachment, and the ſeveral Overt-Acts are ſo many ſeveral Evidences of that Treaſon. Words themſelves, if they ſignify an Intention to do an Act, and expreſs ſomething to be done *in futuro*, are a ſufficient Overt-Act, and a legal Evidence of Treaſon. Then we prove by another Witneſs, not Words of Encouragement only, but Offers of Money, and they are both to the ſame kind of Treaſon, though not to the ſame Act, and at the ſame time. And if there muſt be two Witneſſes to every ſingle Act, the King of *England* is not only in a far worſe Condition than any other Prince, but than any one of his own Subjects. Treaſons may be committed every day with Impunity, and unleſs the Traitors be as great Fools as Villains, he ſhall never be ſafe from them, nor capable of puniſhing them.

I muſt ſay it, and I ſay it with Commiſeration to the Condition of this noble Lord, that his Exceptions in Law are as weak as the Anſwers he has given to our Evidence. We hope no doubt in Law remains with you, and that we have given your Lordſhips full ſatisfaction of the Reality of the Plot, and a convincing Evidence of the great ſhare which my Lord *Stafford* had in it; and we humbly pray your Lordſhip's Juſtice.

L. H. S. You do not take notice of one thing that my Lord *Stafford* ſaid this Morning; that is, that the Witneſſes are not competent Witneſſes, becauſe they ſwore for Money, and that is fit to be ſpoken unto; not for the Weight of the Objection, ſo much as for the Satisfaction of the Auditory.

Sir *F. Win.* My Lords, I had taken a Note of that, but forgot to mention it. If my Lord at the Bar will ſay they have taken Money to ſwear, that is purely a Matter of Fact, which he ought to prove; and that which is ſaid, and not proved, ought to go for nothing: let him prove his Caſe to be ſo, and then we will give him an Anſwer.

L. H. S. My Lord *Stafford*, if your Lordſhip can prove that they have had Money to ſwear, your Lordſhip urges that which will be material; but if it were only Money to maintain them, that ſure will amount to no Objection.

L. Staff. My Lords, I ſubmit it to your Lordſhips, whether Dr. *Oates* and the reſt have not had great Sums of Money, beſides their Charges, 10 *l.* a-week a-piece. But I deſire your Lordſhips to conſider, and I appeal to many of your Lordſhips, whether it has not been ſaid that it was a Defect in *Coleman*'s and *Langhorn*'s Tryals, that they did not plead that; and if they had pleaded it, they muſt have been acquitted: I will name no body, but I appeal to your Lordſhips whether ſome of you have not ſaid ſo. But I deſire your Lordſhips to admit me to plead by my Counſel; if not, I ſubmit it to you. I confeſs here is a Piece of Law that I never heard of before, that the Houſe of Commons, and your Lordſhips at a Conference, have adjudged it to be the Law of Parliaments, That Impeachments ſhall continue from Parliament to Parliament. If you will pleaſe to hear my Counſel for me, ſo; if not, I ſubmit.

L. H. S. What would you, or can you prove?

L. Staff. My Lords, thoſe things that I have given in to your Lordſhips, I deſire my Counſel may be heard to.

L. H. S. Gentlemen, what can you object why he ſhould not have Counſel to argue his Objections in Law?

Sir *Will. Jones.* My Lords, I do think under favour, if a Priſoner in a Capital Cauſe do deſire Counſel, he muſt not only alledge Matter of Law to introduce that Deſire; but that which he doth alledge muſt be alſo a Matter of ſome Doubt to the Court: for if he do alledge Matter which in itſelf is not diſputable, he ſhall have no Counſel allowed him. If your Lordſhips are not ſatisfy'd that it is the Law of your Houſe, that Proceedings upon Impeachments do continue from Parliament to Parliament, we cannot anſwer that, it lies in your Lordſhips Breaſts; it is not what we are to argue, becauſe it is a Matter that concerns the Law and Rules of Parliaments. Is there, my Lords, any doubt of any other Point that is urg'd? Is there any doubt of this thing, whether if one Witneſs ſpeak to one point of Fact, and another to another, upon the ſame ſort of Treaſon, but that theſe be two ſuch Witneſſes as the Law requires? I pray then, my Lords, conſider the Conſequence of that Doubt: A Man ſhall talk with twenty Perſons about a Deſign to kill the King in one and the ſame Room, one after another, by taking them into a Corner ſingly; and if ten, or all twenty come to prove it, here is but one Witneſs to each Diſcourſe. This would be a Matter of dangerous Conſequence, but I hope will remain no manner of doubt with you, nor is it fit to be argued.

As to the Hiring of Witneſſes to ſwear, I think that can be no Point of Law till it be ſo prov'd in Fact. Doth his Lordſhip think, that when his Majeſty out of his Grace and Bounty allows a Maintenance to his Witneſſes, that that is an Objection to their Teſtimony. Doth not every Man allow his Witneſſes a Maintenance, and yet it never was thought a thing to take away their Evidence. It may be every one doth not give ſo large an Allowance as the King, becauſe his Dignity is not ſo great. But can it be an Objection to the Houſe of Commons? Have we that are the Proſecutors maintain'd them? If his Majeſty have been bountiful to his Witneſſes, what is that to this Cauſe of the Commons? If my Lord can prove any thing of Bribery in us, as he has prov'd for us againſt himſelf, it may be an Objection. But till that Fact be proved, I hope there is no ground for a Queſtion in Law; and if there be no Doubt in Law, I hope there will be no need of Counſel.

L. H. S. My Lord *Stafford*, What are the Points you would have Counſel to?

L. *Staff.* To all of them, my Lords.

L. H. S. Would you have Counſel to the firſt Point, to argue what the Law of Parliaments is concerning the Continuance of Impeachments from Parliament to Parliament.

L. *Staff.* My Lords, if you will declare the Law to be as theſe Gentlemen ſay, I muſt acquieſce.

L. H. S. Pardon me, my Lord, I do not declare the Law, but ask you whether you would have Counſel to argue that Point.

L. Staff. My Lords, I do ſay there is no Example of it; I know there have been Impeachments, but no Examples of Impeachments continued from Parliament to Parliament.

L. H. S. Then in the next place, for I ſhall propoſe your Objections to their Lordſhips by and by, and deſire their Judgment in them, do you deſire to argue by your Counſel, that every Overt-Act ought to be prov'd by two Witneſſes?

L. *Staf.*

L. Staff. I do, my Lords, I deſire my Counſel may be heard to all the Points I mention'd to your Lordſhips.

L. H. S. Have you Counſel ready to ſpeak to theſe Points now?

L. *Staff.* Yes, my Lords.

L. H. S. Are they prepar'd to ſpeak to them now?

L. *Staff.* They are, my Lords.

L. H. S. If they be ſo, what hurt will there be in hearing of them?

Sir *Will. Jones.* My Lords, whether you will hear an Argument from Counſel about the Law of Parliaments, I hope you will pleaſe well to conſider.

Sir *F. Win.* My Lords, We in the Houſe of Commons do never ſuffer any Counſel to tell us what is the Courſe of our Houſe, and the Law of Parliaments: if your Lordſhips think fit to allow it, 'tis in your own power; but we who are intruſted with the Management of this Cauſe by the Houſe of Commons, have no direction to conſent to ſuch a thing.

L. H. S. We will hear Counſel, to ſave time, upon that Point, whether in Proof of a Treaſon for killing the King, every Overt-Act ought to be proved by two Witneſſes.

Sir *W. Jones.* If your Lordſhips make a Doubt of it.

Sir *F. Win.* And if the Priſoner deſire it.

Mr. S. *Mayn.* My Lords, we ſhall not oppoſe it; but I ſhall wonder if any Counſel do maintain it.

L. H. S. Are your Counſel ready to ſpeak to that Point?

L. Staff. Here they are, my Lords.

[*Mr.* Wallop *of the* Middle Temple, *Mr.* Saunders *of the ſame Society, and Mr.* Hunt *of* Grays-Inn *appeared by the Priſoner at the Bar as his Counſel.*]

Mr. *Wallop.* May it pleaſe your Lordſhips, we are here commanded by your Lordſhips to attend, that if any Matter of Law do ariſe upon a Caſe proved, agreed, and judged by your Lordſhips debateable, then in due time we are to conform our ſelves to your Lordſhips Command, and argue thoſe Points for my Lord the Priſoner at the Bar. But if your Lordſhips do think that the Points urged by my Lord are not debateable in Law, I have ſo high an Opinion of your Lordſhips Judgment, and ſuch a mean Opinion of my own Talent, that I ſhall not undertake to argue *extempore* in this great Aſſembly, in a Cauſe of ſo high a nature.

L. H. S. Look you, Sir, you are of my Lord's Counſel.

Mr. *Wallop.* I am, my Lords; and by the Order of your Lordſhips do attend here.

L. H. S. If you think it an arguable Point, you will have the Judgment of my Lords afterwards. Will you argue it now?

Mr. *Wallop.* My Lords, I always thought if a Point be ſtirred in any Court, and thought diſputable, it ſhould be ſtated and agreed before it be argued.

L. H. S. You are to argue for my Lord, and to know the Judgment of the Court afterwards: Would you know our Opinions before-hand.

Mr. *Wallop.* We would know what it is we are to argue, if your Lordſhips pleaſe.

L. H. S. Why, if you are provided for it, you are to maintain, that by Law every Overt-Act ought to be proved by two Witneſſes; if you are prepared, ſpeak to it, and my Lords will hear you.

Mr. *Wallop.* It is true, my Lords, there have been ſome publick Reſolutions concerning that Point, therefore I ſhall be the warier what I ſay in that: But, my Lords, it is a Matter that has been thought of great Import one way or other; but I do profeſs at this time I am not able to undertake a ſolemn Argument upon that Point.

L. *Staf.* My Lords, I am ſo far from delaying this Cauſe, that I deſire it may be argued now.

L. H. S. Then you are not ready to ſpeak to it?

Mr. *Wallop.* No, my Lords, I am not for my own part at preſent; for it is impoſſible we ſhould foreſee what would be the Point: and to apply ourſelves to ſtudy an unforeſeen Caſe before it be agreed, ſtated, and judg'd worthy of Argument, cannot be expected from us. I have always obſerved it in the *King's-Bench*, if the Priſoner urge any thing, and the Court think it debateable, they firſt agree and ſtate the Caſe, then aſſign Counſel, whom they do not urge to deliver an Opinion preſently, but give them time to prepare for it.

L. H. S. Mr. *Wallop*, it is not believed that this Point is moved, but by your Advice that are of my Lord's Counſel, and you ſhould be ready to maintain the Advice you give; therefore if you are ſo, ſpeak. You have the Protection of the Court for the Counſel you give in Matter of Law, and whatever Advice you give, you ſhould maintain by the Law.

Mr. *Wallop.* Truly, my Lords, it is a Point that has, as I ſaid before, received ſome Settlement; but whether ever in this Court, or no, I cannot tell. Therefore I did diſcharge my Thoughts of providing any Argument, till your Lordſhips ſhould have determined whether you will take the Point upon the Reſolution in the Courts below to be finally ſettled and determined.

Sir *W. Jones.* So then it is agreed to be ſettled in the ordinary Courts.

L. *Staf.* I deſire alſo it may be argued, whether Words are an Overt-Act.

Sir *F. Win.* It ſeems the Law is with us in caſe of a Commoner; but whether it be ſo for a Lord, is the Queſtion.

L. H. S. My Lord *Stafford*, how comes it to paſs that your Lordſhip came prepared with Objections, but not with Counſel ready to argue them.

L. *Staf.* Mr. *Wallop* has given you an Anſwer, I muſt ſtand by that.

L. H. S. Is it your Lordſhips Pleaſure that we adjourn?

Lords. Ay, Ay.

L. H. S. This Houſe is adjourned into the Parliament-Chamber.

Then the Lords returned to their Houſe in their Order, and the Committee of Commons ſtaid in their Places to attend their Reſolutions.

In an Hour's time the Lords returned, and my Lord High Steward being ſeated upon the Woolpack, Silence was proclaimed.

L. H. S. My Lord *Stafford*, My Lords, ſince they have been withdrawn, have conſidered of one Point, of that Point chiefly which your Lordſhip did move, touching the Neceſſity of two Witneſſes to every Overt-Act as Evidence of High-Treaſon, that is the Point you have deſired Counſel to ſpeak to, and that is the Point your Counſel

ſel deſired to know whether it was a doubtful or debateable Point before they would argue it; and hereupon my Lords did withdraw to conſider it. And my Lords have directed, that all the Judges that aſſiſt them, and are here in your Lordſhip's Preſence and Hearing, ſhould deliver their Opinions, whether it be doubtful and diſputable or no.

[*Then all the Judges conſulted privately together, and afterwards gave their Opinions* ſeriatim, *beginning with the Lord-Chief-Juſtice* North, *the Lord-Chief-Juſtice* Scroggs *being abſent.*]

L. C. J. North. My Lords, I do here deliver my Opinion, and am clear in it, That if there be ſeveral Overt-Acts or Facts which are Evidences of the ſame Treaſon, if there be one Witneſs to prove one ſuch Overt-Act at one time, and another Witneſs to prove another Overt-Act at another time, both the Acts being Evidences of the ſame Treaſon, theſe are two ſufficient Witneſſes of that Treaſon, and will maintain an Indictment or an Impeachment of Treaſon. I never knew any doubt made of it in any inferior Court of Juſtice, and I have known it often reſolved.

L. C. B. Montague. My Lords, where-ever Treaſon is to be proved to every Overt-Act, two Witneſſes, as I conceive, are not requir'd. If ſo be there are two Witneſſes to ſeveral Overt-Acts conducing to a proof of the ſame Treaſon, I think they are Witneſſes in the Judgment of the Law, ſuch as the Statute requires.

Mr. *Juſt. Windham.* I am of the ſame Opinion with my Lord Chief Juſtice *North*, and my Lord Chief Baron, That if there be ſeveral Overt-Acts done at ſeveral times tending to the ſame Treaſon, theſe ſeveral Acts being ſeverally proved by ſeveral credible Witneſſes, tho but by one Witneſs at each time to each Act, the ſaid ſeveral Acts being Evidences of the ſame Treaſon, theſe are ſufficient Witneſſes of that Treaſon ſo proved, and will maintain an Indictment, or (as I conceive) an Impeachment.

Mr. Juſt. *Jones.* My Lords, if ſeveral Witneſſes ſpeak to the ſame kind of Treaſon, altho they ſpeak to ſeveral Overt-Acts, and give Evidence of ſeveral times, the one of them ſpeaking to one time, and the other to another time, yet keeping ſtill to the ſame kind of Treaſon, they are ſuch two Witneſſes as are required by the Statute of *Edward* III. and this I take to be the conſtant Opinion of the Courts below.

Mr. Juſt. *Dolben.* My Lords, I am of the ſame Opinion, and I know it hath been many times ſo reſolved; I have been preſent when Sentence hath paſſed upon Perſons by whom the ſame Caſe hath been urged, and it hath been ſo reſolved. And it hath been moved in *Weſtminſter-Hall*, and that was the conſtant Opinion of the Judges there; particularly in the Caſe of Sir *Henry Vane.* It was upon ſolemn Debate reſolv'd, and divers times it hath been held, That the ſame Treaſon may be prov'd by two Witneſſes to ſeveral Overt-Acts, tho one ſpeak of Words or Actions that were ſpoken or done at one time and in one place, and another ſpeak of Words or Actions at another time and in another place, theſe are two good Witneſſes in Treaſon within the intent of the Law: and if the Law were otherwiſe, 'twere ſcarce poſſible to convict any Man of Treaſon, and therefore I take it to be very clear.

Mr. Juſt. *Raymond.* I am of the ſame Opinion, That where ſeveral Circumſtances are brought to prove the ſame Treaſon, one Witneſs to each of the ſeveral Circumſtances is ſufficient; and this, I conceive, hath been always the Opinion of the Judges.

Mr. Baron *Atkins.* My Lords, I am of the ſame Opinion. That there muſt be two Witneſſes in the Caſe of Treaſon, is a Matter without queſtion; but there are ſeveral Overt-Acts that may contribute to the effecting of that Treaſon. If a Man deſigns to kill the King, and buys Powder at one place at one time, and a Piſtol at another place at another time, and promiſes a Reward to one to aſſiſt him to do the thing at a third place and a third time; theſe are ſeveral Overt-Acts: but if the Law requires that each be prov'd by two Witneſſes, I do not well ſee how any Man can be convicted of Treaſon. In the Caſe of Sir *Henry Vane*, and others, this very Queſtion was ſtarted, but was not thought worthy of Debate: if it ſhould be otherwiſe, it would touch the Judgments which have been given upon this kind of Proof; and what would the Conſequence of that be, but that thoſe Perſons who were executed upon thoſe Judgments have ſuffer'd illegally? And therefore I am of Opinion, that it is not requiſite there ſhould be two Witneſſes to every Overt-Act.

Mr. Baron *Gregory.* My Lords, I am of the ſame Opinion, it is Treaſon to conſpire the Death of the King: Now each of the Witneſſes is a Witneſs to prove that Treaſon; the one ſays, he offer'd him ſuch a Reward, in ſuch a Place; that is one Witneſs to prove that he conſpir'd the Death of the King: and another ſays, that he offer'd him ſuch a Reward in another place; that is another Witneſs that he conſpir'd the Death of the King. For the Party is not indicted upon one particular Overt-Act, but he is indicted for Treaſon, in conſpiring the Death of the King; and each of the Witneſſes being to prove that, tho they ſpeak to ſeveral Acts, they are good Witneſſes according to the Law.

Mr. Baron *Weſton.* My Lords, I am of the ſame Opinion with my Reverend Brethren who have ſpoke before me.

Mr. Juſt. *Charlton.* My Lords, I am of the ſame Opinion; and I think truly it would be the eaſieſt matter for a Man to commit Treaſon, and eſcape without queſtioning, if it ſhould be otherwiſe. But this is the firſt time that I have heard it hath been made a Queſtion, that to the ſame Treaſon there muſt be two Witneſſes to every Overt-Act. It hath been adjudged always according to the Law, that to prove Treaſon there muſt be two Witneſſes, but to an Overt-Act there needs but one.

L. H. S. My Lord *Stafford*, by the uniform Opinion of all my Lords the Judges, there is no colour to doubt the Law in that Point which you deſire to argue; ſo that as to that Point you muſt reſt ſatisfied, you are not to have Counſel to ſpeak to it: For the reſt, I have no Commiſſion yet from my Lords to ſay any thing.

L. Staff. Will your Lordſhips give me leave to ſay one thing to what I have heard? I would anſwer, if I might only, to one Judge, I think they call him Judge *Atkins.*

L. H. S. Your Lordſhip may ſay what you pleaſe.

L. Staff. My Lords, I hear a ſtrange Poſition, I never heard the like before in my Life; and 'tis what he ſaid: if I am in the wrong, I beg your Lordſhips pardon, and his too. He told your

your Lordſhips the reaſon why the Law ſhould be ſo, was, becauſe elſe a great many of thoſe Perſons that have already been executed, muſt have been acknowledg'd unjuſtly cut off and put to death, that is an Argument I hope will not weigh with your Lordſhips or any body; for 'tis better that a thouſand Perſons that are guilty ſhould eſcape, than that one innocent Perſon ſhould die: much more then, that it ſhould not be declar'd, that ſuch a Judgment was not well given.

L. H. S. Look you my Lord, where many Reaſons are given, 'tis eaſy to make a Reply to one of the leaſt among many, that was one Reaſon given; but the true Reaſon is this: If the Law were otherwiſe, there would be great Safety in conſpiring the Death of the King.

L. Stafford. My Lords, I ſay nothing farther as to the reſt, but this ſtuck with me. I am ſorry to hear a Judge ſhould ſay any ſuch thing; and tho I am in ſuch a weak and diſturbed Condition, I aſſure your Lordſhips my Blood riſes at it.

L. H. S. Is it your Lordſhips pleaſure that we ſhould adjourn?

Lords. Ay, ay.

L. H. S. Then this Houſe is adjourn'd into the Parliament-Chamber.

[*The Lords withdrew in their order, and the Committee of Commons went back to their Houſe.*]

Mr. *Speaker* reſum'd the Chair.

A Meſſage was ſent from the Lords by Sir *Timothy Baldwyn* and Sir *Samuel Clarke.*

Mr. *Speaker*, The Lords have ſent us to acquaint this Houſe, that they have order'd *William* Viſcount *Stafford* to be brought again to the Bar in *Weſtminſter-Hall*, on Monday Morning next at Ten of the clock.

After which, the Houſe of Commons adjourn'd to Eight of the clock on Monday Morning.

The Sixth Day.

Monday, December 6th, 1680.

ABout the Hour of Eleven in the Morning, the Lords being adjourned into *Weſtminſter-Hall*, going thither in their former order into the Court there erected; and Mr. Speaker having left the Chair, the Committee of Commons were ſeated as before.

The Court being ſat, Proclamation for Silence was made, and the Lieutenant commanded to bring his Priſoner to the Bar; which being done, the Lord High Steward began.

L. H. S. Read my Lord *Stafford*'s Petition.

To the Right Honourable the Lords in Parliament aſſembled, the humble Petition of *William* Viſcount of *Stafford*,

Humbly ſhewing unto your Lordſhips,

THat *he hath ſome things to offer unto your Lordſhips in order to clear himſelf, which he hopeth to do.*

Your Petitioner doth therefore with all Humility, moſt humbly beſeech your Lordſhips to give him leave to offer ſome things unto your Lordſhips Conſideration. And your Petitioner ſhall ever pray, &c.

STAFFORD.

L. H. S. My Lord *Stafford*, my Lords have been willing, upon your Petition, to come and hear what that is that your Lordſhip hath to offer: And they would know whether it be Matter of Fact, or Matter of Law. For your Lordſhip muſt know, that as to Witneſſes the Proceſs is cloſed.

L. Stafford. I do not pretend any more Witneſſes, my Lords.

L. H. S. Then, my Lord, what is it that you would ſay?

L. Stafford. My Lords, I did yeſterday receive an Order from your Lordſhips; and upon that and ſome other things that I have to trouble your Lordſhips with, I did petition for this Favour, which I humbly thank your Lordſhips for granting. If I be impertinent, I ſhall beg your Lordſhips pardon, and I hope you will be pleaſed to conſider my Weakneſs at all times, eſpecially in this Condition I now am in; but I hope by your Lordſhips Favour to be in an happier one quickly. For the Matters of Proof, I ſhall offer not a tittle; but, my Lords, this Order which I receiv'd does ſay, That the Lords aſſembled in Parliament have order'd, that my Counſel ſhall not be heard touching the Continuance of Impeachments from Parliament to Parliament: but I hope, my Lords, you will pleaſe, without offence, to let me offer to your Lordſhips my own Conceptions about it, which I ſhall do as briefly as I can.

My Lords, I do not conceive by this Order, that your Lordſhips ſay it does or does not continue: you have given no Judgment, as I know of, in it; when you have, I ſhall acquieſce: but I hope your Lordſhips will reſolve that it does not. And, my Lords, my Reaſons for it are two: The firſt is, Becauſe one of the Managers for the Houſe of Commons, as I take it Sir *Will. Jones*, ſaid theſe Words, and your Lordſhips may remember them, *That if there were no ſuch Precedent, your Lordſhips would make a Precedent:* Whether you will or no, that I muſt ſubmit to your Lordſhips; but then there is none yet. The next thing is, my Lords, this, Whether an Impeachment be to be proſecuted in Parliament without an Indictment: This, my Lords, I humbly hope your Lordſhips are reſolved it ought not. For I ſee not how truly, my Lords, it can be; by the little Reading which I have had in the Law, I never found any Man proſecuted in a legal way but by an Indictment. I may be miſtaken, and I beg your Lordſhips Pardon for troubling you with my Miſtakes; but I never read of any that were proſecuted upon an Impeachment: ſo then the legal uſual Word being Indictment, I hope your Lordſhips will not alter the Form; for I hope you will keep that great Maxim of your noble Anceſtors, *Nolumus Leges Angliæ mutare:* and whether this be a Change of the Law or no, I ſubmit it to your Lordſhips.

A third thing is this; Your Lordſhips do not think fit that my Counſel ſhall plead to that Point, whether Words do amount to an Overt-Act; for hearing my Counſel to that likewiſe, I do not pretend: but I hope your Lordſhips will give me leave to ſay this, I never heard that Words did amount to an Overt-Act; if your Lordſhips judge otherwiſe, I ſubmit; but till then, I hope it ſhall not conclude me.

There are ſome other Points which I did offer to your Lordſhips, and I humbly beſeech you to know, whether my Counſel ſhall be heard to them. 'Tis true, one of them, which was, whether two Witneſſes in ſeveral places did amount to a legal Teſtimony or no, your Lordſhips did not declare one way or another: If you ſay you acquieſce in the Opinion of the Judges, I muſt ſubmit; but till Judgment is given, I beſeech your Lordſhips to give me leave to tell you my weak Thoughts

thoughts about it. I did not hear what the Judges ſaid all of them, but as I apprehend they were all of one Opinion: 'Tis true, one of them that ſpoke laſt, I think it was Judge *Atkins*, did ſay it did amount to a legal Teſtimony, becauſe elſe thoſe Juries that have found ſome guilty upon the ſame ſort of Evidence ſhould be perjur'd; but if this were not ſo, then upon the ſame Grounds, under your Lordſhips Favour, thoſe Juries that acquitted ſome upon ſuch Teſtimony were perjur'd: but I muſt believe it to be otherwiſe till your Lordſhips have declared it as your Opinion, for that reaſon will not hold, for the ſame reaſon will be for the Perjuring the one, as for the Perjuring the other. And the ſame Juries for the moſt part tryed thoſe that were found guilty, and thoſe that were acquitted.

L. H. S. Is this all your Lordſhip will pleaſe to ſay?

L. Staf. No, my Lords, if you would give me leave I would trouble you a little farther, if it were an Offence I would not ſay a Word. My Lords, I do conceive I am not concerned in the general Plot of the Papiſts; for I am not proved to be ſo, and whatſoever I may be in my ſelf as I conceive, or whatſoever there is of hearſay, I hope your Lordſhips will not go upon that, but upon what is proved *Secundum allegata & probata*, and that common Fame will condemn no Man; if it do, then no Man is ſafe, but I muſt ſay there is not one Word of Proof offer'd that I am a Papiſt.

I hope, my Lords, I have clear'd my ſelf to your Lordſhips, and made my Innocency appear, by making appear the Perjury of the Witneſſes, and the Falſhood of thoſe Things they ſaid againſt me. Againſt *Dugdale* I have proved it by two of his own Witneſſes, the one was *Eld* the Woman that ſwore for him, That he took up a Glaſs of Syder and wiſh'd that it might be his Poiſon if he knew any thing of the Plot; the other was *Whitby*, who ſays, he had given my Lord *Aſton*'s Father warning long ago what a Knave he was. So 'tis clear: for Dr. *Oates* I hope from his Contradictions againſt himſelf as well as *Dugdale*, who does contradict himſelf, at one time *Auguſt*, at another time the latter end of *Auguſt* or the beginning of *September*: And I hope your Lordſhips will give no Credit to *Oates*'s Teſtimony, for he ſaid before your Lordſhips he had declared all he knew, ('tis true I was then accuſed, but not for having a Commiſſion as he now ſwears) and afterwards he accuſed the Queen, ſo here is *Oates* againſt *Oates*, and *Dugdale* againſt *Dugdale*; and for *Turberville*, I have proved by his Affidavit, firſt he ſwears one thing and then another, and the truth of it is, his Brother proved him falſe in his laſt Oath, that it was (71.) and not (72.)

My Lords, 'Tis not my Part to make any Queſtion, nor do I, whether a Plot or no Plot; for I am not concerned in it: If what I ſhall ſay now be impertinent, I humbly beg your Lordſhips pardon. My Lords, I have been by the moſt of my Friends, at leaſt every one that came to me, particularly by my Wife and Daughter that is near me, perſuaded to tell all that I knew, and I do here in the Preſence of Almighty God declare what I know to be true.

L. H. S. What ſays my Lord? Speak out.

L. *Staff.* My Lords, I do believe ſince the Reformation from the Church of *Rome*, to (what it is now eſtabliſh'd) the Church of *England*, thoſe of that Religion have had ſeveral wicked and ill Deſigns and Plots: I do believe they had a Deſign in Queen *Elizabeth*'s Time, *Babbington*'s Plot, (that is a long time ago) how far it was to take away the Queen's Life I can't tell, but a Plot it was: and I do believe there was another in her time, called Earl of *Weſtmoreland*'s Plot, wherein there was a Rebellion in the North, for which ſome fled and ſome were executed, that was a very ill Deſign: As for thoſe Poiſonings of her Saddle and the like, I take them to be but Stories.

In King *James*'s time, in the firſt Year of his Reign, there was a wicked Plot compoſed by Actors, ſome of one Religion, ſome of another; there was my Lord *Grey*, my Lord *Cobham*, my Lord *Brooke*, and others ſuch, they were condemned all of them, ſome fled, as *Markham* and *Bainham*; thoſe Lords and Sir *Walter Raleigh* were reprieved and kept long in the Tower. But Sir *Walter Raleigh* was afterwards upon that ſame Judgment beheaded, and the Lords dyed in the Tower.

My Lords, Next to that was the execrable Treaſon that I ſpoke of at firſt, the Gun-powder-Treaſon: And I proteſt before Almighty God, I did from my Infancy deteſt and abhor thoſe Men that were ingaged in it; and I do think and always did think, the Wit of Man nor the Devil's Malice can't invent an Excuſe for it. For the Men concerned, they all acknowledged it, confeſſed it, and begg'd pardon of the King and God, and all good Men for it; that is all I ſhall ſay to that now.

My Lords, Since his Majeſty's happy Reſtauration I do conceive, and I think I may ſafely ſay it, (for you all know it) he was gracious and good to all Diſſenters, particularly to them of the *Romiſh* Church, they had Connivance and Indulgence in their private Houſes; and I declare to your Lordſhips, I did then ſay to ſome that were too open in their Worſhip, that they did play foul in taking more Liberty upon them than was fitting for them to do, and that brought the Misfortune upon me which I will not name.

My Lords, It was not long ago that your Lordſhips at your own Bar did allow all the Diſſenters from the Church of *England* to give ſome Reaſons to your Lordſhips why thoſe Laws that were againſt them ſhould be repealed, as well Proteſtant Diſſenters as thoſe of the Church of *Rome*, and why they ſhould have ſome kind of Toleration; among whom you did permit thoſe of the *Romiſh* Religion to appear too, I forget their Names. And I remember particularly one of the ſorts of them, an *Anabaptiſt* I think, did urge for a Reaſon, that which is a great Truth, That they held Rebellion to be the Sin of Witchcraft, I believe it is as bad as any Sin can be.

My Lords, that came to nothing at that time; but, my Lords, I believe that after that all of all Religions had Meetings among themſelves to endeavour to get that Toleration which they propoſed humbly to your Lordſhips; there I will never deny, my Lords, that my Opinion was, and is, that this Kingdom can never be happy till an Act of Parliament paſs to this effect; it was my Opinion then, and I did endeavour it all I could, that the Diſſenting Proteſtants might have a Comprehenſion, and the other a Toleration: I acknowledge it to be my Intention, and I think it was no ill one; for if that be a true Copy of the Commons Votes which is in Print, there is ſome ſuch thing deſigning there as a Comprehenſion; and I was of opinion, that it were ſufficient that ſuch as were of the Church of *Rome* might by Act of Parliament ſerve God in their own Houſes, and

privately in their own Way, not in publick, and that for it they ſhould pay ſomething to the King out of their Eſtates, but truly not much; that they ſhould be ſeverely puniſhed if they or any of them did endeavour to perſuade any Subject to their Opinion, or did come to Court, or enjoy any Office whatſoever, though it were but that of a Scavenger, but that they ſhould pay their Proportion to all chargeable Offices: That I profeſs, my Lords, was my Opinion, and I confeſs to your Lordſhips 'tis ſo ſtill. I was in ſome hopes that it would have been done in that Seſſions, becauſe I was afraid it was unlikely to be done at any time elſe. I confeſs to your Lordſhips I was heartily and cordially againſt the Teſt, becauſe it hinder'd thoſe juſt and honeſt things that were for the Good of the Kingdom.

My Lords, there was the firſt or the ſecond Day brought into your Lordſhips Houſe, the Record of Mr. *Coleman*'s Tryal; and for the Letters in it, I do, my Lords, declare to your Lordſhips, I never read one of them before, but I have often read them ſince they have been in Print; and when I read them firſt curſorily over, my Opinion was, and is, That *Coleman*'s endeavouring by Money out of *France*, and keeping off the Parliament, to get a Toleration, was that which he could not juſtify by Law; how far it was criminal, that I do not know, I am not ſo skilled in the Law, I think it was not juſtifiable, but he hath paid for it ſeverely ſince.

My Lords, I do declare that ever ſince I had the Honour to ſit among your Lordſhips, which is now 40 Years, (for in the Year 1640. I was by his Majeſty's Favour call'd up a Peer) I have valu'd my ſelf upon the Honour of ſitting with you; and I do declare when I have ſat in this Houſe, when your Lordſhips have deſir'd the King when it was hot Weather and unſeaſonable, to put off the ſitting of the Parliament, I was never glad of it, but ſorry when they were prorogued but for a ſhort time. This I profeſs is true, and I hope I am no Criminal in it; for I do value the Parliament's ſitting to be the only Means to keep this Kingdom quiet.

My Lords, 'Tis very true by *Coleman*'s Letters, and what I have ſeen in Print ſince, I do believe there have been ſome Conſultations for a Toleration; and if I had known as much then as I have ſince I have been in the Tower, I had perhaps prevented many things: for, my Lords, I hold *England* to be a great and an happy Body; but it is as other great Bodies are, it may be now, as you know before it was, over-grown or ſick; it was then, and I pray God it be not now, but I hold nothing can cure it but that old *Engliſh* Phyſician, the King, your Lordſhips, and the Commons in Parliament aſſembled. But if I had known any ſuch Deſign, as *Coleman*'s Letters do hint, I would not have continued in *England*.

My Lords, For that damnable Opinion of King-killing, if I were of any Church whatſoever, and found that to be its Principle, I would leave it. My Lords, this is as true as I can ſpeak any thing in the World; I beg your Lordſhips Pardon for troubling you with my Impertinencies, and hope you pardon it to my Weakneſs. My Lords, I do profeſs before Almighty God, and before your Lordſhips my Judges, I know no one tittle nor point of the Plot; and if I did, I hold my ſelf bound to declare it. For the preſent I ſhall ſay little more, unleſs the Managers give me occaſion; if they will reply, and make any Objections, I deſire I may anſwer them. I know the great Diſadvantages I am under, when theſe Gentlemen, who are great Scholars and learned Men, reply upon me, who have thoſe great Helps of Memory, Parts, and Underſtanding in the Law, all which I want. And therefore I hope your Lordſhips will not conclude me upon what they or I have ſaid, but will be pleaſed to debate the Matter among your ſelves, and be as well my Counſel as my Judges.

My Lords, when I offer to your Lordſhips Matter of Law, I did in no wiſe admit the Matter of Fact.——

L. H. S. My Lord, I cannot hear you.

L. *Staf.* My Lords, if your Lordſhips pleaſe, this Paper may be read.

L. H. S. Deliver your Paper in, my Lords cannot hear.

L. *Staf.* I cannot deny to your Lordſhips, that what happened to me on Saturday-night, diſturbed me very much. Every day ſince I came hither, there hath been ſuch ſhouting and houting by a company of barbarous Rabble, as never was heard the like, I believe; but it was at a diſtance moſt of the time, and ſo it did not much concern me. But Saturday-night it was ſo near and ſo great, that really it hath diſturbed me ever ſince; it was great to-day, but at a diſtance; if it were not thus, I ſhould not offer a Paper to be read: I ſcarce know what I do or ſay, conſidering the Circumſtances I am in.

L. H. S. Take my Lord's Paper, and read it.

Sir *Tho. Lee.* My Lords, I deſire you will pleaſe to conſider whether this may not introduce a new Cuſtom by reading of this Paper. As to what my Lord is pleaſed to ſay, I am ſorry for the Occaſion that any diſturbance ſhould ariſe to my Lord from the Rabble, or any one elſe; I hope his Lordſhip believes we cannot help, nor do we contribute to that diſturbance. But we deſire your Lordſhips to conſider whether this Practice of having things written down for the Clerk to read, may not introduce a Cuſtom, which may in time grow inconvenient for future Example. I ſee no great Danger in the particular Inſtance before your Lordſhips now, but it is dangerous in ſuch Caſes to do any thing that is new in this Court.

L. H. S. All the Matter is, whether it be read by my Lord, who cannot be heard, or read by the Clerk.

Sir *Tho. Lee.* We only oppoſe it out of fear of making a Precedent, which may be of ill Conſequence.

L. H. S. Read it my Lord, and raiſe your Voice, for it concerns you to ſpeak out.

L. *Staf.* (Reading out of his Paper.) My Lords, when I offer'd Matter of Law to your Lordſhips, on Saturday laſt, I did in no wiſe admit the Matter of Fact to be true that was alledged againſt me, and ſo I deſire to be underſtood. And I hope your Lordſhips will not lay the leſs weight upon the Teſtimony of my Witneſſes, becauſe they are not ſworn; for the Law does not ſuffer them to be ſworn, which is no fault of mine, nor ought not to turn to my Prejudice.

I muſt appeal to your Lordſhips Judgments in point of Fact, how far the King's Witneſſes are to be believed againſt me, conſidering the whole Matter, and my Counter-Proof.

Next I ſubmit to your Lordſhips Judgments this Point, That the Impeachment being founded upon the Common Law, and the Statute of 25th

Edw.

Edw. 3. and not upon the Statute of the 13th of this King, two of the Witneſſes, *Dugdale* and *Turberville*, do only ſwear treaſonable Words ſpoken by me, and not my Overt-Act; for they ſwear only that I promiſed them Money and Rewards to kill the King. Now I humbly pray your Lordſhips Judgment, whether bare ſpeaking of Words be an Overt-Act, and Treaſon at the Common Law, or upon that Statute; and whether there be more than ſpeaking of Words in a Conſult, or otherwiſe proved by *Dugdale* and *Turberville*, I appeal to you. Then the other Witneſs, *Oates*, is but a ſingle Witneſs, who ſpeaks of the receiving of a Commiſſion. This is that I offer to your Lordſhips now for your Judgments, and then I deſire I may have your Opinion in other things.

L. H. S. Is this all your Lordſhip hath to ſay?

L. Staf. For the preſent, my Lords.

L. H. S. You muſt ſay all you have to ſay now.

L. Staf. Is it your Lordſhips pleaſure to hear Counſel to nothing at all? I did likewiſe alledge to your Lordſhips th'other day, that People that ſwear for Money are not competent credible Witneſſes; how far that was proved, or I may prove by my Counſel, I ſubmit to your Lordſhips.

L. H. S. Look you, my Lord, you have ſo far receiv'd already the Pleaſure of the Houſe: You have raiſed ſeveral Queſtions of Law, whether every Overt-Act require two Witneſſes to prove it. You have had the Opinion of the Judges, and there is no more to be ſaid in it. As to that, whether Impeachments continue from Parliament to Parliament, and the other thing, whether Proceedings may be upon an Impeachment without an Indictment; theſe are Matters of the Courſe and Conſtitutions of Parliaments, my Lords will conſider of them by themſelves, and will permit no Counſel to argue them. For the other Point, That Words are no Overt-Act, that reſts for their Opinion in another Caſe, when it ſhall come, for they have now no ſuch Caſe before them.

L. Staf. I humbly conceive there is.

L. H. S. There is a great difference between bare Words being an Overt-Act, and Perſuaſion by Promiſes of Money and Rewards to kill the King, which is a very great Overt-Act.

L. Staf. Is it poſſible to do an Act by Words? If it be ſo, I never heard it before.

L. H. S. Otherwiſe Men may promiſe Rewards to twenty ſeveral Perſons to kill the King, and then ſay 'tis all but Words.

L. Staf. I ſay it not, but I humbly conceive the Law ſays it.

L. H. S. What ſay you, Gentlemen of the Houſe of Commons?

L. Staf. My Lords, I have ſomething to ſay, which I deſire to ſpeak firſt: My Lords, I hope I have cleared to your Lordſhips, that all the Witneſſes have ſwore falſe againſt me, and this I have made out by Proofs; I ſay not much to that.——(*My Lord was ſearching for his Papers.*) Truly, my Lords, I am confounded with the Noiſe and other Circumſtances; but my Lords, I ſhall, if your Lordſhips pleaſe to give me leave, humbly repreſent my Caſe to you, how I take it to be in Matter of Fact, (as to my own Condition not any thing, but) how I am now before your Lordſhips.

I was, my Lords, committed by my Lord Chief Juſtice's Warrant, on the 20th, or 21ſt of *October*, (78.) *Friday*, 25th of *October*, I was brought to your Lordſhips Bar; I was impeached, I do not remember the Day, my Lords, the beginning of *December*; in one Parliament Articles exhibited againſt me, in another Parliament I was brought upon theſe Articles exhibited, and being call'd to your Lordſhips Bar, the Articles were read to me, and I gave in my Anſwer, that was ſome time in *May* (79.) and in the end of *May*, the 27th, (if I miſtake not, if I do, I deſire it may be rectify'd by your Books) I, with the other Lords, were brought to this Place in order to our Tryal. We ſtaid ſome time there, and then were remanded by your Order to the Tower, where I continu'd till *November* twelve Months after, without having heard any thing concerning it. So that I was firſt impeached in one Parliament, Articles brought againſt me and pleaded to in a ſecond, and now brought to my Tryal in a third; and what your Lordſhips will ſay upon this, I ſubmit to you, and whether theſe be Proceedings according to Law, your Lordſhips will judge.

My Lords, I humbly conceive that *Magna Charta* ſays, That Juſtice ſhall be deny'd nor delay'd to no Man: whether it hath not been delay'd to me, let your Lordſhips judge. If you ſay the Prorogation of the Parliament is the Cauſe of that Delay, I hope your Lordſhips will give me leave to ſay, That from the 5th of *December* to the 30th, when the firſt Parliament was prorogued, or during the Seſſion of the other Parliament, there was time enough ſure wherein I might have been brought to my Tryal; and if theſe Proceedings be lawful and juſt, there is no Man living, but may be kept off from time to time, till ſome Accidents happen that their ends may be gained. I leave it to your Judgment, whether it may be only my Caſe now, or of ſome of your Lordſhips in future Ages, to be accuſed of things that you never heard of before, and not brought to juſtify your ſelves, but kept in Priſon.

My Lords, There is a Statute, I have forgot where it is, (but ſuch a one I have read) that tho the King by his Great Seal, or little Seal, command that Juſtice ſhould be delay'd or deny'd, yet however the Judges ſhall not obey it, but proceed. So I hope there is no pretence of delay on my part, and the Benefit of that Statute ſhall not be deny'd me. And that Statute of the *Great Charter*, which coſt ſo many of your Anceſtors their Lives to maintain, I hope you will never go from. Now, your Lordſhips noble Anceſtors, amongſt other things, took great care that Juſtice ſhould be deny'd or delay'd to none; and this I deſire you to take into Conſideration.

I am in your Lordſhips Judgment either to be acquitted or condemned. I hope your Lordſhips will, and I know you will lay your Hands upon your Hearts, conſult your Conſciences and your Honours; and then you will do what is Juſt and Equitable, I doubt not.

My Lords, Mr. *Oates* ſaid I came by the name of Mr. *Howard* of *Effingham*, but that I did to my Letters ſign *Stafford*; ſurely, my Lords, if I was aſhamed to own my Perſon, I ſhould have been as much aſhamed to have owned my Name. He ſays, he ſaw me take a Commiſſion, and whether that be an Overt-Act, your Lordſhips are to determine. Upon the whole Matter, I conceive, there is nothing proved againſt me, but Words, nor pretended to, but only by *Oates*. And whether you will credit a Man that ſo diſſembles with God, as I have told you, I appeal to your Lordſhips, and beg you to conſider of it.

That theſe Witneſſes have ſworn for Money, if you ſend to the Exchequer-Office, and ſee what

Money they have receiv'd, you will find by the great Sums that 'tis ſo; and then I hope you will not allow them to be heard, nor credit any that ſwear for Gain. I had a Suit in *Weſtminſter-Hall*, that had like to have gone expreſly againſt me, only becauſe one of my Witneſſes was to gain 8 *l.* if the Suit went for me. But, pray conſider how much theſe Men have had. And for the Point that there are not two Witneſſes, I beſeech your Lordſhips, give me leave to put you in mind, That not many Years ago, you paſſed an Act againſt Frauds and Perjuries, wherein you were ſo careful to preſerve Mens Eſtates, that you required three Witneſſes to prove a Will of Goods or Lands above 100 *l.* and will you allow but one Witneſs to take away a Man's Life for Words? Though your Lordſhips will never commit Treaſon, yet no Man can preſerve himſelf from the Misfortune that happens to me, of being falſly accuſed.

'Tis true, my Lords, the Managers have given an Anſwer to the Buſineſs of the Money, by ſaying, The King may give as liberally as he pleaſes; but to give ſo great Sums, whereby Men poor before, are now become rich, I think will be an Objection againſt their Credit.

My Lords, I have ſaid what I do think convenient, though I think much more might be ſaid by an abler Man to your Lordſhips, for the clearing of himſelf. I hope I have done it, nay, I am confident I have; and this I have done for the Memory of that Great and Bleſſed King, who firſt made me a Peer, that it may not be ſaid he did me the Honour forty Years ago to call me up to this Dignity, and I ſhould fly in the Face of his Son in ſo horrible a manner as theſe Men would make me. I do owe it to the Honour of my Father and Mother, who, I think, I may ſafely ſay, were both Honourable and Worthy Perſons: My Father was a learned Man, and a wiſe Man, as I may appeal to ſome of your Lordſhips who knew him well; I ſay, I owe it to their Memory, and to the Honour of the Family from whence I ſprang, which all the World knows what it is. And I ſhould be an infamous Man to diſhonour them ſo much, as to bear their Name, and commit Treaſon. My Lords, I owe it to my Wife, who hath been a very kind Wife to me as ever Man had; ſhe is Heireſs at Law to the great Eſtate of that great and unfortunate Man *Stafford*, Duke of *Buckingham*, who was cut off in the Reign of King *Henry* the Eighth, and all his Eſtate, if it were not for that Attainder, would have come to her.

I may be impertinent in telling your Lordſhips what it was, but I do not over-ſay it, when I reckon it would have been at this Day 200000 *l.* a Year, for it was 17000 *l.* a Year in thoſe Days Penny Rent, beſides other Emoluments. This is an extravagant Thing to ſay, but 'tis true; ſomething thereof does remain to her, which I now enjoy. I owe it to all my Children, eſpecially to my Eldeſt Son, who is a Young Man, and I may ſay of far better Parts and Hopes than his Father, and whom, I hope, will ſerve his Country. I owe it to all my Friends and Relations, for I would not have it ſaid after my Death, my Wife was the Widow of a Traytor. I owe it to all theſe, but above all, I owe it to God Almighty; that when I come to be judged by Him, I may give a good Account of what he hath intruſted me with, that I may not appear as an infamous Man who knows he hath a Body, but not his own, and yet ſhould throw it and his Soul away together. And if I ſhould have committed this execrable Treaſon, I ſhould have been guilty of my own Murder: Firſt, In the committing a Crime worthy of Death; and then in not confeſſing, to ſave my Life. I hold Murder an extraordinary Crime, the worſt next to Treaſon: And I know, if I ſhould not prevent my Death by confeſſing all I knew, I ſhould have been guilty of Self-Murder, the worſt of Murders. I know your Lordſhips will lay to heart, what an execrable thing Murder is and the Blood of Innocents; and I hope there is none of the Houſe of Commons, but after this Evidence, will clear me. I am ſure none of them would have me puniſhed for that I am not guilty of. I do not blame theſe Gentlemen of the Houſe of Commons for Proſecuting, nor the firſt for Impeaching; for they had without all doubt, Reaſons great enough for it upon what Evidence they had before them, before they knew what the Witneſſes were. I know your Lordſhips will not in the leaſt Point vary from Juſtice, or the Law of the Land, and I deſire you to lay the whole Matter to your Hearts; I have not the leaſt Suſpicion of the Partiality of any Man in the Houſe, nay, I profeſs, if I had an Enemy and he were not here, I would beg of you that he might come. I have cleared my ſelf before your Lordſhips, and I hope I ſhall not be run down by the wicked Rabble; which, where it will end, God knows. It began in the late times againſt my Lord of *Strafford*, and ſo continu'd till it ended in that moſt execrable Fact, one of them, that ever was done. A wicked Beginning it was, and it had a wicked End. For ſince our Saviour's Death and Murder by the *Jews*, never was ſo execrable a Murder in the World; and whoever had an hand in it, without an extraordinary Repentance, can have no thoughts of Salvation. I never could ſerve the King, 'tis true, but in my Deſires; and I never deſerted him in Thought, Word, or Deed, to my knowledge in my Life, much leſs did I ever contrive or conſent to his Death. I do in the Preſence of God, Angels, your Lordſhips, and all Men, declare, I do know no more of the Plot, or any ſuch thing, than any one here does. That thoſe of the *Romiſh* Religion had Meetings, I believe, to obtain thoſe Ends that I ſpake of before: *Coleman* went too far, how far he was criminal in it, I can't tell. Meetings, I ſay, there were, but I was never at one of them, nor do I know what was done there. I do leave it to your Lordſhips to do Juſtice, as I know you will, and with all Submiſſion I reſign my ſelf up to you.

L. H. S. Have you done, my Lord?

L. Staf. If your Lordſhips will not allow me Counſel to argue thoſe Points, I have done.

L. H. S. What ſay you, Gentlemen of the Houſe of Commons?

Mr. Serj. *Maynard.* My Lords, ſomething that my Lord hath ſpoken, hath been reſolved againſt him, that is, about two Witneſſes to each Overt-Act; ſome things are not to be diſputed about the Law and Courſe of Parliaments; ſome things were not to be ſaid now, becauſe he had ſaid them before. My Lords, we had concluded our Evidence, and he is pleaſed to take up the time with repeating what was ſaid before.

For the other Matters that my Lord is pleaſed to diſcourſe of, all he ſays is but his Obligations, and how unreaſonable it were for him to do it; the Queſtion is, Whether he hath done it or no? If he hath, his Obligations are an Aggravation of his Crime, not an Excuſe. His Relations, his Family,

mily, and other things are nothing before your Lordſhips now in point of Judgment, nor is there any thing new ſaid to-day, that was not ſaid before.

Sir *Will. Jones.* My Lords, I ſhould not add one word farther, were it not that this Noble Lord is pleaſed, upon his Memory, or rather without, to ſay ſomething of me; and that was, That ſpeaking of the Continuance of Proceedings, I ſhould ſay, *If your Lordſhips had no Precedent, I hope you would make one.* My Lords, I do appeal to your Lordſhips Memory, whether I ſaid any thing like it; I utterly deny it, nor was there any occaſion for it. For there was no need of urging Precedents, when your Lordſhips, upon a Conference with the Commons, did declare it to be the Law of Proceedings in Parliament, and did then fortify it with many Arguments. I know, my Lord's Memory is not very good; I'm ſure in this he is very much miſtaken.

My Lord hath been pleaſed to complain he hath received much Diſturbance, and that the Noiſe and Shouts have been ſo great, that they have occaſioned ſome Diſtraction in him. My Lords, I am ſure his Lordſhip cannot mean us; for I appeal to your Lordſhips, and all that have heard this Tryal, whether he hath received the leaſt Diſturbance or Interruption from us, or whether we have not treated him with that Reſpect that becomes his Dignity, and the Diſcretion that ought to be in the Managers of the Houſe of Commons. But I muſt needs ſay, that his Lordſhip hath received Diſtraction from thoſe Friends or Counſel of his that put thoſe many Papers into his hand; for he hath read one after another that do contain the ſame Matter over and over again. Theſe, I confeſs, were ſufficient to diſtract him, or any other that ſhould make uſe of them. His Lordſhip hath been pleaſed to go off from the Matter of Law, to the Matter of Fact; and backward and forward, ſo that it is impoſſible to follow him: And as to the Matter of Fact, we ſhall decline to follow him; for tho we have not given his Lordſhip any Diſturbance, yet we ſubmit to your Judgment, whether it be regular, or according to the courſe of Proceedings, when his Lordſhip hath ſumm'd up his Evidence, and we that are the Proſecutors have concluded ours, he ſhould begin that Work again; which if it ſhould be admitted, we were to reply, and he might rejoin upon us, and ſo there would be no end of Proceedings.

And, my Lords, I hope, tho this Lord hath had the Favour to do it, yet it ſhall not for the future be brought into Example, for it will make Tryals endleſs.

My Lords, for the Matter of Law, there is nothing that deſerves an Anſwer; for tho the Law does admit the Priſoner Counſel in Matters of Law, yet it muſt be in things doubtful: and if there be any thing of that in our Caſe, I ſubmit it to your Lordſhips. I am ſure, I have heard nothing new but what hath been over-ruled already, unleſs it be a Matter of Law which riſes upon a Matter of Fact, and that not proved, to wit, the Corruption of Witneſſes. The laſt day, all was ſaid by his Lordſhip he could ſay, and all ſaid by us that we thought fit to ſay; and now to begin the ſame Matter again, I think ought not to be admitted. We ſhall not follow his Lordſhip in that way of Proceedings, and hope it ſhall never fall into Example.

Sir *Fr. Win.* My Lords, I have only one Word to ſay to your Lordſhips, and that is in relation to the Proceedings of the Commons in this Cauſe; for if the Cauſe had not been of an extraordinary nature, we ſhould have ſtood upon it, that the Priſoner ought not after the Proſecutors had concluded, to have taken a liberty of reading and repeating what he had ſaid over and over again. We know, my Lords, there are a ſort of Men in the World, who are willing to lay hold of any Pretences to cavil at our Proceedings; and therefore we have let my Lord take all this liberty, that ſo his Party might have no colour of Complaint. His Lordſhip was pleaſed to ſay the laſt day, that he had not a Witneſs more to produce, nor a Reaſon to give, as I underſtood him; and therefore he muſt own that we have been very tender to him in all our Proceedings. One thing my Lord inſinuates to-day, which I cannot forbear taking notice of, as if we had delayed him: which is without cauſe; we had uſed all Diligence in preparing ourſelves, and were ſoon ready when the King was pleaſed to let the Parliament ſit, and therefore it can be no Imputation on us: and truly, if my Lord conſiders the weight of the Evidence, I fear he will think his Tryal comes ſoon enough now.

L. Stafford. My Lords, I deſire to be rightly underſtood in one thing, and 'tis only this; I did not ſay the Houſe of Commons ſhouted at me, but the Rabble.

L. H. S. Is it your Lordſhips pleaſure to adjourn?

Lords. Ay, ay.

L. H. S. Then this Houſe is adjourn'd to the Parliament-Chamber.

[*Then the Lords withdrew in their former Order, and the Committee of Commons went back to their Houſe.*]

Mr. *Speaker* reſum'd the Chair, and a Meſſage was ſent from the Lords by Sir *Timothy Baldwyn* and Sir *Samuel Clark.*

Mr. Speaker,

The Lords have commanded us to acquaint this Houſe, that they have appointed *William* Viſcount *Stafford* to be brought to the Bar in *Weſtminſter-Hall* to-morrow Morning at Ten of the Clock, to receive Judgment,

[*The Commons adjourn'd to Eight of the Clock the next Morning.*]

The Seventh Day.

Tueſday, *December* the 7th, 1680.

ABout the Hour of Eleven, the Lords adjourned into *Weſtminſter-Hall*, going thither in their former order into the Court there erected; and Mr. *Speaker* having left the Chair, the Committee of Commons were ſeated as before.

The Lords being ſat, Proclamation was made for Silence; and the Lord-High-Steward being ſeated on the Woolpack with *Garter* Principal King of Arms, the Uſher of the Black Rod, nine Maces attending him, with all the reſt of the Solemnity, as was at firſt expreſſed, took the Votes of the Peers upon the Evidence beginning at the Puiſne Baron, and ſo upwards, in this order; the Lord *Stafford* being (as the Law requires) abſent.

L. H. S. My Lords, I am an humble Suitor to your Lordſhips, That you will give me leave

leave to collect your Votes as I ſit, for I am not able to ſtand. Which being granted, the Lord-High-Steward proceeded.

L. H. S. My Lord *Butler* of *Weſton*, Is *William* Lord Viſcount *Stafford* Guilty of the Treaſon whereof he ſtands impeached, or Not Guilty?

Lord *Butler*. Not Guilty upon my Honour.

[*The ſame Queſtion was put to the reſt, whoſe Names and Votes follow*].

Lord *Arundel* of *Trerice*. Not Guilty upon my Honour.

Lord *Crew*. Guilty upon my Honour.

Lord *Cornwallis*. Guilty upon my Honour.

Lord *Holles*. Not Guilty upon my Honour.

Lord *Wootton*. Not Guilty upon my Honour.

Lord *Rockingham*. Guilty upon my Honour.

Lord *Lucas*. Not Guilty upon my Honour.

Lord *Aſtley*. Guilty upon my Honour.

Lord *Ward*. Not Guilty upon my Honour.

Lord *Byron*. Not Guilty upon my Honour.

Lord *Hatton*. Not Guilty upon my Honour.

Lord *Leigh*. Guilty upon my Honour.

Lord *Herbert* of *Cherbury*. Guilty upon my Honour.

Lord *Howard* of *Eſcrick*. Guilty upon my Honour.

Lord *Maynard*. Guilty upon my Honour.

Lord *Lovelace*. Guilty upon my Honour.

Lord *Deincourt*. Not Guilty upon my Honour.

Lord *Grey* of *Wark*. Guilty upon my Honour.

Lord *Brook*. Guilty upon my Honour.

Lord *Norris*. Not Guilty upon my Honour.

Lord *Chandos*. Guilty upon my Honour.

Lord *North* and *Grey*. Guilty upon my Honour.

Lord *Pagett*. Guilty upon my Honour.

Lord *Wharton*. Guilty upon my Honour.

Lord *Eure*. Guilty upon my Honour.

Lord *Cromwell*. Guilty upon my Honour.

Lord *Windſor*. Not Guilty upon my Honour.

Lord *Conyers*. Guilty upon my Honour.

Lord *Ferrers*. Not Guilty upon my Honour.

Lord *Morley*. Not Guilty upon my Honour.

Lord *Mowbray*. Not Guilty upon my Honour.

Lord Viſcount *Newport*. Guilty upon my Honour.

Lord Viſcount *Faulconberge*. Guilty upon my Honour.

Earl of *Conway*. Guilty upon my Honour.

Earl of *Berkley*. Not Guilty upon my Honour.

Earl of *Macclesfield*. Guilty upon my Honour.

Earl of *Halliſax*. Not Guilty upon my Honour.

Earl of *Feverſham*. Not Guilty upon my Honour.

Earl of *Suſſex*. Guilty upon my Honour.

Earl of *Guilford*. Guilty upon my Honour.

Earl of *Shaftesbury*. Guilty upon my Honour.

Earl of *Burlington*. Guilty upon my Honour.

Earl of *Ailesbury*. Not Guilty upon my Honour.

Earl of *Craven*. Not Guilty upon my Honour.

Earl of *Carliſle*. Guilty upon my Honour.

Earl of *Bath*. Not Guilty upon my Honour.

Earl of *Eſſex*. Guilty upon my Honour.

Earl of *Clarendon*. Not Guilty upon my Honour.

Earl of *St. Albans*. Not Guilty upon my Honour.

Earl of *Scarſdale*. Guilty upon my Honour.

Earl of *Sunderland*. Guilty upon my Honour.

Earl of *Thanet*. Not Guilty upon my Honour.

Earl of *Cheſterfield*. Not Guilty upon my Honour.

Earl of *Carnarvan*. Not Guilty upon my Honour.

Earl of *Winchelſea*. Guilty upon my Honour.

Earl of *Stamford*. Guilty upon my Honour.

Earl of *Peterborough*. Not Guilty upon my Honour.

Earl *Rivers*. Guilty upon my Honour.

Earl of *Mulgrave*. Guilty upon my Honour.

Earl of *Berkſhire*. Guilty upon my Honour.

Earl of *Mancheſter*. Guilty upon my Honour.

Earl of *Weſtmoreland*. Guilty upon my Honour.

Earl of *Clare*. Guilty upon my Honour.

Earl of *Briſtol*. Guilty upon my Honour.

Earl of *Denbigh*. Not Guilty upon my Honour.

Earl of *Northampton*. Guilty upon my Honour.

Earl of *Leiceſter*. Guilty upon my Honour.

Earl of *Bridgwater*. Guilty upon my Honour.

Earl of *Salisbury*. Guilty upon my Honour.

Earl of *Suffolk*. Guilty upon my Honour.

Earl of *Bedford*. Guilty upon my Honour.

Earl of *Huntingdon*. Guilty upon my Honour.

Earl of *Rutland*. Not Guilty upon my Honour.

Earl of *Kent*. Guilty upon my Honour.

Earl of *Oxford*. Guilty upon my Honour.

Lord *Chamberlain*. Not Guilty upon my Honour.

Marqueſs of *Worceſter*. Not Guilty upon my Honour.

Duke of *Newcaſtle*. Not Guilty upon my Honour.

Duke of *Monmouth*. Guilty upon my Honour.

Duke of *Albemarle*. Guilty upon my Honour.

Duke of *Buckingham*. Guilty upon my Honour.

Lord *Privy-Seal*. Guilty upon my Honour.

Lord *Preſident*. Guilty upon my Honour.

Lord *High Steward*. Guilty upon my Honour.

Prince *Rupert* Duke of *Cumberland*. Guilty upon my Honour.

L. H. S. My Lords, upon telling your Votes, I find there are Thirty-one of my Lords that think the Priſoner Not Guilty, and Fifty-five that have found him Guilty. Serjeant, make Proclamation for the Lieutenant of the *Tower* to bring his Priſoner to the Bar.

[*Which was done, and his Lordſhip came to the Bar*].

L. H. S. My Lord *Stafford*, I have but heavy Tidings for you; your Lordſhip hath been impeached of High-Treaſon, you have pleaded Not Guilty, my Lords have heard your Defence, and have conſidered of the Evidence; and their Lordſhips do find you Guilty of the Treaſon whereof you are impeached.

Lord *Stafford*. God's Holy Name be praiſed, my Lords, for it.

L. H. S. What can your Lordſhip ſay for your ſelf, why Judgment of Death ſhould not be given upon you according to the Law?

Lord *Stafford*. My Lords, I have but very little to ſay; I confeſs, I am ſurpriz'd at it, for I did not expect it; but God's Will be done, and your Lordſhips, I will not murmur at it: God forgive thoſe that have ſworn falſly againſt me. My Lords, I conceive I have ſomething to ſay for reſpite of Judgment; I have been at many Tryals in my Life, but I never ſaw any Tryal where the Party tried did not hold up his Hand, which I was never ask'd to do: I thought it had been a very material Point in the Law, that by the holding up of the Hand he might be known to be the Perſon. I have read, lately, ſince I had the Misfortune to be thus accuſed, Sir *Edward Coke* upon the Pleas of the Crown; and he ſays, That Miſnomer, the not giving a Man his right Name, or Addition, is likewiſe a juſt cauſe to arreſt the Judgment. There is likewiſe another Queſtion, how far it may be valued I know not, I ſubmit it, as I do all, to your Lordſhips. Tho I am tried upon the Act of the 25th of *Edw.* 3. yet there is nothing more in that Act, than what is included in the Act of the 13th of this King: and I humbly conceive, my Lords,

by that Act, and the laſt Proviſo in it, a Peer that is accuſed and found guilty of the Crimes therein mentioned, is to loſe his Seat in Parliament; thoſe are the words, and ſince 'tis ſo put down in the Act, it is ſo to be underſtood, and that is all the Puniſhment. And I humbly demand your Lordſhips Judgment upon theſe points, whether it be ſo or no?

L. H. S. Has your Lordſhip any more to ſay?

L. Staff. No, my Lords, I ſubmit to your Lordſhips, and deſire your Judgment in theſe points.

Then the Lords adjourned into the Parliament-Chamber, and the Committee of Commons returned to their own Houſe; and their Speaker having reſumed the Chair, the whole Body of the Houſe went with their Speaker to the Bar of the Houſe of Lords, to demand Judgment of High Treaſon againſt *William* Viſcount *Stafford*, upon the Impeachment of the Commons of *England* in Parliament, in the name of the Commons in Parliament, and of all the Commons of *England*.

The Commons, with their Speaker, went back to their Houſe.

Then the Lords took into conſideration what Judgment was to be given upon *William* Viſcount *Staffrad*, and it was moved that he might be beheaded. After ſome debate, the Judges were asked, whether if any other Judgment than the uſual Judgment for High Treaſon were given upon him, it would attaint his Blood? The Judges were of opinion, that the Judgment for High Treaſon appointed by Law, is to be drawn, hanged, and quartered; and in the Courts and Proceedings below, they can take no notice of any Judgment for High Treaſon, but that.

Then Sir *Creſwell Levinz*, the King's Attorney-General, deſired to be heard on his Majeſty's behalf, which the Houſe gave leave for him to be; who ſaid, he knew no other Judgment by Law for High Treaſon, but drawing, hanging, and quartering; if any other Judgment were given, it would be prejudicial to his Majeſty, and be a Queſtion in the inferior Courts as to his Attainder of High Treaſon.

Whereupon their Lordſhips ordered, That the Lord High Steward do pronounce the ordinary Judgment of Death upon the Lord Viſcount *Stafford*, as the Law hath appointed in Caſes of High Treaſon.

And a Meſſage was ſent to the Houſe of Commons from their Lordſhips, by Sir *Timothy Baldwin* and Sir *Samuel Clark*.

Mr. Speaker,

We are commanded by the Lords to acquaint this Houſe, That their Lordſhips are going preſently into *Weſtminſter-Hall* to give Judgment againſt *William* Viſcount *Stafford*.

Mr. Speaker left the Chair.

The Committee of Commons appointed for the Management of the Evidence againſt the Priſoner, with the reſt of the Commons, went into *Weſtminſter-Hall*, to the Court there erected; to be preſent when the Lords gave Judgment of High Treaſon againſt him, upon the Impeachment of the Commons of *England*.

After a ſhort time their Lordſhips were adjourned into *Weſtminſter-Hall*, coming in their former Order into the Court there erected; where being ſeated, and the Lord High Steward being on the Wool-ſack, attended by Garter principal King of Arms, the Uſher of the Black Rod, eight of the Serjeants at Arms kneeling with their Maces, the ninth making proclamation for ſilence; which being done, the Lord High Steward gave Judgment upon the Priſoner as followeth.

L. H. Steward. 'My Lord *Stafford*,

'THAT which your Lordſhip hath ſaid in Arreſt of Judgment, hath been found by my Lords upon due conſideration had of it, to be of no moment at all. It is no Eſſential part of any Tryal, That the Priſoner ſhould hold up his Hand at the Bar; there is no Record ever made of it when it is done; the only uſe of it is to ſhew the Court who the Priſoner is, and when that is apparent, the Court does often proceed againſt him, though he refuſe to hold up his Hand at the Bar: therefore the omiſſion of that Ceremony in this caſe is no legal Exception, as all the Judges have declared.

'And as to the Proviſo's in the Statute of the 13th Year of this King, their Lordſhips do find that they are in no ſort applicable to this caſe, foraſmuch as the Proceedings againſt your Lordſhip are not grounded upon that Statute, but upon the Statute of 25 *Ed.* 3. And yet if the Proceedings had been upon the latter Statute, the Proviſos therein could have done your Lordſhip no ſervice at all.

'My part therefore which remains, is a very ſad one: for I never yet gave Sentence of Death upon any Man, and am extremely ſorry that I muſt begin with your Lordſhip.

'Who would have thought that a Perſon of your Quality, of ſo Noble an Extraction, of ſo conſiderable Eſtate and Fortune, ſo eminent a Sufferer in the late ill Times, ſo intereſted in the preſervation of the Government, ſo much obliged to the Moderation of it, and ſo perſonally obliged to the King and his Royal Father for their particular Favours to you, ſhould ever have entered into ſo infernal a Conſpiracy as to contrive the Murder of the King, the Ruin of the State, the Subverſion of Religion, and, as much as in you lay, the Deſtruction of all the Souls and Bodies in three Chriſtian Nations?

'And yet the Impeachment of the Houſe of Commons amounts to no leſs a Charge, and of this Charge their Lordſhips have found you guilty.

'That there hath been a general and deſperate Conſpiracy of the Papiſts, and that the Death of the King hath been all along one chief part of the Conſpirators Deſign, is now apparent beyond all poſſibility of doubting.

'What was the meaning of all thoſe Treatiſes which were publiſh'd about two Years ſince againſt the Oath of Allegiance, in a time when no Man dreamt of ſuch a Controverſy? What was the meaning of Father *Conyers*'s Sermon upon the ſame Subject, but only becauſe there was a Demonſtration of Zeal, as they call it, intended againſt the Perſon of the King? which the Scruples ariſing from that Oath did ſomewhat hinder.

'To what purpoſe were all the Correſpondencies with foreign Nations? the Collections of Money among the Fathers abroad and at home? What was the meaning of their governing themſelves here by ſuch Advices as came frequently from *Paris* and *Saint Omers*? And how ſhall we expound that Letter which came from *Ireland*, to aſſure the Fathers here, that all things were in a readineſs there too, as ſoon as the Blow ſhould be given?

'Does

'Does any Man now begin to doubt how *London* 'came to be burnt? Or by what ways and means 'poor Juſtice *Godfrey* fell? And is it not apparent 'by theſe Inſtances, that ſuch is the frantick 'Zeal of ſome bigotted Papiſts, that they re'ſolve, no means to advance the Catholick Cauſe 'ſhall be left unattempted, though it be by Fire 'and Sword?

'My Lord, As the Plot in general is moſt manifeſt, 'ſo your Lordſhip's part in it hath been too too plain. 'What you did at *Paris*, and continued to do at '*Tixall* in *Staffordſhire*, ſhews a ſettled purpoſe of 'mind againſt the King; and what you ſaid at '*London* touching honeſt *Will*, ſhews you were ac'quainted with that Conſpiracy againſt the King's 'Life which was carrying on here too: And in all 'this there was a great Degree of Malice; for 'your Lordſhip at one time called the King 'Heretick and Traytor to God; and at ano'ther time you revil'd him for miſplacing his 'Bounty, and rewarding none but Traytors and 'Rebels.

'And thus you ſee that which the Wiſe-Man 'forewarn'd you of is come upon you, *Curſe not 'not the King, no not in thy Heart: for the Birds of 'the Air ſhall reveal, and that which hath Wings 'will declare the matter.*

'Three Things I ſhall preſume to recommend 'to your Lordſhip's Conſideration. In the firſt 'place, your Lordſhip now ſees how it hath pleaſed 'God to leave you ſo far to your ſelf, that you 'are fallen into the Snare, and into the Pit, into 'that very Pit which you were digging for others. 'Conſider therefore, that God Almighty never 'yet left any Man, who did not firſt leave him.

'In the next place, think a little better of it 'than hitherto you have done, what kind of Reli'gion that is in which the blind Guides have been 'able to lead you on into ſo much Ruin and Deſtruc'tion as is now like to befall you.

'In the laſt place, I pray your Lordſhip to con'ſider, That true Repentance is never too late. A 'devout penitential Sorrow, join'd with an hum'ble and hearty Confeſſion, is of mighty Power 'and Efficacy both with God and Man.

'There have been ſome of late, who have refus'd 'to give God the glory of his Juſtice by acknowledg'ing the Crimes for which they were condemned; 'nay, who have been taught to believe, that 'tis 'a mortal Sin to confeſs that Crime in publick, for 'which they have been abſolv'd in private; and ſo 'have not dar'd to give God that Glory which o'therwiſe they would have done.

'God forbid your Lordſhip ſhould reſt upon 'Forms; God forbid your Lordſhip ſhould be 'found among the number of thoſe poor miſtaken 'Souls, whom the firſt thing that undeceives is 'Death it ſelf.

'Perhaps your Lordſhip may not much eſteem 'the Prayers of thoſe whom you have long been 'taught to miſcall Hereticks; but whether you 'do or no, I am to aſſure your Lordſhip, That all 'my Lords here, even they that have condemned 'you, will never ceaſe to pray for you, that the End 'of your Life may be Chriſtian and Pious, how 'tragical ſoever the Means are that muſt bring 'you thither.

'And now, my Lord, this is the laſt time that 'I can call you my Lord; for the next Words I am 'to ſpeak will attaint you.

'The Judgment of the Law is, and this Court 'doth award, That

YOU go to the place from whence you came; from thence you muſt be drawn upon a Hurdle to the place of Execution: When you come there, you muſt be hang'd up by the Neck, but not till you are dead; for you muſt be cut down alive, your Privy-Members muſt be cut off, and your Bowels ript up before your Face, and thrown into the Fire. Then your Head muſt be ſever'd from your Body, and your Body divided into four Quarters; and theſe muſt be at the diſpoſal of the King. And God Almighty be merciful to your Soul.

Priſoner. My Lords, I humbly beſeech you give me leave to ſpeak a few Words: I do give your Lordſhips hearty Thanks for all your Favours to me. I do here in the preſence of God Almighty declare, I have no Malice in my Heart to them that have condemned me; I know not who they are, nor deſire to know; I forgive them all, and beſeech your Lordſhips all to pray for me. My Lords, I have one humble Requeſt to make to your Lordſhips, and that is my Lords, That the little ſhort time I have to live a Priſoner, I may not be a cloſe Priſoner as I have been of late, but that Mr. Lieuteuant may have an Order that my Wife and Children and Friends may come at me. I do humbly beg this favour of your Lordſhips, which I hope you will be pleaſed to give me.

L. H. S. My Lord *Stafford*, I believe I may, with my Lords leave, tell you one thing further, That my Lords as they proceed with Rigor of Juſtice, ſo they proceed with all the Mercy and Compaſſion that may be; and therefore my Lords will be humble Suitors to the King, that he will remit all the Puniſhment but the taking off your Head.

Priſoner. (Weeping) My Lords, your Juſtice does not make me cry, but your Goodneſs.

Then the Lord High Steward broke his Staff, and the Lords adjourned into the Parliament Chamber, and the Commons returned to their Houſe, and the Priſoner with the Ax borne before him with the Edge towards him (it being carried contrarily during his Tryal) was ſent back to the *Tower*.

His Majeſty afterwards ordered the Lord High Chancellor to iſſue out under the Great Seal of *England* the following Writs for Executing the ſaid late Viſcount *Stafford*; the firſt being to the Lieutenant of the *Tower*, to deliver him on the 29th of *December* 1680. between nine and eleven a clock in the Forenoon, at the uſual place without the *Tower-gate*, to the Sheriffs of *London* and *Middleſex*; and the other being for them then and there to receive him into their Cuſtody, and to lead him to the uſual place upon *Tower-Hill*, and there to cauſe his Head to be cut off, and ſever'd from his Body: Which Writs were in Form following.

CAROLUS Secundus Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex, fidei defenſor, &c. Locumtenenti Turris noſtræ London ſalutem: Cum Willus Vicecomes Stafford, per Communes Regni noſtri Angliæ in Parliamento aſſemblat', de alta proditione, necnon diverſis aliis criminibus & offenſis per ipſum perpetrat' & commiſſis, impetit' fuit, ac ſuperinde per Dominos Temporales in præſenti Parliamento noſtro convent', triat', convict' & debita juris forma attinct' fuit, & morti adjucat' exiſtit; cujus quidem Judicii executio adhuc reſtat facienda. Cumq; prædictus Vicecomes Stafford in Turri noſtra London, ſub cuſtodia tua detent' exiſtit: Precipimus tibi & per

præſentes firmiter injungendo mandamus, quod in & ſuper viceſimum nonum diem inſtantis menſis Decembris, inter horas nonam & undecimam, ante Meridiem ejuſdem diei, ipſum Vicecomitem Stafford, uſ[illegible] locum uſualem extra portam Turris prædicta ducas; ac ipſum, Vicecomitibus Civitatis noſtræ London & Middleſex, adtunc & ibidem deliberes: Quibus quidem Vicecomitibus nos per aliud breve eis inde direct. percepimus prædictum Vicecomitem Stafford adtunc & ibidem recipere, ut ſtat executio Judicii prædicti, modo & forma prout dictis Vicecomitibus London & Middleſex, per aliud breve noſtrum prædictum præcepimus: Et hoc nullatenus omittas, ſub periculo incumbente; aliquo Judicio, Lege, Ordinatione, ſeu mandato præantea habit', fact', ordinat', ſeu dat' in contrarium non obſtante. Teſte meipſo apud Weſtm. decimo octavo die Decembris, Anno regni noſtri triceſimo ſecundo.

BARKER.

CAROLUS Secundus Dei gratia Angliæ, Scotiæ, Franciæ & Hiberniæ Rex, fidei defenſor, &c. Vic. London & Vic. Midleſex ſalutem: Cum Willus Vicecomes Stafford per Communes regni noſtri Angliæ in Parliamento aſſemblat', de alta proditione, necnon diverſis aliis criminibus & offenſis per ipſum perpetrat' & commiſſis impetit' fuit; ac ſuperinde per Dominos Temporales in preſenti Parliamento noſtro convent', triatus, convict' & debita juris forma, attinct' fuit, & morti adjudicat' exiſtit; cujus quidem Judicii executio adhuc reſtat facienda; Præcipimus vobis, & per preſentes firmiter injungendo mandamus, quod in & ſuper viceſimum nonum diem hujus inſtantis Decembris, inter horas nonam & undecimam, ante meridiem ejuſdem diei, dictum Vicecomitem Stafford, extra Portam Turris noſtræ London, vobis tunc & ibidem deliberandum, prout per aliud breve Locumtenenti Turris noſtræ London directum præcepimus, in cuſtodiam veſtram adtunc & ibidem recipiatis, & ipſum ſic in cuſtodia veſtra exiſtentem, ſtatim uſq; uſualem locum ſuper le Tower-hill ducatis; ac caput ipſius Willi. Vicecomitis Stafford, adtunc & ibidem amputari, ac a corpore ſuo omnino ſeparari faciatis; aliquo Judicio, Lege, Ordinatione, ſeu Mandato præantea habit', fact', ordinat', ſeu dat' in contrarium, non obſtante: Et hoc (ſub periculo incumbente) nullatenus omittatis. Teſte meipſo apud Weſtm. decimo octavo die Decembris, Anno regni noſtri triceſimo ſecundo.

BARKER.

There were two Writs to the Sheriffs both alike *verbatim*, one delivered in *London*, the other in *Middleſex*.

Whereupon the Sheriffs doubting whether that was a ſufficient Authority for them to execute the Priſoner by Beheading only, the Sentence of Death being otherwiſe given; petitioned the Lords in Parliament to take the Premiſes into conſideration, and to make ſuch Order as ſhould be agreeable to Right and Juſtice, as by the following Petition appears.

To the Right Honourable the Lords Temporal in Parliament aſſembled; The humble Petition of Slingsby Bethel *Eſq; and* Henry Corniſh *Eſq; Sheriffs of* London *and* Middleſex:

Sheweth,

'THAT your Petitioners have received a 'Writ under the Great Seal of *England*, 'reciting, that Judgment had been given by your 'Lordſhips againſt *William* Viſcount *Stafford*, for 'High Treaſon, and divers other Crimes and Offences, upon the Impeachment of the Commons 'in Parliament aſſembled, and commanding your 'Petitioners to cauſe the ſaid Viſcount *Stafford*'s 'Head to be ſever'd from his Body upon the '29th Day of this inſtant *December*, notwithſtanding any Judgment, Law, Ordinance, or Command to the contrary:

'That your Petitioners have not as yet received any Command from your Lordſhips for executing the ſaid Judgment.

'May it therefore pleaſe your Lordſhips to 'take the Premiſes into Conſideration, and 'to make ſuch Order therein, as ſhall be 'agreeable to Right and Juſtice. And your 'Petitioners ſhall always pray, *&c.*

Upon which Petition, the Lords did declare as followeth.

Die Martis 21 *Decembris*, 1680.

'UPON Application from the Sheriffs of '*London* and *Middleſex*, making ſome Scru'ples concerning the Execution of the late Lord 'Viſcount *Stafford*, which were found by this 'Houſe to be unneceſſary, this Houſe do de'clare, That the King's Writ ought to be obeyed.

The ſaid Sheriffs likewiſe made Application to the Houſe of Commons upon the aforeſaid Matter, who made the following Reſolve.

Die Jovis 23 *Decembris*, 1680.

RESOLVED, *&c. That this Houſe is content that the Sheriffs of* London *and* Middleſex *do execute* William *late Viſcount* Stafford, *by ſevering his Head from his Body only.*

The Proceedings of the Court of Kings-Bench in the Caſe of EDWARD FITZ-HARRIS *Eſq; in* Eaſter-Term, 1681.

Eaſter-Term, *xxxiii. Car. Secundi Regis, in Banco Regis.*

ON Wedneſday, *April* the 27th, 1681. the Grand Juries for the County of *Middleſex* were ſworn, and after the Charge delivered by Mr. Juſtice *Jones*, his Majeſty's Attorney-General deſired, That ſome of that Grand Jury which ſerved for the Hundreds of *Edmonton* and *Gore* (that for *Oſwolſton* Hundred, being immediately adjourned for a Week) might be preſent at the ſwearing of the Witneſſes, upon an Indictment for High-Treaſon, to be preferred againſt *Edward Fitz-Harris* Priſoner in the Tower of *London*, which was granted; but the Grand Jury being under ſome Scruples againſt receiving of the Bill, deſired the Opinion of the Court therein, which Mr. Juſtice *Jones*, alone, thought not fit to give, but ordered them to attend next Day when the Court was full.

And accordingly on Thurſday *April* 28, the ſaid Grand Jury came to the Bar, and Mr. *Michael Godfrey* (Brother to Sir *Edmondbury Godfrey*) who was their Foreman, addreſſed himſelf thus to the Court.

Mr. *Godfrey*. My Lord, I have an humble Requeſt to make to the Court on the behalf of my ſelf, and another on the behalf of the Grand Jury for the County of *Middleſex*, of which I am Foreman. This Gentleman, Mr. *Ward*, I did beg of when I was ſworn, to chuſe another Man that was fitter for the Service, as being more experienced, but he would not; and I beg your Pardon if I ſhould commit any Failure for want of Experience. But I deſire before we proceed upon this Indictment before us, that this ſame *Fitz-Harris* may be examined about my Brother's Death, of which I ſuppoſe he may know much, becauſe in the printed Narrative he does ſpeak of one *De Puy*, who was a very active Man about that Murder; and how ill a Man ſoever he hath been, we do hope he hath ſo much Truth in him, as to tell what he knows of that horrid Murder. Therefore I pray your Lordſhip, that you would grant an *Habeas Corpus* to fetch him before your Lordſhip to be examined upon that Point, before we do proceed: that is all as to my ſelf. My Lord, as to the Jury, we do all of us humbly preſent this Paper, and deſire it may be read in Court.

* Sir *Francis Pemberton*.

* *L. C. Juſtice*. What is it? a Petition?

Cl. of the *Crown*. It is not ſubſcrib'd by any body.

Jurors. But we do all own it, my Lord.

L. C. J. What is it? Read it.

Cl. of *Crown*. We *Michael Godfrey*, &c. being ſworn to ſerve in the Grand Inqueſt for the Hundreds of *Edmonton* and *Gore*, in this County of *Middleſex*, &c. and being yeſterday ſent for into the Court of King's-Bench, by a Meſſenger from the ſaid Court, to be preſent at the ſwearing of ſeveral Witneſſes produced on the behalf of our Sovereign Lord the King, to prove the Truth of ſome Indictments, then in the hands of the Clerk of the Crown; and obſerving that Sir *William Waller*, *Smith*, and others were ſworn to give Evidence againſt *Edward Fitz-Harris*, now Priſoner in the *Tower*, who in the late Parliament at *Oxford* was impeached by the Honourable Houſe of Commons in the name of themſelves and of all the Commons of *England*; of which, we the ſaid *Michael Godfrey*, &c. are part, and as Jury-men, be his Judges alſo.

We therefore humbly deſire the Opinion of this honourable Court, whether it be lawful and ſafe for us, the ſaid *Godfrey*, &c. (in caſe an Indictment of the ſaid *Fitz-Harris* ſhould be brought before us) to proceed to examine any Witneſſes in reference to the ſaid Indictment, or any way to meddle with it, or proceed upon it, notwithſtanding the ſaid Impeachment, and Votes purſuant to it by the ſaid Honourable Houſe of Commons? And this being a great point in Law, and of ſo great Conſequence for us to undertake in a point of Right, not ſettled by Conference, and remaining yet undetermined in the High Court of Parliament:

We therefore humbly deſire the Opinion of this Court upon the whole Matter, whether legally and ſafely we may proceed upon, to find the Indictment of *Fitz-Harris*, or no?

Mr. *Godfrey*. My Lord, we do humbly deſire the Reſolution of the Court in this Matter, as a thing of weight; for we are between too Mill-ſtones, as we apprehend it, and ſhall be ground between them.

L. C. J. Look you, Gentlemen of the Jury, we do not apprehend ſo.

Mr. *Att. Gen.* My Lord, be pleaſed to ſpare me one Word: This Indictment was tender'd to this Grand Jury yeſterday, and this Gentleman was againſt accepting the Bill till he had your Judgment, and ſo were two more; but for all that, the Body of them carried it (all but theſe three) to hear the Evidence: whereupon Mr. *Sollicitor* and my ſelf did go on upon the Evidence, and ſpent ſome time in opening it to them, and it was all given to them; and truly, the Gentlemen did ſeem to be abundantly ſatisfy'd what an horrid Villany it was, and we did think they would have found the Bill: but it ſeems they have prevail'd to put theſe Scruples into the others heads.

L. C. J. Look you, Mr. Attorney, we will not now inquire into that. Gentlemen of the Jury, you ſeem diſſatisfy'd in this Matter, and deſire the Opinion of the Court in it, whether you may lawfully proceed to find this Indictment or not? We did hear yeſterday of ſome Scruples you made to my Brother *Jones* when you were ſworn, and he ſat in Court to give you the Charge, which he thought not fit then to anſwer, but left it till to-day: truly

truly we would have all things fairly and clearly done, that we may underſtand how we go all along in this Matter. Your Scruple is this; Here was, you ſay, an Impeachment offered againſt *Fitz-Harris* by the Commons to the Lords, and that Impeachment was of High Treaſon, which was not received, and thereupon there was a Vote of the Houſe of Commons that he ſhould not be try'd by any other Inferior Court: You deſire now to know whether you may inquire concerning this Treaſon, notwithſtanding theſe things that have paſſed thus?

Mr. *Godfrey*. Yes, My Lord.

L. C. J. We are very ready and willing to ſatisfy any of the King's Subjects in any Matters in Judgment before us, that they may ſee there ſhall be nothing but fair Proceedings in all Caſes: We do tell you it is our Opinions, that notwithſtanding any thing of this matter that you ſuggeſt in the Caſe before you, it is fit for you to inquire upon the Indictment, and you are bound to enquire by virtue of your Oaths, if an Indictment be exhibited to you; you cannot, nor ought to take any notice of any ſuch Impeachment offered to the Lords, nor of any ſuch Votes of the Houſe of Commons afterwards, if any ſuch there were, for they will not excuſe you (who are ſworn to inquire of the Matters given you in Charge) in caſe you do not your Duty: and therefore if you have Evidence enough given you, to ſatisfy you that the Indictment is true, you are to find it. And likewiſe we ought to proceed according to Juſtice in Caſes that are brought before us. Neither you nor we can take notice of theſe Things, in caſe there be any ſuch as you ſuggeſt; nor will they excuſe us before God or Man for the breach of our Oaths, if we ſhould do the contrary. And this we declare to you, not only as our Opinions, but as the Opinion of all the Judges of *England*. For when we did hear there was a Scruple made by you the Gentlemen of the Jury, becauſe we would make the way fair and clear, all the Judges did aſſemble to debate the Matter for your Satisfaction; not that we were diſſatisfy'd at all in it our ſelves, but that it might appear to you and the Kingdom, that there is nothing but Fairneſs uſed in this Caſe, as in all others: and all the Judges, *Nemine Contradicente*, were all of Opinion, that you are not to take notice of any of theſe things; but if the Indictment be exhibited, and you have Evidence enough, you ought to find it. This we have endeavoured for your Satisfaction, to make your way clear.

Jurors. We humbly thank your Lordſhip.

[*Then the Jury went away, and afterwards found the Bill.*]

On Friday, *April* 29, 1681. Sir *Tho. Stringer*, the King's Serjeant at Law, moved for an *Habeas Corpus*, to bring up the Body of *Edward Fitz-Harris*, to be examined by the Court about the Death of Sir *Edmondbury Godfrey*. The Court granted the Writ, and ſaid, he ſhould be arraigned upon the Indictment againſt him, and then they would examine him.

Saturday, *April* 30. *Edward Fitz-Harris* was brought with a ſtrong Guard to the *King's-Bench Court*.

Mr. *Serj. Stringer*. Your Lordſhip hath been pleaſed to grant an *Habeas Corpus* for *Fitz-Harris*, and he is brought up and attends here.

L. C. J. We will ſend for Mr. Attorney, Brother.

Mr. *Serj. Jefferies*. I beg this of your Lordſhip, That you will be pleaſed to ſtay a little, I know not how he comes to be brought up here; Mr. Attorney it ſeems ſays, he knows nothing of it.

L. C. J. Well, well, ſend for Mr. Attorney, Brother, and hear what he ſays.

[*Which being done, and Mr. Attorney come in, the Priſoner was brought to the Bar.*]

Mr. Serj. *Stringer*. My Lord, I would humbly move he may be brought into Court to be examined, before he be arraigned.

L. C. J. Why ſo?

Mr. Serj. *Stringer*. My Lord, We would have him examined concerning Sir *Edmundbury Godfrey*'s Death.

L. C. J. What matters it? That may be done after, as well as before.

Cl. of Crown. *Edward Fitz-Harris*, hold up thy Hand.

Mr. *Fitz-Harris*. My Lord, I have been a cloſe Priſoner theſe ten Weeks, and have not had the Liberty to ſee any one in the World: I deſire I may have Liberty to ſee my Friends, and ſpeak with them, before I do anſwer to any thing.

Mrs. *Fitz-Harris*. My Dear, plead to the Juriſdiction of the Court; here's a Plea drawn by Counſel for you.

L. C. J. You had beſt conſider well what you have to do.

Mr. *Fitz-Harris*. My Lord, I deſire this Paper may be read by the Clerks.

Mr. Juſt. *Jones*. No, no, that cannot be, till you have anſwered to your Indictment.

Cl. of Crown. Pull off your Glove, and hold up your Hand.

Mr. *Fitz-Harris*. My Lord, I deſire leave to plead to the Juriſdiction of the Court.

L. C. J. You ſhall have it.

Mr. *Fitz-Harris*. I deſire this Plea may be allowed.

Mr. Juſt. *Dolben*. Hear your Indictment firſt, and plead afterwards.

L. C. J. Look you, Mr. *Fitz-Harris*, let us thus far direct you: Your holding up of your Hand, and hearing the Indictment read, will not hinder you from any manner of Plea, which you may have to make afterwards; but you can plead nothing before.

Cl. of Crown. Pull off your Glove, and hold up your Hand; (which he did.) And then the Clerk of the Crown read the ſubſtance of his Indictment to him in *Engliſh*. And then ſpeaking to him, ſaid, How ſayeſt thou, *Edward Fitz-Harris*, Art thou guilty of this High Treaſon whereof thou ſtandeſt indicted, and haſt been now arraigned, or Not Guilty?

Mr. *Fitz-Harris*. My Lord, I offer this Plea to be read firſt, before I anſwer.

L. C. J. That Plea? Take his Plea: Let us ſee what it is. We take it to read it now.

Mr. Juſt. *Jones*. Not to allow it.

L. C. J. Only to ſee what it is.

Cl. of Cr. Reads,

ET *prad. Edwardus Fitz-Harris in propria perſona ſua venit & dic. quod ipſe ad Indictament. prad. modo verſus eum per Jurator. prad. in forma prad. compert. reſpondere compelli non debet, quia dicit quod ante Indictament. prad. per Jurator. prad. in forma prad. compert. ſcil. ad Parliam. Dom. Regis nunc inchoat. & tent. apud Oxon. in*

Com. Oxon. 21. die Martii, Anno Reg. Dom Caroli Secundi nunc Regis Angliæ, &c. Triceſimo Tertio, ipſe idem Edwardus Fitz-Harris per Milites, Cives, & Burgenſ. ad idem Parliament. ad tunc & ibid. convocat. & aſſemblat. de & pro præd. Prodition. Criminibus & Offenſ. unde ipſe idem Edwardus Fitz-Harris per Indictament. præd. modo indictat. exiſtit ſecundum Legem & Conſuetudinem Parliamenti accuſat. & impetit. fuit coram Magnatibus & Proceribus hujus Regni Angliæ in eodem Parliamento per Summonition. ipſius Dom. Regis ad tunc & ibid. aſſemblat. Quodq; impetitio præd. in plenis ſuis robore & effectu adhuc remanet, ſicut per Record. inde in Cur. Parliament. præd. remanen. plenius liquet & apparet. Et idem Edwardus Fitz-Harris ulterius dicit, quod ſi quis in aliquo Parliamento Dom. Regis hujus Regni Angliæ de aliquibus Proditionibus, Criminibus, & Offenſis, per Milites, Cives, & Burgenſ. ad hujuſmodi Parliament. convocat. & aſſemblat. in hujuſmodi Parliament. accuſat. & impetit. fuit coram Magnatibus & Proceribus hujus Regni Angliæ in eodem Parliament. per Summonit. ipſius Dom. Regis aſſemblat. tunc hujuſmodi Prodition. crimina & offenſa de & pro quibus hujuſmodi perſona in hujuſmodi Parliament. accuſat. & impetit fuit in Parliament. Dom. Reg. hujus Regni Angliæ audiri, triari, & terminari debeant, & ſemper hactenus conſueverunt, & de jure debuerunt, & non alibi in aliqua Curia infer. quam in Parliament. Et hoc idem Edwardus Fitz-Harris parat. eſt verificare, unde non intendit quod Dominus Rex nunc velit in Cur. nunc hic de & pro Prodition. Criminibus, & Offenſ. præd. reſponderi, & petit Judic. ſi ipſe ad Indictament. præd. per Jurator. præd. in forma præd. compert. ulterius reſpondere compelli debeat, &c. Cum hoc quod præd. Edwardus Fitz-Harris verificare vult, quod Proditio, Crimina, & Offenſ. præd. in Indictament. præd. per Jurator. præd. in forma præd. compert. ſpecificat. & mentionat. & pro quibus ipſe idem Edwardus Fitz-harris per Indictament. ill. modo indictat. exiſtit, & Proditio, Crimina & Offenſ. pro quibus ipſe præd. Edwardus Fitz-Harris in Parliament. præd. in forma præd. accuſat. & impetit. fuit, & exiſtit, ſunt unum & eadem proditio crimina, & offenſ. & non al. neque diverſa, quodq; impetio præd. adhuc in plenis ſuis robore, vigore, & effectu remanet.

L. C. J. Look you, Mr. *Fitz-Harris*, as for this Pleading here, we uſe not to receive ſuch Pleading as this without a Counſel's Hand to it.

Mr. *Fitz-Harris.* I deſire your Lordſhip to aſſign me Counſel.

L. C. J. Who would you have aſſigned Counſel?

Mr. *Fitz-Harris.* Sir *William Jones*, Sir *Francis Winnington*, Sir *George Treby*, Mr. *Williams*, Mr. *Pollexfen*, Mr. *Wallop*, and Mr. *Smith.*

L. C. J. Here are a great many you name: we will not enjoin any Counſel to ſerve you further than they are willing themſelves. As for Sir *William Jones*, one of them you deſire, he does not practiſe now in *Weſtminſter-Hall*, and therefore we cannot aſſign you him, unleſs he pleaſe.

Mr. *Fitz-Harris.* Then I deſire Sir *Francis Winnington*, Mr. *Williams*, Mr. *Pollexfen*, Mr. *Wallop.*

L. C. J. Let them be aſſign'd of Counſel for him. We do aſſign you them for Counſel. And now, look you Sir, you had beſt conſider how you plead this Matter. You will do well to think of it, leſt it be more fatal to you than you expect; therefore we will give you time to plead the Matter you reſt upon, let it be what it will: We'll give you time to have Advice upon it, and you ſhall be brought hither again on Tueſday-Morning by Rule. And in the mean time things ſhall ſtand as they do. Mr. Attorney will conſider upon the putting in of your Plea, what is fit to be done upon it.

Mr. *Fitz-Harris.* My Lord, I humbly deſire the Liberty to ſee my Wife and Friends in the mean time.

L. C. J. Mr. Attorney, why may not he ſee his Wife, ſo it be done in the Preſence of ſome Perſon entruſted by the Lieutenant, to ſee that nothing be done that is prejudicial to the King?

* Mr. *Att Gen.* I cannot oppoſe it, my Lord.

* Sir *Robert Sawyer.*

Mr. *Fitz-Harris.* I deſire my Counſel may come to me.

L. C. J. Mr. *Fitz-Harris*, we will admit Counſel to come to you, or elſe it will do you no good to aſſign them; all we can do, ſhall be done.

Mr. *Att. Gen.* My Lord, with Submiſſion, I conceive, you will not allow any body to come to him, to be alone with him; that would be the Way to prevent the diſcovery of the Practices he is accuſed of: I hope, if your Lordſhip ſhew him Favour, you will do the King Juſtice.

Mr. *Fitz-Harris.* My Lord, I beg that any of thoſe that have been named may come to me.

L. C. J. Yes, theſe four. And Mr. Attorney, they are Gentlemen of fair Credit and Reputation in the World; we have no Suſpicion that they will do any thing unfairly: what we can reaſonably do for any Man in his Condition, we muſt do.

Mr. *Att. Gen.* My Lord, I am not againſt that, but I would have all done ſafely and ſecurely for the King.

Mr. *Fitz-Harris.* My Lord, I have one thing more to beg, the Time your Lordſhips have ſet is ſo ſoon, that they cannot come to me perhaps.

L. C. J. 'Tis long enough, Mr. *Fitz-Harris.*

Mr. *Fitz-Harris.* If I cannot get them to come to me in that time, what ſhall I do?

L. C. J. You muſt do what you can, we can't enjoin them to come to you.

Mr. *Att. Gen.* This Motion of his, I fear, is deſigned to put off his Tryal.

L. C. J. It ſhall not, Mr. Attorney. It is true, 'tis a buſy time, the middle of the Term; but they will ſure find time to diſpatch this Buſineſs within the time we have allotted. On the other ſide, ſome time they muſt have to conſider of it: I do therefore tell him it may be fatal and peremptory to him, for ought I know. Indeed if we would inſiſt upon it, we might compel him to be ready preſently, but that we will not do in this Caſe.

Mr. *Fitz-Harris.* Pray my Lord, give me till Thurſday if you pleaſe.

L. C J. I know it is time enough for Counſel to draw up a Plea between this and Tueſday.

Mr. *Fitz-Harris.* To-morrow is Sunday, my Lord, and they can't come to me then, ſo I ſhall have but one Day.

L. C. J. Mr. *Fitz-Harris*, 'tis Time enough; we muſt not waſte the Term; for as we would ſhew you all the Favour we can in Equity and Juſtice, ſo we muſt not deny the King Juſtice neither. And you hear Mr. Attorney ſay, that theſe Things (if they ſhould delay the buſineſs too long) would be prejudicial to much of the King's Buſineſs. It may be, that this delatory Plea may ſpend ſo much time of the Term, that we cannot try it; and therefore if we do give you a juſt Favour, you muſt not grow upon us.

*

Mr. *Att.*

Mr. *Att. Gen.* Mr. *Fitz-Harris* knows this Plea hath been well adviſed on: There went a whole Club to the making of it.

Mr. *Fitz-Harris.* How ſhould I know? I never ſaw nor heard of it till now. I have had the ſevereſt Meaſure in the World; I have had no body ſuffered to come to me.

L. C. J. Do not complain of Severity, Mr. *Fitz-Harris.* I do not believe any ſuch thing hath been uſed towards you.

Mr. *Fitz-Harris.* Pray my Lord, give me a little longer time.

L. C. J. Mr. Attorney, what if we do this? He giving you the Plea upon Tueſday, he may come up upon Wedneſday Morning to put it in.

Mr. *Att. Gen.* I cannot oppoſe it, if your Lordſhip think fit ſo to order it.

Mr. Juſt. *Dolben.* 'Tis fit you ſhould have it to ſee it, Mr. Attorney, beforehand.

Mr. Juſt. *Jones.* And have ſome reaſonable time for Conſideration what to do upon it.

L. C. J. Well, delivering of the Plea on Tueſday Morning to Mr. Attorney, we do give you till Wedneſday to bring it hither; and then you ſhall come by Rule again.

Mr. *Fitz-Harris.* My Lord, I hope, I ſhall have the Liberty to ſee my Wife this Day.

L. C. J. Yes, at ſeaſonable Hours, when there may be ſome body by, to ſee that nothing be done to the King's Prejudice. And your Wife muſt do this, ſhe muſt ſubmit to be ſearched, that ſhe carry nothing with her that may be prejudicial. And with theſe Cautions we will admit her to come to you.

Lieut. of Tower. Will your Lordſhip pleaſe to give us a Rule, to let his Wife and Counſel come to him?

L. C. J. We do make ſuch a Rule.

Cl. of Crown. My Lord, we will make it part of the Rule.

Lieut. of Tower. We deſire ſuch a Rule for our Diſcharge.

L. C. J. Sir, this is our Rule, and we have declared it to this purpoſe. Then as to your Matter, Brother *Stringer*, this we will do; Let the Lieutenant of the *Tower* keep Mr. *Fitz-Harris* ſafely till we return out of the Exchequer, and then we will examine him.

Mr. Serj. *Stringer.* My Lord, we think it will be a ſhort Buſineſs and ſoon over, if you pleaſe to do it firſt.

Mr. *Fitz-Harris.* My Lord, I may ſee my Wife in the mean time, I hope.

L. C. J. Do you inſiſt, Brother, that we ſhould examine him preſently?

Mr. Serj. *Stringer.* My Lord, Mr. *Godfrey* deſires it.

L. C. J. Then we will preſently.

Lieut. of Tower. Muſt his Lady ſpeak with him?

L. C. J. Yes, after he is examined. Lieutenant of the *Tower*, bring Mr. *Fitz-Harris* into our little Room, where we will take a Clerk and examine him.

Mrs. *Fitz-Harris*, to her Husband, (the Court being juſt riſen.) My Dear, do not confeſs any thing about the Death of Sir *Edmondbury Godfrey*, nor the Plot, for you will be betray'd; ſpeak only to little things.

[*Then the Priſoner was carried away to be examined, and after that to the* Tower.]

On Monday, the Second of *May*, Sir *Francis Winnington* and the other three Gentlemen aſſigned of Counſel for Mr. *Fitz-Harris*, came to the Bar, and moved the Court for an Explanation of the Rule concerning themſelves, and the Buſineſs they were aſſign'd for.

Mr. *Williams.* My Lord, I am to move your Lordſhip in a Caſe, wherein I am with three others of the Gentlemen that attend this Bar, aſſigned of Counſel for Mr. *Fitz-Harris*; and that which I would beg for my ſelf and them, is this: There is one thing we deſire may be explained a little in the Rule. I humbly apprehend your Lordſhip gave leave to the Counſel, who you ſo aſſign'd, to come to Mr. *Fitz-Harris*, and entruſted them with the Liberty of ſpeaking with him alone; but by the penning of the Rule, we apprehend that the ſame Reſtraint is put upon them, that is upon other Perſons, to have ſome body at their being with him.

L. C. J. The Lieutenant ſent to me on Saturday about it, and I told him, it did not extend to you.

Sir *Fran. Winnington.* We think it may have a Conſtruction either way; but we deſire it may be made plain, as you meant it.

L. C. J. We tell you, it is plain, and it was ſo intended.

Sir *Fran. Win.* Therefore we taking it that your Lordſhip pronounced and meant it ſo, do deſire it may be ſo expreſſed. We are ſatisfy'd that it was your Lordſhip's Intention; we deſire the Clerk may make it plain and intelligible in Words. And there is this further in it, my Lord——

L. C. J. We declare it now to you, it was ſo meant and intended.

Sir *Fran. Win.* My Lord, there is this further in it: We four have met, and we deſire as much as may be to expedite this Matter, as far as we can, for our own Reputation, and doing our Duty to the Perſon we are aſſigned of Counſel for. But truly ſo ſoon as is appointed by your Lordſhip, it is impoſſible for us to prepare things ſo, as to be ready by Wedneſday Morning. The Plea I never ſaw, nor did I ever hear of it, till it was brought and read here; but ſince that, I have not ſeen it till this time. The Rules were brought but laſt Night to our Chambers, there is no Sollicitor in the Cauſe that may attend us. The Indictment I have not ſeen that we are to plead to, and truly I think the courſe is to have a Copy of the Indictment.

L. C. J. We deny that, Sir *Fran. Winnington.*

Mr. *Williams.* It is impoſſible for us then to get ready in this time. I humbly move you will aſſign ſome convenient time. I know your Lordſhip will not put an hardſhip upon us that are of Counſel, to plead ſuch a Matter ſo quickly. 'Tis a Matter of Difficulty, and there are not many Precedents in it; and therefore it will require more care than ordinary.

Sir *Fran. Win.* My Lord, We ought to preſent things to the Court as they are in Fact, that we may not lie under any Reflection from the Court, nor any body elſe. You made a Rule on Saturday, that I ſhould be of Counſel for him, (which I ſubmit to) but I knew not of this till afterwards. I never ſaw the Plea, nor any Paper in this Cauſe as yet: The Rule was left at my Chamber this laſt Night, and when I ſaw it, Mr. *Williams* and we got together in the Hall this Morning: We could not do it till juſt now, and we come now to wait upon the Court, to acquaint them how the Matter ſtands. I was not in Court, when you gave

gave your Directions about this Matter; but when I find what the Nature of the Caſe is, I ſhall be ready to do my Duty to the Court, and to him who is upon his Life. It is a mighty Cauſe, it is a Cauſe that may-be, if we do not acquit our ſelves as we ought, have reflection upon our Poſterity, if we do not do it as well as we can. Therefore we deſire ſome reaſonable Time, that we may have Copies of the Papers and Things concerned in this Cauſe, as the Court ſhall direct. And we are aſſured your Lordſhip is ſo well acquainted with the uſual Method in ſuch Caſes, that you will give us all the Favour in it you can.

Mr. *Wallop.* For my part, my Lord, the Notice I had was but very lately; I was by, indeed, when this Perſon *Fitz-Harris* did deſire Counſel, and your Lordſhip aſſigned me amongſt the reſt; but nothing of the Order was brought to me till this Morning: ſo that I know nothing of the Matter leſs or more, than what I heard upon the reading of the Paper here on Saturday. I do not deſire Time for Time-ſake, or for Delay; but we think the Nature of the thing is ſuch, as will require great Conſideration, and we deſire convenient Time to prepare it for the Court.

L. C. J. Look you, Sir *Francis Winnington*, you muſt conſider here the Nature of your Caſe: This is an Indictment of High Treaſon, and there is nothing I ſee, that is ſo greatly conſiderable in the Caſe, but the height of the Crime. 'Tis an extraordinary Crime indeed, if he be guilty of it, (for I ſpeak not to prejudice your Client, but of the Thing itſelf.) 'Tis a Treaſon of a very high Nature: And then what have we to conſider in this Caſe? We might have taken your Client at advantage here, and it had been no Injuſtice if we had made him to plead immediately, as he would ſtand by it: And we are not to conſult your Leiſure, but your Client's Cauſe: he hath pitch'd upon you for his Counſel; we have given him three days time to plead as he will ſtand by it, Saturday, Monday and Tueſday, and he is to come with his Plea upon Wedneſday. We have appointed for Conveniency-ſake, that you ſhould give a Copy of the Plea to-morrow Morning to Mr. Attorney; but we do not tie you ſo peremptorily to that Copy, that you may not vary in Words from that Form. Give him but the ſubſtance of the Plea, and we will not tie you to the particular formal Words. Peradventure Mr. *Fitz-Harris* could not have expected three Days time, in courſe of Law, upon ſuch a Crime, to put in ſuch a Plea, when he tells us, he will plead ſpecially to the Juriſdiction of the Court. But we have done it in this Caſe, to ſhew, that all the Fairneſs that can poſſibly be uſed, ſhall be uſed. On the other ſide, we muſt not ſpend all our time ſo, as to let the Term ſlip for his neglect of waiting upon you. Therefore if he will delay to ſend to adviſe with you, he muſt ſuffer for it. Suppoſe he did not come to you till to-morrow, what can we help it?

Mrs. *Fitz-Harris.* There is no Sollicitor, my Lord, to go to the Counſel.

L. C. J. Well, we muſt not ſpin out the Term to pleaſe him: He muſt take more care; I believe he would by Dilatorys be glad to put it off all the Term. If Mr. Attorney gives Conſent for more time, well and good.

Mrs. *Fitz-Harris.* I hope your Lordſhip will give leave for a Sollicitor, without your Lordſhip's leave none will dare to venture. And I had the Rule ſo very late——

Cl. of Crown. They had it at 3 of the clock in the Afternoon, as ſoon as it could be drawn up.

Mrs. *Fitz-Harris.* That Copy was brought to the Lieutenant of the Tower, and he ſent it away immediately.

Cl. of Crown. Another Copy they had from me that Evening.

Mrs. *Fitz-Harris.* I never ſaw my Husband in the Tower till yeſterday in the Afternoon, and I am an ignorant Perſon, and know not what to do in it without a Sollicitor. As ſoon as I could get Copys of the Rule writ out, I carry'd them to theſe Gentlemen.

Mr. *Pollexfen.* My Lord, I think it will be very hard upon us that are of Counſel, to be ſo ſtraitned in point of Time; for my part, the Rule was left under my Door the laſt Night, and I had it not till this Morning: It will be a mighty hard Matter for us to get the Plea ready, without a ſight of the Indictment. Things muſt be averr'd to be the ſame, which we cannot, unleſs we ſee what is there alledged. This Man hath been kept cloſe Priſoner, and no-body ſuffer'd to come at him to inſtruct him; and we have not ſo much as Copies of any thing that we muſt make uſe of. We have no Concernment, my Lord, in this Matter, but what is aſſign'd us by the Court; and we do not know by any Papers, if there be any, how we ſhould put it into Form: and that is it, my Lord, which may lie heavy upon us; if this Man's buſineſs ſhould miſcarry for want of putting it into due Form, the blame will be upon us, who are aſſigned his Counſel. Therefore if your Lordſhip pleaſe, under theſe Conſiderations, to give us time and leave to ſee the Indictment we are to plead to, we may be the better inabled to do our Duty.

Sir *Fran. Win.* Really, my Lord, I ought to deal clearly with the Court; without a Copy of the Indictment, I know not how we ſhall be able to plead as we ſhould do.

Mr. *Williams.* My Lord, I do really move, not in favour of *Fitz-Harris*, but for my own Reputation; I cannot put my Hand to a Plea of this Conſequence, without time to conſider very well of it, and unleſs, in truth, I can ſee the Indictment, and compare the Plea with it, to put it into form fit for the Judgment of the Court. And if theſe things cannot be granted, I deſire to be excuſed.

L. C. J. Why, Gentlemen, ſee what you ask: Where do you find any Precedent of a Man indicted for High Treaſon, that would plead to the Juriſdiction of the Court, that had more time given him than is in this Caſe?

Sir *Fran. Win.* We do not know what his Plea will be, my Lord, till we have ſeen it and conſidered it.

L. C. J. Your Client told us all, and we know all of us very well, that it is to the Juriſdiction of the Court, and can be no otherwiſe.

Mr. Juſt. *Jones.* Any thing elſe you may give in Evidence upon, Not Guilty. And it would be conſidered on your Tryal.

Sir *Fran. Win.* My Lord, it may happen to be not ſo properly pleadable to the Juriſdiction of the Court; we know not what it will be till we have ſeen the things neceſſary to draw it into Form. It is true conſequentially, it is the Concern of our Client; but the ground of our Motion at this time is for our ſelves. I did apprehend by the Rule, his ſpecial Plea was to be admitted, if he tender'd one, let it be what it will: We muſt conſider many things in a Caſe of this nature; and at laſt, whether it will be to the Juriſdiction, or what 'tis,

we

we can't tell as yet. And till we have ſeen the Nature of the thing, and what is neceſſary to prepare it for the Court, I cannot venture to give it its proper Term. But our Time is ſo ſhort, if your Lordſhip will afford us no longer, that we know not how to be ready for it. Your Lordſhip does ſpeak of Mr. Attorney's being attended with the Subſtance of the Plea, not tying us to the Form in the Copy deliver'd to him. Mr. Attorney was here upon Saturday, when this Matter was firſt ſtarted, and he knew the Subſtance then: We know not what it is more than by Report. It is a Plea that ſo rarely happens, that we muſt be cautious in what Form we put it. 'Tis, as your Lordſhip hath been pleaſed to ſay, an horrible Treaſon, that in the Indictment is ſpecify'd. We muſt not ſpeak, nor do not mitigate the Heinouſneſs of the Crime; nor do we ſpeak it becauſe it is Term-time, and may hinder our other Buſineſs: We ſhall all of us, I am ſure, not at all conſider our own Time, or Loſs in the Matter; but it being of ſo great weight, we deſire reaſonable time to do our Duties: we name no time, nor dare do it; we ſubmit that to the Court. But, my Lord, under favour, for the Copy of the Indictment, we do conceive 'tis neceſſary that we ſhould ſee a Copy of it; and when the Court is pleaſed to admit the Party to give in a Special Plea to the Matter he is accuſed of, and aſſign him Counſel to plead it, I take it to be very rational and conſonant to Law, that we have a Copy of the Charge.

L. C. J. Sir *Fran. Winnington*, for you to come and ſay theſe things here, methinks is very ſtrange: I think you can ſhew us no Precedent, that ever ſo long time was given to any Man to plead to the Juriſdiction of the Court, nor that ever a Copy of the Indictment was granted in High Treaſon; and for you, becauſe of the greatneſs of the Treaſon, therefore to go about to make us believe, that it is more reaſonable that a Copy of the Indictment ſhould be granted in this Caſe than in another, that the Greatneſs of the Crime ſhould be meritorious, and deſerve a Favour of the Court, not granted in other Caſes, is a thing extraordinary.

Sir *Fran. Win.* I do not preſs it that way, I pray I may be underſtood aright; upon what appear'd the other Day, upon the nature of the Plea, I preſent it to your Conſideration, Whether or no, when you have been pleaſed to admit a Special Plea, you will not let us ſee that which we are to plead to?

L. C. J. No, it was never thought of ſurely.

Mr. Juſt. *Dolben.* No, it hath been conſtantly denied in Caſes of Felony and Treaſon, and ſo you will find the Practice to have always been. But I'll tell you what hath been done ſometimes; They have granted ſome Heads out of the Indictment, that ſhould enable the Party to fit his Plea to the Charge, and that was done in *Wittypole*'s Caſe, upon a Plea of *Auter forti acquit.* They gave him the Times, and ſome other Circumſtances, to fit his Plea to his Caſe; but never was there a Copy of the Indictment granted.

Mr. *Wallop.* My Lord *Coke*, in his Preface to the third Report, declares, That it was the antient Law of *England*, and ſo declared by Act of Parliament in *Edward* III's time, That any Subject may, for his neceſſary Uſe, have acceſs to Records and Copies of them, be they for the King or againſt the King; and that the Practice to the contrary is an Abuſion.

L. C. J. So then, Mr. *Wallop*, you take it, that we are bound when any Man is indicted of Felony or Treaſon, or any capital Crime, if he ſay he muſt have a Copy of the Record, we muſt grant him a Copy of the Indictment: if you think ſo, the Court and you are not of the ſame Opinion.

Mr. *Wallop.* I inform the Court what I have read and ſeen, and where 'tis to be found.

Mr. *Williams.* My Lord, it may be neceſſary, for ought we know, for him to plead over to the Fact laid in the Indictment, Not Guilty, as ſometimes it is requiſite for the Party to do. Now if we ſhould miſtake for want of having what is neceſſary, and thereby preclude him of the Advantages he might have had if the Plea had been rightly drawn, for ought I know, it will lie upon me for ever. My Lord, I do it merely out of Caution, and for my own Reputation ſake: If any legal Advantage ſhould be loſt by my Unwarineſs, it will be a perpetual Reflection upon me; and therefore I am ſo earneſt in this Caſe. And, my Lord, I can tell you what was done in a Caſe wherein I was of Counſel; it was not a Caſe of Treaſon indeed, but it was Murder, the next Crime to it; it was the Caſe of *King* and *Thomas*: *Thomas* was indicted of Murder in one County, and found guilty of Manſlaughter; and afterwards was indicted for the ſame Murder in another County, and being to plead this Matter, I did inſiſt upon it, that we ought to have a Copy of the Indictment. There was ſome Debate about it, but at laſt we had a Copy, and we alledg'd there, as here, it was impoſſible to plead without it; and the Cauſe was removed hither into this Court for Judgment.

Mr. Juſt. *Dolben.* The firſt Indictment you might have a Copy of, for you were to plead the whole Record.

Mr. *Williams.* Nay, we had a Copy of that to which we pleaded.

L. C. J. Mr. *Williams*, you tell us, you may peradventure have occaſion to plead over when you know 'tis High Treaſon that you are indicted of, in framing and publiſhing a treaſonable Paper. Can't you direct your Client to plead over without a Copy? Certainly what you alledge in that, for a Copy of the Indictment, is *Non Cauſa pro Cauſa.*

Mr. Juſt. *Jones.* What prejudice will it be to your Client to plead over?

Sir *Fran. Win.* My Lord, we only offer theſe Things for our ſelves, and we hope we ſhall not be preſſed to do ſuch a thing as this, without having reaſonable Time to conſider and deliberate of it, and without having what is neceſſary in order to it.

[*Then Mr. Attorney being ſent for, came into the Court.*]

L. C. J. Look you, Mr. Attorney, theſe Gentlemen that were aſſign'd of Counſel for *Fitz-Harris*, do move the Court here, and ſay, they would have longer Time to draw up his Plea, for they muſt make uſe of ſeveral Copies of Papers, and they cannot ſo ſoon obtain them, nor find out thoſe Records they muſt uſe, or other things as ingredients to this Plea, in ſo ſhort a time; and they ſay likewiſe, that they deſire a Copy of the Indictment. Now, in truth, they ought to have given you notice of this, that you might have been here likewiſe to hear what they ſay: If you do conſent to give them longer Time, we ſhall be ready to do it; but without it, we ſhall not be willing to delay it.

Mr. Att.

Mr. *Att. Gen.* I think your Lordſhip and the Court gave them a very juſt and reaſonable Time, when you allowed them four Days; and theſe Gentlemen are miſtaken, if they think they are aſſigned as Counſel to all Events. They are only to draw up a Plea upon that Matter that is alledg'd by the Priſoner, and to the Juriſdiction of the Court.

Sir *Fran. Win.* No, my Lord, I beg your Lordſhip's pardon: The Rule is to plead the ſpecial Matter without more ſaying.

Mr. *Att. Gen.* My Lord, under favour, it is as I ſay, and ſo is the Courſe of Law; for the Priſoner ought to acquaint you with the Points he deſires his Counſel to be heard to: And in this Caſe, *Fitz-Harris* did acquaint the Court before he would plead, that he had ſomething to object to the Juriſdiction of the Court; and ſo his Wife directed him when ſhe gave him the Paper. I ſuppoſe ſhe had other Advice upon it; for ſhe could not draw it up in that Form it was, her ſelf: and he did acquaint the Court, he had Matter to plead to the Juriſdiction of the Court, and concluded ſo in the Paper that was read. And thereupon, according to his Prayer he had Counſel aſſign'd him, theſe Gentlemen. I conſented to it, as it was juſt I ſhould; but that they ſhould think, that they are to adviſe him in other Matters than that particular upon which they are aſſign'd, I know they know their Duty better than to offer at any ſuch thing. Now ſince then there is but one ſingle Point, the Juriſdiction of the Court and nothing elſe, for they are not to adviſe in other Matters; I think it was more than ſtrict Juſtice, nay, it was a very great Favour, for all Men ought to be ready to plead ſuch Pleas immediately.

L. C. J. Yes, in ſtrictneſs, we might have required him to plead as he would ſtand by it, preſently.

Mr. *Att. Gen.* The Law is, that he muſt have all ready, *in Poigne*, to make it appear that what he avers in his Plea is ſo; therefore you needed not to have given him any longer Time: But becauſe all the World might ſee the Court and King's Counſel dealt fairly in this Matter, and did not mean to take advantage of any thing that look'd like a Surprize, I conſented to that time that your Lordſhip was pleaſed to ſet: And as for the Copy of the Indictment, I know not any reaſon they have to deſire it; for they are not to adviſe in that, what Defence he ſhall make, but only upon this Matter he hath alledged.

L. C. J. Look you, Gentlemen, what Mr. Attorney tells you, is ſo, and we do expect that you ſhould conform your ſelves to it: We have given you three Days time, which is ſufficient for ſuch a thing as this. And Mr. Attorney, we told them thus, when we did direct them, That they ſhould deliver you a Copy of the Plea to-morrow Morning. We are not ſo critical with them, as that we will not receive their Plea, if it be variant in Form from that which they deliver to you. That that we intend by it, is this, That they ſhould deliver you a Plea, the ſame in Subſtance as that which they do plead here: If they would alter it in the Form, we can give them leave to do that without any Prejudice.

Mr. *Att. Gen.* We will never pinch them in Form, I think I have Matter enough.

L. C. J. I tell you truly, I do believe ſome Friends of his had Counſel to draw up this Plea for him.

Mr. *Att. Gen.* A great Cabal, no doubt of it, my Lord!

Mr. *Wallop.* My Lord, I deſire that Counſel may be aſſigned in my place.

L. C. J. We aſſign'd him thoſe that he requir'd, excepting Sir *William Jones*; and we did not deny to put in Sir *William Jones*'s Name becauſe we would not aſſign him, but becauſe he hath declined the Bar, and does not practiſe here.

Mr. *Williams.* We do not draw in the Name of Sir *William Jones*, or decline him: we ſubmit to your Order about our ſelves; but we deſire that Perſon that did draw this Plea, may be added to us.

L. C. J. If his Wife deſire it, and will name him, it ſhall be ſo.

Mr. *Williams.* I deſire to be put out, and he put in.

L. C. J. Sir, he underſtands what he would have, ſure! and we can't diſcharge you, upon any ſuch account.

Mr. *Wallop.* Here are many Particulars and many Averments, which cannot ſo ſuddenly be ſet right, as the time allotted.

Mrs. *Fitz-Harris.* My Lord, there is not half thoſe Gentlemen aſſigned that I writ to my Husband to ask for: I directed him eight.

L. C. J. Who elſe would you have?

Mrs. *Fitz-Harris.* There was in the Paper Sir *William Jones*, his Majeſty's late Attorney-General, Sir *Francis Winnington*, Mr. *Williams* late Speaker of the Houſe of Commons, Sir *George Treby* Recorder of *London*——

Mr. *Pollexfen.* Your Lordſhip may eaſily perceive by this Gentlewoman's Carriage, how we are like to be inſtructed in this Cauſe, when nobody follows it but ſhe.

L. C. J. Do you deſire Sir *George Treby* ſhould be added?

Mrs. *Fitz-Harris.* Yes, I do.

L. C. J. Let it be ſo then.

Mrs. *Fitz-Harris.* And Sir *William Jones*; I will do what I can to get him to come.

L. C. J. We will not enjoin him; but if he pleaſes, we leave him to his Liberty.

Mr. Juſt. *Dolben.* Why, Miſtreſs, you are got into the hands of Gentlemen that are as learned and able in their Profeſſion, as you can have; you need no more.

L. C. J. Do you deſire Mr. *Smith?*

Mrs. *Fitz-Harris.* Yes, my Lord.

L. C. J. Then add him.

Mr. *Pollexfen.* We deſire that there may be leave for a Sollicitor, one that may carry Papers in the preſence of the Lieutenant.

L. C. J. We have Confidence in you, but not in other perſons; therefore we muſt conſider of that: But what think you of it, Brothers? We may permit, I think, one to come from the Counſel to him, with that Caution.

Judges. Yes, my Lord.

L. C. J. Let the Papers then be inſpected before by the Lieutenant of the Tower, and be from one of the Counſel; and ſo they have liberty to do it.

Mr. *Att. Gen.* There is no need of any Papers, my Lord——

L. C. J. Mr. Attorney, do not oppoſe that: Let them have liberty to carry any Papers that any of their Counſel, theſe Gentlemen we have aſſigned, ſhall ſend to him or any from him to them; ſo as the Lieutenant may have firſt the ſight and peruſal of them.

Mr. *Att. Gen.* There is no great harm in that, though I ſee not that they will need any Papers.

L. C. J.

L. C. J. Yes, their Plea to the Jurisdiction must arise upon Fact, which may be out of some Papers.

Mr. Att. Gen. You are assigned, Gentlemen, but to one Point, the Jurisdiction of the Court; remember that.

Mr. *Pollexfen.* Your Lordship is pleased to say, That we may vary in Form from what we delivered to the Attorney-General; and Mr. Attorney is pleased to say, he will not pinch us as to Form: How shall we be secure no advantage shall be taken of the Form?

L. C. J. 'Tis only as to that particular. You shall not be tied up to the Form you deliver to him. What Advantages there may be concerning the Form of the Plea you bring hither, we will see shall not be taken.

Sir *Fran. Win.* Will your Lordship please to afford us no longer time?

L. C. J. When you are to plead to the Jurisdiction of the Court in a Case of High Treason, and such a Treason as this is, what reason is there that so much time as is granted already, should be given you?

Sir *Fran. Win.* Shall not we have a Copy of the Indictment neither?

L. C. J. You will offer things that are not to be granted to you, *ad captandum populum*, that you may say you are hardly used, and mightily straitned in this Case.

Sir *Fran. Win.* No, my Lord, we do not offer it for any such end.

Mr. Att. Gen. Gentlemen, remember you have not liberty to plead any thing but to the Jurisdiction of the Court.

Sir *Fr. Win.* We must submit to what your Lordship orders in it.

[*Upon Wednesday the 4th of* May 1681. Edward Fitz-Harris *was brought from the Tower to the King's-Bench-Bar.*]

Cl. of Crown. Edward Fitz-Harris, hold up thy Hand: (*which he did*) Thou hast been indicted and arraigned for High Treason; How sayst thou, art thou guilty of the High-Treason whereof thou standest indicted, and hast been arraigned, or not guilty?

Mr. *Fitz-Harris.* I have made a Plea, my Lord, which I desire may be received and allowed.

Mr. *Wallop.* May it please your Lordship, I desire to be heard a few Words.

L. C. J. Would you not have the Plea read?

Mr. *Wallop.* I have but a few Words to say before it be read, if your Lordship please, for our selves, or at least for my self. According to the best Instructions we have had, we have drawn up this Plea, and I pray it may be entred so. But, my Lord, I humbly conceive we have not had, or for my own part I have not had those Instructions that were fit to direct me in this Case. It is a special Plea, and of a Matter that rarely happens; and the nature of this special Plea is, that the Matter contained in the Indictment and in the Impeachment, is one and the same Matter. Now I have not yet seen, nor could I come at a sight, though I desired it, of the Impeachment, nor of the Indictment: But I humbly conceive, that by the Law, as this Case is upon a special Plea, the Prisoner ought to have a Copy of the Indictment. And I do not say that every one may demand a Copy of his Indictment, to find Faults; but upon a special Plea, and particularly upon this, I humbly conceive he ought to have a sight and a Copy of his Indictment.

L. C. J. What, would you not have your Plea receiv'd?

Mr. *Wallop.* Thus, my Lord: If we can have no further Instructions, nor can by any other means come to a sight of these Things, then it is the best Plea we can make in such a Case, and I avow the Plea; but if any thing should fall out amiss to the Prisoner for want of such a sight, I pray it may not lie upon me.

L. C. J. Read the Plea.

Cl. of Crown. *Et prædictus Edwardus Fitz-Harris in propria persona sua ven. & dic. quod ipse ad Indictament. prædict. respondere compelli non debet, quia dic. quod ante Indictament. præd. per Jur. præd. in forma præd. compert. scil. ad Parl. Dom. Reg. nunc incohat. & tent. apud Oxon. in Com. Oxon. vicesimo primo die Martii anno Regni dict. Dom. Reg. nunc triceſimo tertio, ipse idem Edw. Fitz-Harris per Milites Cives & Burgenses in eodem Par. assemblat. nomine ipsor. & omnium Com. Angliæ, secundum legem & cons. Parl. de alta proditione coram Magnat. & Procerib. hujus Regni Angl. in eodem Parl. assemblat. impetit. fuit; quæ quidem impetitio in plenis suis robore & effect. adhuc remanet & existit, prout per Record. inde inter Recorda Parliamenti remanens plenius liquet & apparet. Et præd. Edw. Fitz-Harris ulterius dic. quod alta Proditio in Indictamento præd. per. Jur. præd. in forma præd. compert. specificat. & mentionat. & alta Proditio unde ipse prædict. Edw. Fitz-Harris in Parl. præd. modo ut prefert. impetit. fuit & existit, sunt una & eadem alta Proditio, & non alia neque diversa; & quod ipse præd. Edw. Fitz-Harris in Indictamento præd. nominat. & præd. Edw. Fitz-Harris in impetitione præd. nominat. est una & eadem persona, & non alia neque diversa: & hoc parat. est verificare, &c. Unde ipse præd. Edw. Fitz-Harris petit. Judicium si Cur. Dom. Reg. hic super Indictamentum præd. versus ipsum ulterius procedere vult, &c.*

Mr. *Williams.* My Lord, we humbly pray, being assigned of Counsel for this Gentleman Mr. *Fitz-Harris*, that this Plea may be received.

L. C. J. Mr. Attorney, have you been attended, according to the Rule of Court, with this Plea?

Mr. Att. Gen. No, my Lord.

L. C. J. What is the reason of that?

Mr. Att. Gen. Here is no more in effect, than what was offered four Days ago, when Counsel was allowed him. I sent last night late to them for a Copy of the Plea: Indeed yesterday at Noon they sent me this Note, That *Fitz-Harris* intends to stand upon his Plea, that he stands impeached in the House of Peers. I sent to know of them whether they would plead this to the Jurisdiction, or in Abatement, or in Bar: They declared, they would not plead to the Jurisdiction, but now I see 'tis to the Jurisdiction.

L. C. J. It is so; and that he proposed to plead at first.

Mr. Att. Gen. It is true too, my Lord: But thus they sent me word.

L. C. J. And as a Plea to the Jurisdiction, so it concludes.

Mr. *Williams.* My Lord, we have done all that is possible for us to do in this Case. The Court directed us to attend Mr. Attorney with the Substance, and so we have done; but the Form, we had liberty to do as we pleased in.

L. C. J. You need not go about to excuse it that you have not done it; we charge you with nothing.

Mr. *Williams.* I don't go about to excuse it; we don't take it as a Charge upon us.

L. C. J. All we ſay is this: If Mr. Attorney had had it, peradventure he might have conſidered of a Replication by this time, or what he would do concerning it; but if he hath not had time, we cannot expect it from him.

Sir *Fran. Win.* My Lord, I only beg one word as to Matter of Fact, and 'tis material as to our ſelves to urge it. We did ſend ſeveral Meſſengers to get, if it were poſſible to be obtained, a Copy of the Impeachment in Parliament. We ſent to the Houſe of Lords Clerk to get it, but they that went down, tell us the Clerk is not in Town; or elſe we had ſent Mr. Attorney the whole Plea at that time.

L. C. J. I only ask the Queſtion, to ſee whether Mr. Attorney hath had time to think of it.

Mr. Att. Gen. My Lord, I think I need not any time in this Caſe.

L. C. J. Pray go on, Sir.

Mr. Att. Gen. My Lord, I do pray your Judgment upon it; for 'tis a Plea that is inſufficient: nay, 'tis no Plea to bar you of your Juriſdiction. Firſt, I obſerve that whoſoever will plead a Plea to the Juriſdiction, if he have any Record to plead, muſt have it in *poigne*, muſt produce it in the Court, or at leaſt muſt produce a Copy ſworn, that the Court may ſee there is nothing dilatory in the Caſe. And for this Matter, it will appear upon Examination to be a plain frivolous Plea; for there is no ſuch Matter depending as this Plea alledges. But I ſpeak of it as a Plea to the Juriſdiction of the Court; and ſuch an one as will plead ſuch a Plea, he muſt have the Record ready, to ſhew it to the Court, and by the Courſe of Law ought to have it ready to aſſert to the Court, that they have not Juriſdiction: So then 'tis certainly naught. That is the firſt thing. Another thing is this, with Submiſſion; I ſay, They have pleaded no Record at all, nor any Impeachment at all, as this Caſe is; for the Notes that I have taken, my Lord, are, They ſay he was impeached by the Commons *de alta Proditione*; but that is naught: He ought in his Plea to have ſet forth his Impeachment, and for what Crime particularly; for either an Indictment or an Impeachment *de alta Proditione*, or Felony, or any other Crime, is naught, the Law allows it not. He ought to ſet forth, and muſt not aver upon a Record, but ſet it forth *in hæc verba*, or in the ſubſtance of it; and ſo ought to plead the Record intirely as it is. And for thoſe neceſſary Averments that cannot otherwiſe be made, the Law allows of them. But in this Caſe he cannot come and aver upon this Record; for he hath ſet forth the Impeachment not as it was, but only barely *de alta Proditione* in general, which the Record muſt ſhew, ſo as the Court may judge of it, and it muſt not be intended. But as they have ſet it forth, in this Caſe there is nothing of Treaſon ſpecify'd in the Record averred, that can intend this to be the ſame; and, my Lord, ſo are all the Precedents. Whoſoever pleads a private Act of Parliament, muſt plead it as it is, not in general that it is for the ſame Matter; for I take it then 'tis naught: and we are in your judgment, that this is no Plea to the Juriſdiction upon that Point.

L. C. J. Mr. Attorney, Do you think it prudent to argue it this time, or will you take a Day? Pray conſider of that a little.

Mr. Att. Gen. My Lord, I think Delay is very dangerous and miſchievous in this Caſe.

L. C. J. We can give you as ſhort a Day as you pleaſe.

Mr. Att. Gen. But to ſatisfy the Court, the Clerk will be ready with the Journals, to ſhew that the Fact is not as they plead it.

L. C. J. Look you, Mr. Attorney, we muſt go on in a legal and formal way, when we have a Plea put in; therefore whether you will not take time for a Day or two to conſider of this Plea: you had the Subſtance of it, but nothing concerning the Manner of the Pleading; they would not tell you whether they would plead it in Abatement, or in Bar, or how: Therefore whether you will not take time to conſider of this pleading for a Day or two, pray conſider with your ſelf.

[*Then the King's Counſel conſulted one with another.*]

Mr. Att. Gen. My Lord, not only for what I have already offered, but for many other Reaſons, we can ſee this can be no way a Plea to the Juriſdiction of this Court; for upon any Impeachment or Indictment, the King hath Election to proceed upon which he will: and if there were ten Indictments for one and the ſame thing, if none of them are come to a Judgment, the King may proceed upon which he pleaſes, as in that Caſe of *Ireland* yeſterday; though the Party were arraigned and ready to be try'd in *Ireland*, yet the King might, if he pleaſed, try him here, and the King hath ordered it ſo to be. But, my Lord, I take it, that this is not only apparently a falſe Plea, but a frivolous Plea in itſelf, being to the Juriſdiction of this Court: For there was never any thing of a Crime ſo great, but this Court of *King's-Bench*, which hath a Sovereign Juriſdiction for Commoners eſpecially, could take Cognizance of it; and I put it upon that, my Lord. Never was ſuch a Plea pleaded to your Juriſdiction; and therefore we pray your Judgment upon it.

Mr. Sol. Gen. My Lord, before we come to that which is the Queſtion, if there were ſuch a Plea pleaded to the Juriſdiction as they would have this to be, we humbly pray the Judgment of the Court, whether this be any ſuch Plea at all as can bear any Debate: For it will not be a Queſtion now, how far an Impeachment depending is a bar to your Juriſdiction, but the Queſtion is, firſt, whether this be ſuch a Plea? For, my Lord, I do take it, No Man can plead any Record in another Court, any Indictment or Acquittal upon it, by pleading it in this Form as this is pleaded, by ſaying generally, that ſuch a time in ſuch a Court, he was indicted for the ſame Offence and was acquitted; yet thus this Plea is, and no more. But he that will plead *auter foitz acquit*, muſt plead that ſuch a time he was indicted in ſuch a Court, and ſet forth the Indictment and all the Proceedings of that Court upon that Record, and then 'tis proper for Judgment; ſuch a Plea is formal, and requires an Anſwer, and it will be proper for us to give it an Anſwer: and when ſuch a Plea is put in, we ſhall either demur to it, or give it the Anſwer that it requires, of *null tiel Record*. But this does not require any particular Anſwer, becauſe it ſets forth no Record at all that we can anſwer to: for it is not ſufficient to ſay in general, that he was indicted and acquitted, or impeached, and then aver that it was for the ſame Offence; but he ought to ſhew forth the Impeachment, and ſet forth in the Plea the Record, that upon it you may paſs a certain Judgment. Therefore we hope you will ſet this aſide, as not being at all formal, or requiring any Anſwer to it.

Mr. Serj. *Maynard*. My Lord, If you pleaſe to conſider in this Caſe what is the Queſtion, and what

what not. At preſent 'tis not the Queſtion whether if a Man be impeached of High Treaſon by the Commons before the Lords, and this Impeachment ſtands unreverſed in the Court of Parliament; I ſay, 'tis not the Queſtion whether this Court have Juriſdiction over this Man for that Offence, but the Queſtion is, Whether he hath put in ſuch a Plea before you as will put that in queſtion? Under favour, 'tis not ſufficient for him that will plead a particular Record, in bar or other way, and make uſe of it that he plead it in general Terms, but he muſt ſet forth that Record as it is; he muſt not give you the Title only, or ſay, he was indicted for ſuch a thing generally, but he muſt ſo ſet it forth to the Court, that if Iſſue be taken, the Court may by comparing the Record with the Plea, judge whether it be the ſame Matter or no. Now when he pleads he was impeached for the ſame Treaſon, he muſt ſet forth what that was, that it may appear it was for the ſame Treaſon; and if that be particularly ſet forth as it ought, upon *null tiel Record*, the Queſtion will be, Is there ſuch a Record or not? Now if he comes and ſays he was indicted or impeached, and not for what in particular; the two things that upon the Iſſue are to be compared, are not made ſo fit for your Judgment. In our Law, my Lord, if a Man will plead, he need not ſet forth a general Act of Parliament; but if he will plead a particular Act, he muſt ſet forth the Matter of it, to bring his Caſe under the Judgment of the Court; and whether this be ſo pleaded or no, we ſubmit it to you.

L. C. J. Pray let me ſpeak two or three Words to you: Do you ſpeak it againſt our receiving of the Plea?

Mr. Att. Gen. Yes, my Lord, we hope you will not admit ſuch a Plea.

L. C. J. That will be hard. Pray then conſider with your ſelf, whether if it be an inſufficient Plea (for we'll ſay nothing at preſent to that) and if the Plea be ſuch that no Iſſue can be taken upon it (admitting it were ſo) whether you ſhould not demur to it, before you demand our Judgment, that we may have ſomewhat upon the whole before us to judge upon? And I ſpeak it to you, Mr. Attorney, to this purpoſe, that you may conſider, whether you ſhall think fit to demur to this Plea, or whether you ſhall think convenient to take Iſſue upon it, or to reply to it; that it may come judicially for our Opinion: for in a regular way, if a Plea be admitted, it muſt be either demurred to, or reply'd to. Pray conſider of it in this Caſe, and we will give you time to conſider if you pleaſe.

Mr. Serj. *Maynard.* Under favour, my Lord, if a Plea be apparently vitious when it is upon Record, we need not demur to it, nor take Iſſue; for elſe the miſchief will be, we ſhall admit all that is well pleaded to be true.

Mr. Serj. *Jefferies.* My Lord, if your Lordſhip pleaſe, I do confeſs that according to the uſual Courſe and Practice, if there be a doubt upon a Plea that is read, whereon any Point in Law may ariſe, you do put the Party to demur or take Iſſue: but according to the common Courſe of this Court in common Caſes, and much more in extraordinary Caſes, and eſpecially in capital Caſes, and moſt of all in a Caſe of High Treaſon, ſuch as this, if it do appear to the Court and your Lordſhip, that the Plea is in its nature a frivolous Plea, you do uſually refuſe to admit ſuch a Plea, and give Judgment upon it. Now we would acquaint your Lordſhip with our Apprehenſions in this Caſe, and we would pray you to conſider what the danger may be upon us to demur, if this Plea be frivolous, as it appears to be: For whether an Indictment in this Court, or an Indictment in another Court be for one and the ſame Offence, and ſo a bar to the Juriſdiction, we are not ſo much as admitted into the Queſtion of that, as this Plea is. Whereas according to the Courſe in other Pleas, we pray you would be pleaſed to ſee the Inconvenience, if we ſhould be put to demur to it; for then we do admit by this Demurrer, that this Impeachment is for one and the ſame thing; and we humbly conceive, my Lord, that is a little dangerous. How then will it be poſſible for you ever to judg, that the Impeachment (which in Fact is otherwiſe) and the Indictment is for the ſame thing, unleſs you will put them to purſue the common Methods, how it was in the Houſe of Lords, by ſhewing forth the Record? And what can we do otherwiſe (it being apparently againſt the common Form of Pleas, and manifeſtly for Delay only) than pray the Judgment of the Court, which we hope will be to reject this Plea?

L. C. J. Brother *Jefferies*, you need not be afraid, that you ſhall be concluded by this Demurrer, that there is ſuch an Impeachment in the Lords Houſe for the ſame Offence: there will be no colour for it. And Brother *Maynard*, formerly I confeſs, when they pleaded Pleas *Ore tenus*, and took their Exceptions *Ore tenus* too, they would demand Judgment of a Plea preſently; and ſo it was in the Biſhop of *Wincheſter*'s Caſe, 3 *Edw.* 3. where there was an Indictment againſt the Biſhop here in this Court, for going away from the Parliament at *Shrewsbury*, without the leave of the Lords: There *Shard* comes in, and pleads *Ore tenus* this Matter, and ſays, this is a thing that concerns the Lords in Parliament, of which they have Cognizance only, and ſo prays the Judgment of the Court preſently, Whether they have Juriſdiction of the Cauſe or no? and he pleads it in Abatement. There they overruled him preſently without any more to do, becauſe their Pleadings were not as now they are; now they are grown into a formal Way, all entred upon Record, or at leaſt written in Paper: and what ſhould be the Reaſon why you ſhould not do according to the common Courſe of the Court, I leave it to you to conſider of it.

Mr. Serj. *Maynard.* It is very true, my Lord, antiently the Courſe was ſo, my Lord, and the Law was ſo too, to plead *Ore tenus*, but pleading in Paper is the ſame thing; and the Courſe of the Court hath been, when they ſaw it in Paper to be a frivolous Plea, to give Judgment preſently: and you have the ſame Privilege upon this account, as they had when Pleas were by Word of Mouth. If there be a Demurrer, it may hang longer than is convenient this Cauſe ſhould do.

L. C. J. Do not ſpeak of that, Brother *Maynard*; as to Delay, you ſhall take as ſhort a Day as you will.

Mr. Att. Gen. I have looked upon all the Precedents, and could never meet with one Demurrer where the Plea was to the Juriſdiction: but I pray your Judgment upon the firſt Matter, whether whoſoever pleads to the Juriſdiction, ought not to have the Record *in poigne* to juſtify his Plea? In a Plea in bar indeed it may come in by *Mittimus*, but in a Plea in Abatement, the Party ought always to be ready with thoſe Matters, that are to out the Court of their Juriſdiction; and beſides, the Court is to maintain their own Juriſdiction, the King's Counſel have nothing to do to aſſert that,

but they ought to avoid all things that may be to the King's Prejudice, and therefore it ought to be by the Judgment of the Court in this Caſe ſet aſide. But I do think you will never find a Demurrer that was to a Plea to the Juriſdiction.

L. C. J. Pray conſider of that.

Mr. Att. Gen. But if it appear to be a frivolous Plea in the Form or in the Matter, you will not put us ſure to demur.

L. C. J. If you do inſiſt upon it, that you won't demur, nor do nothing, we will give Judgment; but we will take time to conſider it, if you won't demur, nor take Iſſue, or reply.

Sir *Fran. Withins.* Will your Lordſhip pleaſe to ſpare me one Word? As it hath been obſerved to your Lordſhip, this is a Plea to the Juriſdiction of the Court; and if they do plead a Plea of that nature, the Court always expects the Plea ſhould be ſubſtantially good, otherwiſe it is not to be received. Now it is not ſubſtantially good here; for it ſays, that *Fitz-Harris* was impeached of High Treaſon: now ſuch an Impeachment is nought, for no body can be impeached of High Treaſon generally. It ought to come and ſet forth the particular Acts that make up the Treaſon; for the calling of a thing ſo, does not make it ſo: Therefore they that would plead this Plea, muſt come and ſhew that there is an Impeachment that hath ſuch Matter in it as does amount to Treaſon; ſo that then it being a naughty Plea in the Subſtance of it, and the end of it to put this Court out of a Juriſdiction, we hope for that Reaſon you will not receive it.

Mr. *Sanders.* One Word further, if your Lordſhip pleaſe, on the ſame ſide for the King. As for this Plea that he hath pleaded here, if it had had ſubſtantial Matter in Law, whereupon to ground a Debate, we ſhould not preſs your Lordſhip not to receive it, but we muſt get off of it as well as we could; but when it is manifeſtly pleaded merely for Delay, and it ſo appears to your Lordſhip upon the reading of it, and that there is nothing of Subſtance in it, then we hope you will not receive it, nor put Mr. Attorney to demur to it, or take Iſſue upon it. Now for the Plea, the Caſe is thus: Here is an Indictment for Treaſon againſt Mr. *Fitz-Harris*, for conſpiring the Death of the King, compaſſing of it, and declaring ſuch his Intention by a venomous Libel. Now he comes and pleads to out this Court of their Juriſdiction; and what does he plead? He ſays he was formerly impeached of High Treaſon in the Parliament, that is all he ſays concerning the Impeachment; then he does come and make an Averment, without ſhewing more that this High Treaſon, and that for which he was impeached, is the ſame; and takes upon himſelf to judge, whether the Court will or not, and will not ſubmit it to the Court, which certainly is not the right way of Pleading. If Mr. *Fitz-Harris* ſhould come and plead *auter foitz acquit*, That he had been tried at another time for the ſame Offence and acquitted, he ſhould not have ſaid generally he had been formerly indicted and acquitted, and this for the ſame thing; but he muſt have ſhewed the Record, and then averr'd upon the Record, that it was for one and the ſame Crime. For ſuppoſe in this Caſe, which would have appeared perhaps to be ſo, if he had done as he ſhould have done, ſhewn that there was ſuch an Impeachment, whereby he was impeached of High Treaſon, and which Impeachment did charge him with Treaſon for levying War againſt the King, and then have made a Concluſion as he does now, with an Averment, that the Impeachment and the Indictment was for one and the ſame Offence: Under favour, notwithſtanding his Averment, the Court would have adjudged them not to be the ſame; for if ſo be the Treaſon do not appear upon the Record to be the ſame, his Averment will ſignify nothing; why then his Pleading now thus inſufficiently for want of the Record, will be better for him than if he had pleaded it ſufficiently. Why then if he had now pleaded, that there is a Record of the former Impeachment, and ſet forth the Record, and then averred this was for the ſame, Mr. Attorney might take Iſſue either there was no ſuch Record, or ſaid it was another Treaſon, and traverſed it that it was not for the ſame; and ſo there would either have been one Tryal by the Record, or the other upon the Fact, by the Country. But now as he hath made it, this Tryal both upon the Record, and upon the Fact, is only triable by the Country, not by the Record. For if Mr. Attorney take Iſſue that there is no ſuch Record, then all the Record is, that he was impeached for High Treaſon, and then a Record of Impeachment for any High Treaſon would ſerve the turn, which if it be not for the ſame, it ought not: ſo then the Iſſue of *null tiel Record* could not be taken. Why then now, my Lord, as to the Fact; If Mr. Attorney take Iſſue, that it was not the ſame Treaſon, then the Record muſt be try'd, that is, whether there was ſuch a Record that does contain an Impeachment for the ſame Treaſon for which he ſtands indicted; this I ſay, muſt be try'd by the Country. And if he have pleaded it ſo, that matter of Record upon Iſſue muſt be try'd by the Country, for that Reaſon his Plea is naught; and if that be ſo, then the Court may be ſatisfy'd, that 'tis apparently pleaded only for Delay, becauſe he would not come to the principal Matter, and plead Guilty or not Guilty, which is the Matter of Fact moſt proper for the Country. I rather hope he is not Guilty than that he is: but if he be Guilty, 'tis the moſt horrid venomous Treaſon as ever was ſpread abroad in any Age. And for that reaſon your Lordſhip will not give Countenance to any Delay. And therefore we pray the Plea may be rejected, and he may anſwer over.

Mr. Att. Gen. He hath not pleaded *prout patet per Record.*

L. C. J. Yes 'tis *prout patet in Rotulis Parliamenti.* He does ſay that he was impeached of High Treaſon by the Commons, before the Lords, as appears by the Records thereof amongſt the Records of Parliament.

Mr. Att. Gen. I did not truly remember that, but I beg your Pardon if it be ſo, for I had not a view of the Plea till now; but I am ready thus far to ſatisfy the Court, 'tis a pure falſe and frivolous Plea. And then with Submiſſion I offer it to your Conſideration, whether you will give any time, or preſently reject it.

L. C. J. We will give them no time, that is ſure. But the Queſtion is, whether time ſhould not be taken, not in Favour of the Priſoner, but of the King and of the Court?

Mr. Att. Gen. I am ready to make out, if it were neceſſary, that there is nothng of all this true, 'tis all Fiction that is pleaded, and nothing in the Record to warrant it; I have a Copy of the whole Journal, and of the Tranſactions in the Houſe of Lords, the Book is cloſe by and ready to be ſhewn: but when 'tis a frivolous Plea, I hope there will be no need of that trouble.

L. C. J. But, Mr. Attorney, whether we can take notice of the Journal Book now, you had beſt conſider, as this Caſe ſtands.

Mr.

Mr. At. Gen. They ought to have it here ready, they ought to have it here *in poigne*.

Mr. Juſt. *Jones*. There have been very many good Arguments urged by you, upon which perhaps the Plea will be judged inſufficient; but the Queſtion is, Whether you are now in any ſuch Form as we can paſs Judgment upon this Plea, or no? Therefore it being offer'd to you to conſider of it, what you will do in it; ſure it is reaſonable you ſhould conſider of it, and when you are agreed, then you may ask our Judgment.

L. C. J. We cannot put you to it to give a final Anſwer to bind the King: therefore let it ſtand as it is; we will conſider of it.

Mr. At. Gen. Then, my Lord, I'll demur immediately.

Mr. Sol. Gen. And we pray they may join in Demurrer immediately.

Mr. Serj. *Jeff.* If they do not mean it for delay, now Mr. Attorney hath demurred, I ſuppoſe they will join in Demurrer immediately.

[*Then the Clerk of the Crown drew up a general Demurrer, which Mr. Attorney ſigned, and it was read in the Court by the Clerk of the Crown.*]

Mr. At. Gen. We pray they may join in Demurrer.

Mr. *Williams*. My Lord, we that are aſſigned of Counſel for this Gentleman, the Priſoner at the Bar, (that your Lordſhip may be ſatisfy'd, and all that hear us, that we do not deſign or deſire to delay one Minute in this Cauſe) do declare, that we will join in Demurrer with them immediately.

[*Then the Clerk drew up the Joinder in Demurrer, which being ſigned by the four Gentlemen of Counſel with Mr.* Fitz-Harris, *was alſo read in Court.*]

Mr. Att. Gen. My Lord, I pray your Judgment; here is an Indictment for framing a treaſonable Libel——

Mr. *Williams*. My Lord, we hope we ſhall not be put——

Mr. *Att. Gen.* Pray, Sir, hear what I pray. My Lord, I deſire your Judgment, that the Plea may ſtand over-ruled for a plain fatal Error in it. This is a particular Indictment for the framing a moſt pernicious ſcandalous Libel againſt the King, and the Government, for Treaſon in that particular; and I think there is no Perſon does doubt, but that this is a Matter within the Juriſdiction of this Court to try: There is no difficulty in that. What do they do to out this Juriſdiction? They come and plead, that *Fitz-Harris* was impeached *de alta Proditione*, that's all they plead of High Treaſon in general, to out the Court of a Juriſdiction, of a particular Treaſon, for framing a malicious traitorous Libel; and this is a particular Treaſon upon the Statute of the 13th of this King. Now they have pleaded no particular Treaſon upon that Statute they were impeach'd for, nor upon the Statute of the 25th of *Edward* III. which hath a general Clauſe of a declaratory Power, and it may be he was impeached upon that, and we ſhall not intend it otherwiſe, that being the general Law, the other but a particular Law for this King's Life. Now in all Pleas to the Juriſdiction, they ought to be the ſtricteſt and moſt certain of any Pleas whatſoever. And as I offered before to you, ſo I do now again, they ought to be ready with the Record to juſtify their Plea: but this in ſhort I inſiſt upon, that to out a Court of its Juriſdiction for a particular Treaſon, 'tis not a good Plea, by ſaying he was impeached or indicted generally of High Treaſon, and no Averment can poſſibly help it. For it appears by the Impeachment 'tis not for the ſame, and 'tis rather to be intended that it was not; but the Impeachment being general, that they went upon a declaratory Power, in the Statute of the 25th of *Edward* III. which reſerves to them the Power of declaring Treaſon at large, and not upon that which may be tried here in an inferiour Court upon a particular Statute: I ſay, my Lord, they ought to have pleaded it certainly, which they having not done, 'tis fatal; and I pray your Judgment upon it: and I hope they are ready to make good their Plea.

Mr. Sol. Gen. My Lord, that which we do ſay to it, is, That this Plea is neither good in Matter nor Form; and if it had been pleaded never ſo formally, perhaps we would have demurred to it: but as now it is pleaded, it is not formal, and therefore we pray it may be over-ruled. The Exception we take to it in point of Form, we think is fatal; for there is no Man that pleads an Indictment or an Impeachment in another Court, but muſt ſet forth the Indictment in the Plea, which is not done in this Caſe, and we take that to be fatal to it: For a Man that will plead *auter foitz acquit*, muſt ſet forth the Indictment, and all the Proceedings of the Court upon that Indictment; this is the conſtant Pleading in all Caſes, and particularly in *Vaux*'s Caſe, the 4th Report. Whoever will plead *auter foitz acquit*, muſt ſet forth the Record, before it will require an Anſwer to be given to it.

L. C. J. What do you ſay to it, Gentlemen, for the maintaining of your Plea?

Mr. *Williams*. This is that we ſay, my Lord: We hope your Lordſhip, and the Court, in this Caſe, will not tye us up preſently to come and argue this Matter. One thing I would mention, becauſe it hath been ſaid there was never ſuch a Precedent; I think, to this purpoſe, the Precedent of *Elliot*'s Caſe is very full in it. Mr. Attorney is pleaſed to ſay, he never found that any Plea to the Juriſdiction did ever require a Demurrer, but was over-ruled or allowed by the Court preſently; but that Caſe is plain to the contrary upon that very Matter. It was an Indictment brought againſt *Elliot*, for ſome Miſdemeanours committed by him in the Houſe of Commons; this being pleaded to the Juriſdiction of the Court, the Attorney-General at that time ſaid it was not to be received, that was the Matter he inſiſted on then, that it ſhould be rejected: but the Court did then, as you do now, over-rule the Attorney in it, and put him to demur.

L. C. J. We have done the ſame for you.

Mr. *Williams*. Then, my Lord, here is a Precedent that Mr. Attorney hath not ſeen: Now for Time, the Court in that Caſe did not tye the Counſel up to argue the Plea preſently, but gave them time till the next Term. We ask not ſo hard a thing of the Court, as ſo long a time in this Caſe, only here is a Man's Life in queſtion; 'tis indeed for Treaſon, and ſo it is of conſequence to the King; and there is alſo the Privilege of Parliament conſequently concern'd in it. What time your Lordſhip and the Court ſhall think reaſonable for us to be ready in, we leave it to your Lordſhip; we deſign not to delay at all, only we deſire a reaſonable time. Your Lordſhip did in the Caſe of *Plunket* give him time for his Tryal till next Term, which is as high a Treaſon as this, I am ſure.

L. C. J.

L. C. J. You would have People think you have ſtrange Meaſure in this Caſe, that you have not the ſame Time given to you that was given to *Plunket*: Pray conſider you object theſe things as tho the Court were hard upon you, to tye you up in point of time. Is your Caſe like *Plunket*'s? Pray give us leave to clear our Accounts as we go along: He is brought from *Ireland* hither, is indicted for what he did in another Kingdom, and it is by Law he is ſo indicted indeed; but he being kept cloſe Priſoner, and not knowing what time he ſhould be brought to a Tryal, he deſires time to ſend for his Witneſſes, who are to be brought over to clear him of the Treaſon. Could we in Juſtice deny it him, or could there be a ſhorter time than next Term given him, when his Witneſſes are in another Kingdom, and it would be a Fortnight or three Weeks before, poſſibly, he could have his Witneſſes here? This I mention, becauſe you will needs make uſe of ſuch a Caſe, that is no more like yours, than any thing that is the fartheſt different from it; yet you will have the Caſe to meaſure with your Caſe.

Mr. *Williams*. My Lord, I know it is in the diſcretion of the Court; and as your Lordſhip did what was juſt for *Plunket*, ſo you will to this Perſon: I know you will do what is right to every body. We are Counſel aſſigned by your Lordſhip, and we doubt not but your Lordſhip will be juſt to us, and give us a reaſonable time to argue it.

L. C. J. Look you by the way, Mr. *Williams*, I muſt tell you, when we aſſigned Counſel to Mr. *Fitz-Harris*, we expected that Counſel ſhould conſider the Plea, ſo as to be able to maintain it, when they come to plead it here; for that reaſon we gave him time to plead it, ſo as he would ſtand by it: What needed we elſe to have aſſigned him ſo much Counſel in ſuch a Caſe as this is, but that he ſhould be ready? and why you ſhould now hope that we will give you a longer time for Argument in ſuch a Caſe, I ſee not. Conſider, whether in Diſcretion you think longer time ought to be expected upon ſuch a Plea as this is.

Sir *F. Win.* My Lord, we will not take upon us to preſcribe, nor to mention any time in particular, we leave that to the Diſcretion and Judgment of the Court; but this, I think, we may pray, according to the Duty we owe to our Client, upon your Lordſhip's aſſigning us of Counſel. We could not foreſee, till to-day, what the King's Counſel would do; whether Mr. Attorney would take Iſſue upon us of *null tiel Record*, or upon any of our Averments. We could not foreſee whether he would demur to us, or not. I know your Lordſhip will be as favourable to us as you can; not having thoſe Papers, or Sight of thoſe Records that were neceſſary, and would have expedited this Matter, our time was all ſpent in forming of the Plea, and we could not prepare particular Matter in Law to defend it. We are as ready as can be expected, and we have been as induſtrious to prevent any delay, as any Perſons could be in our Condition; therefore, it may be, we have had a general Conſideration of the Plea: But now we ſee where the Doubts do lie upon it; 'tis a Matter of Law pleaded to the Juriſdiction of the Court. I do not indeed love to cite Precedents upon what is plain; but withal, I do not love to ſay things upon a ſudden are plain, without Conſideration: but this I will ſay, as 'tis now upon this Demurrer joined, it is a Caſe well worth our taking care of, and yours too; I muſt ſay it with your Lordſhips leave. Therefore, if in the Caſe of my Lord *Hollis*, which was but upon an Information, and that but for a Miſdemeanour, and tho it was a Plea directly to the Juriſdiction of the Court, and certainly they came prepared, for they were all at liberty, and had reſort to all Papers and Books before the Plea pleaded, which we could not have; yet the Court was pleaſed to aſſign them time, and give them a large time, I hope we ſhall have ſome reaſonable time. I do not ſpeak it, that we ſhould have ſo long time; but I humbly beſeech your Lordſhip, that we may do our Duty to the Court, and to our Client, that we may have a little time. It is true, it is a great and a horrid Treaſon; but it is as true, here is the Life of a Man concerned in it: we do not affect delay at all, but hope you will not deny us what time is reaſonable.

L. C. J. Look you, I'll tell you; you might, if you had pleaſed, have entitled your ſelves better to have had time to ſpeak to the Plea, if you had pleaded over to the Treaſon; then we could have given you time to have ſpoken to it, and not delay'd the King at all: but you have thought fit not to plead over. I muſt confeſs, I did expect you would have pleaded over, as you might have done, and I thought you would; therefore having not done it, it is in our Conſideration, whether we will give you time, and what time we will give you.

Mr. *Wallop*. It is under your Lordſhip's Favour, according to the uſual Courſe of modern Practice. I have been an unprofitable Attendant here near forty Years, and, for my part, I did never yet ſee ſo ſwift a Proceeding as this is now; it is as ſwift as Lightning. It is a very extraordinary thing, we might well conceive, that nothing more ſhould be expected from us, than what is uſual, and that we ſhould not be put out of the ordinary Proceedings. Antiently indeed, as your Lordſhip did obſerve the other day, they pleaded *Ore tenus*, and then the Proceedings were very quick: now indeed it is otherwiſe; modern, and what we may call antient Practice too, hath made an Alteration from that Method: and we humbly pray, we may not proceed, but according to the rate of modern Practice. My Lord, whereas they are pleaſed to call it a frivolous Plea, I believe it is a Plea of the greateſt Import that ever theſe Gentlemen came here about, whatſoever they are pleaſed to ſay. But your Lordſhip knows, the Life of a Man is the greateſt Favourite in Law; and that to be a moſt antient and wiſe Rule, *De morte Hominis nulla eſt cunctatio longa*. And ſince we could not reaſonably expect to be thought to come provided in this Caſe, we humbly pray, that your Lordſhip will allot us ſuch a reaſonable time as your Lordſhip ſhall think fit.

L. C. J. Come, let me propoſe this to you, will you plead over?

Mr. *Pollexfen*. My Lord, I will give you an Anſwer to that, We cannot do it. When we were together, we did conſider, whether if we ſhould plead over, it would not deſtroy the Plea, and we were of opinion that it would deſtroy the Plea: we cannot plead over, but we give up the Juriſdiction. It is as indifferent and light to me, as any body, to be forced to argue it now; but as to the Matter of it, I believe, no body can ſay, they ever ſaw many Inſtances of the like nature: Therefore, pray my Lord, let us not go on ſo haſtily with it, for we could not foreſee, what ſince we know, how it would be with us. I did not think they would have demurred, but now 'tis come to

that,

that, we must make the best of it. We have pleaded this Plea; if you will not be pleased to give us leave and time to be prepar'd to argue it, you must take it as we are able, since we can't have time to make ourselves able.

L. C. J. Certainly, Mr. *Pollexfen*, *in favorem vitæ*, it would not hurt the Plea, to plead over.

Mr. At. Gen. My Lord, if your Lordship please to favour me a Word in this Case; I hear several things urged, particularly instancing in modern Practice. If that Gentleman will shew that in any Case the King and the Court were so indulgent to give four Days to plead to the Jurisdiction of the Court, then he will shew me something of modern Practice, which I know not; but if that Gentleman will remember modern Practice in a great Nobleman's Case, for whom he was of Counsel, it was told him, if he would debate the Point of Law, he must do it presently: They never would give him time to prepare for his Argument, there was no such modern Practice then. I would desire him to give me one Instance, that when Gentlemen are assigned of Counsel to plead a Matter to the Jurisdiction, and deal so with the King's Counsel as they have dealt with us, not to let us see the Plea till now; the modern Practice hath been to give them any time. For them to say, that they could not foresee what we would be at; could they not foresee the Points of Law? Could they not foresee a plain Case? But they do not take off the great Matter, that he that doth plead to the Jurisdiction, ought to have the Record ready in his Hand; but, my Lord, we lay our Thumb upon that which is our Exception, they have pleaded no Impeachment of any Crime, that can appear to be the same with that for which they are indicted, that is the Point. Is there such difficulty? Did not these learned Gentlemen think? Could they not foresee that we should look into their Plea, that it should be legal? Therefore I did and do pray your Judgment. If they had pleaded, and set forth the Record truly, as it is, and as it ought to be set forth, in case they would have any Benefit by it, we would have given them another Answer; but if it be done purposely, as it is done with Artifice, I am bold to say, for these Gentlemen know how to plead a Record as it ought to be, and how this ought to be pleaded to, to out the Court of a Jurisdiction of a particular Crime. They say the Life of a Man is concerned, and so is the Peace of the Kingdom concerned too, in the Life of as great a Traytor as ever was try'd in *Westminster-Hall*. For if his Treason had taken effect, certainly the Kingdom had been very near embroil'd in Civil Wars by this time; therefore the whole Peace of the Kingdom depends upon his Life, and it depends upon the clearing of the whole Matter. And I challenge them again, if they can shew me any Instance of the like nature. That of *Elliot*'s Case that was mentioned, it was an Information; and to Pleas upon Informations there have been Demurrers, but to Indictments found by twelve Men, we do not meet with any Demurrer any where to a Plea to the Jurisdiction. But I pray your Judgment, that he may plead in chief; for 'tis but a *Respondes ouster*, and if these Gentlemen desire to take time, I hope you will not delay the King by giving countenance to such a plain imperfect Plea; and for those high Matters they talk of, that will be the Consequence, they can never come in question upon this Plea.

Mr. Sol. Gen. My Lord, I have but one short Word to that which is now in question. Our Exceptions to the Plea, we offered and opened before; the Question is now, whether they shall have time to argue this Plea: And the Arguments they use for longer time, is, the Life of a Man, and they could not be prepared on a sudden, because they knew not what we would do. For the hasty Proceedings that have been in this Case, which they clamour of, I think they have little reason to speak so, since that hath been done in this Case, that never was done in any other. He hath had three Days time to consider, whether he will plead to the Jurisdiction of the Court, which never was done to any, and so great a Favour, that he is scarce entitled to any farther Favour. Does any Man believe that they are not prepared? Do not Gentlemen, when they consider of a Plea, consider upon what Grounds they plead? And does not that let them into the whole Matter, where the weak parts of the Plea are, and what may be objected against it? I am sure that these Gentlemen are of that Consideration, that no Man does believe they would put in this or any Plea, without having considered beforehand what to do. And then, when they have put in a Plea upon great Consideration, no Man is to think that they are unready to maintain it. Our Exception is short, and they do but talk in general Terms that they are unprepared; and they have no reason to expect this Kindness from the Court, especially since they used Mr. Attorney at this rate: they gave him not the Plea, but only a Note to tell him they would do that which they said four Days before, and no more. If they had done regularly, they should have brought Mr. Attorney the Plea, and left a Copy with him, and desired him to consider of it. But we do not pretend we are surpriz'd for all this Usage, we see the Plea here, and we see the Faults of it, and we have demurred to it, and tell them our Exception; sure they are better prepared than 'tis possible for the King to be, yet we are ready; and we hope you will grant them no longer time.

Mr. Serj. *Jeff.* Will your Lordship be pleased to spare me one Word: I wonder at what Mr. *Wallop* seems now to urge concerning the Life of a Man that is concerned in this Case; 'tis true, the Life of a Man is concerned, which is a dear thing to the Law, but certainly the Life of the Government is more dear to the Government, and all Courts of Justice, than the Life of any one single Person: And I am sure this one Person hath done as much as in him lies to strike at the Life of the Government, in case this be true that is laid to his charge. Now to make this Case like to *Plunket*'s the other day, is strange; I think your Lordship hath given an account of that. For hath he pleaded to the Fact, Not Guilty, as *Plunket* did? We that are of the King's Counsel would in common Charity hope, that he is not guilty; but I am sure, if he be guilty, no *Englishman* can think that he deserves to live: why then should we be so fond of a Man's Life, that hath been guilty of such a Fact as this? For example sake, surely, if that be the thing in question, we ought to have speedy Justice executed upon a Man that deserves no Mercy. Your Lordship was pleased to take notice of another Circumstance in the Case of *Plunket*: He was indicted, he was arraigned, and was to have had his Tryal in *Ireland*, and was to fetch his Witnesses from thence; all these things were in that Case. He desired time to consider what he should plead; but your Lordship finding an Indictment found against him, according to the Rules of Justice, o-

ver-

ver-ruled that Matter he ſuggeſted, and made him plead, Not Guilty, before ever you admitted him to debate any thing of that Fact. And then it appearing to your Lordſhip to be in another Kingdom, and that it was impoſſible, in regard of the Hazards of the Winds and Seas, to get over his Witneſſes in a little time, your Lordſhip gave him time; but you gave him as ſtrait a time as could be conſiſtent with the Rules of Juſtice, and as his Caſe would bear. Now, my Lord, this being offered in a Caſe of that Expectation, which the Caſe before you ſeems to have, we deſire the Diſpatch of it as much as we can. In caſe the Man be innocent, God forbid but he ſhould be acquitted; but if he be guilty, God forbid he ſhould live a Minute.

L. C. J. Surely you don't take the Caſe, Gentlemen, to be a Caſe of ſo much Difficulty, as to deſerve long Conſideration; we did expect truly, that you would have been ready to have maintain'd your Plea.

Mr. *Williams.* My Lord, we do not deſire any long time, be pleaſed to give us a day, or two, or three, as you pleaſe.

L. C. J. 'Tis ſaid, 'tis in a Caſe wherein the Life of a Man is concerned; 'tis true, here is the Life of a Man, of whom, till he be found guilty, we ought to have Conſideration, as we would of any other whatſoever: For we have no reaſon to conclude him guilty, till we hear him, and we are to be indifferent till we hear the Evidence; therefore, notwithſtanding the Indictment, we ought to weigh his Life as we would another Man's, till he be found guilty. We in ourſelves do not ſee there is any ſo great matter of neceſſity for time to conſider of this Caſe; yet I muſt tell you, ſince they pray it, Mr. Attorney, we are inclinable to give them a day or two's time to conſider of it, and ſee what they can ſay to maintain this Plea. But then, Gentlemen, if we do ſo, you muſt take notice we will call you to plead preſently after our Judgment upon the Plea.

Mr. *Williams.* My Lord, we have nothing to do with the Fact of this Caſe, we are only to ſpeak to the Plea.

Mr. Serj. *Mayn.* Pray how then is your Life in queſtion upon the Deciſion of this Plea?

L. C. J. Brother, they do not ſpeak as to this Plea, that it hazards his Life, but the *ſubjecta materia*, upon the Deciſion of it, ſuppoſing Judgment be againſt the Plea. Therefore, Mr. Attorney, we do think fit to give him till Friday Morning, and he ſhall be brought hither then again by the Lieutenant of the Tower; then we will hear theſe Gentlemen: and if they do not ſhew us any conſiderable Matter to maintain the Plea, they muſt expect Judgment preſently.

Mr. Att. Gen. That certainly will be too long a time; pray, my Lord, they ought to have been ready now: If they will be pleaſed to be ready to-morrow Morning, I pray it may go off to no further time.

Mr. Juſt. *Jones.* There is a neceſſity, my Lord, I think that it ſhould be ſo, for there is a long Tryal at the Bar here on Friday.

Mr. *Williams.* That is a very ſhort time indeed.

Mr. Juſt. *Jones.* You muſt be ready to-morrow Morning.

Mr. *Williams.* Unleſs, my Lord, you will give us a little more time, you had as good give us no time.

L. C. J. It ſeems the Buſineſs of the Court is ſuch, on Friday Morning you can't be heard.

Mr. Juſt. *Jones.* Either it muſt be to-morrow Morning or Saturday, and that is Exchequer-Chamber Day.

Mr. Sol. Gen. My Lord, I believe they are not in haſte.

L. C. J. Mr. Attorney, we would give them a reaſonable time, but yet we would do nothing that might make unneceſſary Delays in this Caſe.

Mr. Att. Gen. I pray, my Lord, let it be no longer than till to-morrow, and that is more than ever was given in ſuch a Caſe. I know it was deny'd in my Lord *Stafford*'s Caſe, they would not give the Counſel any time, but would make them argue preſently.

L. C. J. As to that, Mr. Attorney, every Caſe ſtands upon its own Bottom.

Mr. Serj. *Jefferies.* My Lord, we have your Direction for to-morrow Morning.

Sir *F. Win.* No, no, my Lord, we hope not ſo.

L. C. J. Look you, Gentlemen, to accommodate you, the Court does think fit thus to do: we will be here on Saturday by ſeven a-clock in the Morning. On Friday we can do nothing, for there is a long Tryal at Bar, that will take up our time; but on Saturday we will be here by eight a-clock ſitting, and expect you to be here by that time: and we cannot afford you then long time to argue in, becauſe it is an Exchequer-Chamber Day.

Mr. Att. Gen. If Judgment be againſt the Plea, they muſt plead preſently then, that we may not loſe the Term for a Tryal.

L. C. J. You muſt take notice of that, by the Rules of the Court they muſt do it, Mr. Attorney. If our Judgment be againſt them, the Courſe of the Court is ſo, we can't rule it one way or another.

Mr. Serj. *Jefferies.* But then they ought not to pretend they have no notice, their Witneſſes are out of the way, and ſo hinder the Tryal.

Mr. Juſt. *Jones.* No, no.

Mr. *Fitz-Harris.* My Lord, I deſire I may have theſe Lords come to me; my Lord of *Eſſex*, my Lord *Salisbury*, my Lord Mayor, your Lordſhip, and Sir *Robert Clayton*, to perfect my Diſcovery. I have ſomething to diſcover to your Lordſhip and them.

L. C. J. Your Diſcovery of what, do you mean?

Mr. *Fitz-Harris.* Of the Plot, and of the Murder of Sir *Edmondbury Godfrey.*

L. C. J. We did examine you about the Murder of Sir *Edmondbury Godfrey.*

Mr. *Fitz-Harris.* Your Lordſhip went away in haſte, before I had told all I could ſay.

L. C. J. We asked you ten times, whether you had any more to ſay, and you ſaid, No.

Mr. *Fitz-Harris.* My Lord, I was in Confuſion and Conſternation, I ſcarce knew what your Lordſhip ſaid to me.

L. C. J. We were not in haſte, we asked you often that Queſtion.

Mr. *Fitz-Harris.* It was haſte to me, becauſe I was not provided of the Queſtions you asked me.

Mr. Juſt. *Dolben.* To ſome of the Queſtions we asked you, you anſwered readily and freely; but to ſome we could not get a poſitive Anſwer by any means.

Mr. Att. Gen. My Lord, he told me he was not in *England* then, and that he knew no more than what he had diſcovered.

Mr. *Fitz-Harris.* Did I ſay ſo, Mr. Attorney?

Mr. Att.

Mr. Att. Gen. Yes, you are the Man.

Mr. *Fitz-Harris.* I can bring twenty Witneſſes, I did not tell you ſo; and I can bring 500 Witneſſes, that I was in Town then.

L. C. J. Lieutenant of the Tower, take your Priſoner, and be here before Eight a-clock on Saturday Morning.

Sir *Fran. Win.* My Lord, now I deſire we may have a Copy of the whole Record.

L. C. J. Not of the Indictment, but of the Plea and Demurrer, you may.

Sir *Fran. Win.* But, my Lord, I hope you will let the Indictment be read upon Saturday, becauſe Mr. Attorney had fixed his Exception upon part of the Indictment, which is the Libel that he calls the particular Treaſon, and I deſire it may be in Court.

L. C. J. It ſhall be, and if you have any occaſion of Reference to it, we will look upon it; we are all upon our Oaths, and muſt take heed that no Prejudice be done to the King, as well as to ſee the Priſoner have no unfair thing put upon him.

[*Then the Priſoner was carried back to the Tower.*]

On Saturday the 7th of May, 1681. *Mr.* Fitz-Harris *was brought to the Bar of the Court of* King's-Bench, *about eight of the Clock in the Morning.*

Mr. *Williams.* MAY it pleaſe your Lordſhip, I am aſſigned of Counſel for this Perſon, Mr. *Fitz-Harris*, the Priſoner at the Bar.

Mr. Att. Gen. My Lord, if you pleaſe, I will only briefly acquaint them with what our Exceptions are, that they may apply themſelves to them.

L. C. J. Look you Gentlemen, I muſt tell you, all our time is ſtrait enough for this Matter, for we are all of us to be by and by with all the Judges in the Exchequer-Chamber; therefore we pray this of you, we will abridge no Man's ſpeaking what is material for his Client, but we deſire you will keep to the Matter, and the Points in queſtion between you, and ſave our time as much as you can.

Mr. Att. Gen. That is the reaſon, my Lord, why I would lay my Finger upon thoſe Points, that will be the Queſtions between us. Now the Exceptions I take to the Plea, are theſe: This is a Plea to the Juriſdiction of the Court, and ſome of our Exceptions are to the Form, and one is to the Matter. To the Form, my Exceptions are theſe: Firſt, we ſay, that the general Allegation that he was impeached *de Alta Proditione*, is uncertain, and too general; it ought to have been particularly ſet out, that the Court might judge, whether it be the ſame Crime, and it is not helped by the Averment. And the next Exception I take to it, is, here is no Impeachment alledged to be upon Record; I mentioned this the laſt time, and looking more ſtrictly into it, I find 'tis ſo as I ſaid: For they come and make a general Allegation, that *Fitz-Harris*, ſuch a time, was impeached, *Impetitus fuit*, by the Commons before the Lords, *Quæ quidem Impetitio in pleno robore exiſtit, prout per Recordum inde*, &c. Now, my Lord, there is no Impeachment mentioned before: And *quæ quidem Impetitio*, is a Relative Clauſe, and if there be no Impeachment mentioned before in the Plea, then there is nothing averred upon the Record, to be continued or diſcontinued; for *Impetitio* does not actively ſignify the Impeaching, or paſſively the Perſon impeached, but it ſignifies the Indictment or Impeachment, that Inſtrument which contains the Accuſation, and which is to be and remain upon Record. Therefore, when they come and ſay, he was impeached, and afterwards alledg'd, *Quæ quidem Impetitio* remains upon Record, that cannot be good. If a Plea ſhould be *Inditatus fuit*, and afterwards they ſay *quod quidem Inditamentum*, &c. it cannot be good, for the Relative there is only illuſive. Theſe are our Exceptions to the Form. For the Matter of it, 'tis a Plea to the Juriſdiction of the Court; and with Submiſſion there the Point will be, whether a Suit depending, even in a Superior Court, can take away the Juriſdiction of an Inferior Court, who had an original Juriſdiction of the Cauſe, of the Perſon, and of the Fact, at the time of the Fact committed. What uſe might be made of it, as a Plea in Bar, might be of another Conſideration; but whether this be enough to make it amount to ſuch a Plea, as will take away the Juriſdiction of a Court, that had an original Juriſdiction, that's the Queſtion before you. Theſe are the Exceptions I take, and do inſiſt upon: And I deſire, my Lord, the Counſel will apply themſelves to theſe Exceptions, to anſwer them; and when we have heard what they can ſay, I hope to give them an Anſwer.

Mr. *Williams.* My Lord, I am aſſigned of Counſel for the Priſoner at the Bar, *Edward Fitz-Harris*, who is indicted here for High Treaſon, and hath pleaded a ſpecial Plea to the Juriſdiction of the Court: And I muſt crave leave to ſtate his Caſe upon the Indictment, the Plea to the Indictment, and the Demurrer to the Plea. And the Caſe, my Lord, upon the whole Record ſtands thus: He was indicted this Term, by one of the Grand Jurys for this County, of High Treaſon. As to the Indictment, it cannot be expected I ſhould ſtate the Parts of it, it being an Indictment I never ſaw. To this Indictment thus preſented, *Fitz-Harris* hath pleaded thus, That he ought not to be compelled to anſwer to this Indictment, becauſe that before the Indictment was found, at a Parliament held at *Oxford*, the 21ſt of *March* laſt, he was impeached by the Knights, Citizens, and Burgeſſes, of the Houſe of Commons in Parliament aſſembled, in the name of themſelves, and of all the Commons of *England*, of High Treaſon; and that this was before the Court of Lords in that Parliament. He ſays further, that this Impeachment is remaining in full Force and Effect, before the Lords in Parliament, *prout per Recordum inde int' Record. Parliamenti remanens plenius liquet & apparet.* Theſe are the Words of the Plea: And then he avers, that the High Treaſon mentioned in the Indictment, and the High Treaſon ſpecify'd in the Impeachment, are one and the ſame. And he further avers, that he is the ſame *Fitz-Harris* named in that Indictment, and mentioned in the Impeachment. And after the Averments, he concludes, to the Juriſdiction of the Court; whether upon all this Matter, they will proceed any further againſt him, upon this Indictment: and demands the Judgment of the Court to that purpoſe.

Upon this Plea, Mr. Attorney hath demurred generally, and we that are of Counſel for the Priſoner, have join'd in Demurrer with him. Now in this Caſe, which thus comes before you, for your Judgment upon this Plea and this Demurrer, I take theſe things to be admitted.

Firſt, That the Priſoner ſtands impeached, by the Commons of *England* in Parliament aſſembled, of High Treaſon. Secondly, That the Impeachment thus made by the Commons, in the Name of themſelves

ſelves and of all the Commons of *England*, before the Lords in Parliament, for Treaſon, is now in being. Thirdly, which I omitted in the opening of the Plea, that this was done *ſed in Legem & Conſ. Parliamenti*, and being ſo, remains *in plenis ſuis Robore & Effectu*. And more particularly this Plea does refer to the Record, for the Parts and Circumſtances of the Impeachment, *prout patet per Record. inde inter, &c.* So that it does refer the Impeachment itſelf to the Record, and tells you this is among the other Records of that Parliament; all this is admitted by the Plea. Fourthly, And, moreover, that this Treaſon, for which he ſtands impeached before the Lords, and the Treaſon for which he ſtands indicted before this Court, are one and the ſame Treaſon, and no way diverſe; and ſo they are the ſame numerical thing, and there is no manner of difference: And that this Perſon *Fitz-Harris* now indicted, and the *Fitz-Harris* impeach'd, are one and the ſame Perſon, and no way diverſe. And withal, my Lord, it appears plainly upon the Record, that this Impeachment was depending before; the Indictment found for the Parliament was the 21ſt of *March*, and it appears by the Record this is only an Indictment of this Term. And another thing I muſt entreat you to obſerve, my Lord; it does not appear but that this Parliament is ſtill in being, for any thing to the contrary in the Record, and as I take the Caſe, then it muſt be admitted ſo to be.

So then I take the Plea to be in ſubſtance thus, tho Mr. Attorney was pleaſed to except to both the Subſtance and the Form; but in Subſtance the Caſe is thus: Here is a Perſon impeached in Parliament, by the Commons in Parliament, for High Treaſon, before the Lords in Parliament, and for ought appears that Parliament ſtill in being, and this Impeachment ſtill depending; then here is an Indictment for that very Treaſon: whether your Lordſhip now will think fit in this Court to proceed upon that Indictment, is the Subſtance of the Caſe. I ſhall ſpeak to the Form by and by.

My Lord, by the way I think it will not be denied, but that the Commons in Parliament may impeach any Commoner of Treaſon before the Lords in Parliament; I take that to be admitted. And I do not find that Mr. Attorney denies it, or makes any doubt of that; for I think that was the Caſe of *Treſilian* and *Belknap*, who were impeach'd in Parliament by the Commons before the Lords: I am ſure my Lord Chief Juſtice *Vaughan* does, in his Reports in *Buſhell*'s Caſe, ſay ſo; and upon that Impeachment of the Commons, one of them was executed, and the other baniſhed, in Parliament. My Lord, I cite it not merrily, but I cite it as Authority. Indeed I do not go ſo far as to cite the Parliament Roll, it was in the time of *Richard* II. I have not ſeen the Roll of late, truly, but I am ſure 'tis upon the Roll, and there 'tis to be found.

Since then Impeachments of Commoners will lie in Parliament, here then, my Lord, will be the queſtion, Whether this Court may proceed upon an Indictment for the ſame Offence the Parliament was for. And here I ſhall diſtinguiſh upon Mr. Attorney: He does allow the Parliament to be a ſuperior Court; but admitting that he ſays, tho it be ſo, yet the inferiour Court having original Juriſdiction of the Perſon and the Cauſe, it may proceed, notwithſtanding an Indictment in the ſuperiour Court: and, *ergo*, he does infer that this Court may proceed upon an Indictment, notwithſtanding an Impeachment in Parliament.

My Lord, I will compare a little the Caſe of an Indictment and an Impeachment, and ſhew how manifeſtly they differ. I do take the Caſe of an Impeachment not to be the Caſe of an Indictment, and ſo the Principle that Mr. Attorney hath taken is wrong, and the Ground of that Argument wrong. I cannot ſay 'tis like the Caſe of an Appeal, but I may ſay the Caſe of an Appeal is like the Caſe of an Impeachment. For in an Appeal of Murder, tho the Indictment be capital, and the ſame that is given upon Criminals proſecuted for the King, yet it is at the Suit of the Party, as in this Caſe 'tis at the Suit of the Commons, and ſo 'tis an Intimation of, and analogical to, and bears the Reſemblance of an Impeachment in Parliament; I will not compare an Impeachment to an Appeal, but I will ſay an Appeal imitates an Impeachment. And 'tis as plain as can be, becauſe Appeals are proper to Courts in *Weſtminſter-Hall*, and 'tis at the ſuit of the Party, the Proſecution and all the Proceſs is *ad inſtantiam partis*, ſo is an Impeachment at the ſuit of the Commons. An Indictment is found upon the Preſentment of a Grand Jury, who are ſworn *ad inquirendum pro Domino Rege pro Corpore Com.* and 'tis a Miſtake in the Form, when 'tis ſaid *& pro Corpore Com.* for it is not for the King and the Body of the County, but for the King for the Body of the County. But now an Impeachment in Parliament is otherwiſe; 'tis not in the Name of the King, but in the Name of the Commons in Parliament, and of all the Commons in *England*, wherein it ſuits with an Appeal which is at the ſuit of the Party; ſo that 'tis like an Appeal, and not like an Indictment: an Indictment is for the King, an Impeachment for the People. And as it is in its Nature and Conſtitution different, ſo 'tis in the Proſecution alſo, for that is by the Commons of *England*, they are the Proſecutors in effect; but now in all Indictments they are proſecuted always by the King's Attorney, or by ſome Perſon in the name of the King. We are now arguing upon the Methods and Forms of Parliament, therefore I muſt crave leave to inſiſt upon thoſe Methods more particularly. The Commons they bring up the Impeachment to the Lords, the Commons they proſecute the Impeachment, they manage the Evidence upon the Tryal; and when the Lords have conſidered of it, and have found the Fact, the Commons come and demand Judgment, and Judgment is given at the Prayer of the Commons, and no otherwiſe, and there are no Proceedings by the Attorneys. Indeed there have been Attempts by Attorneys to proſecute Perſons in Parliament, by exhibiting Informations in the Parliament; but what Succeſs they have had, I leave to them to conſider that are concerned, and have read the Rolls of Parliament. But it is not ſafe to alter the old Ways of Parliament, therefore I take it under Correction, that it is out of the Road of Compariſons, when they will compare an Indictment and an Impeachment together; for they do not agree, but differ extremely.

I would then offer you ſome Reaſons why this Court ought not to proceed upon this Indictment. I take it, it does not become the Juſtice of this Court to weaken the Methods of Proceedings in Parliament, as this Court will certainly do: For if you will admit this to be the Courſe that I have open'd, your Proceedings will alter it. When there is an Impeachment depending in Parliament for Treaſon, if your Lordſhips will admit there may be an Indictment here afterwards in this Court, and Proceedings in this Court upon that Indictment, 'tis to alter the Method of Parliament Proceedings, and to ſubject the

Method

Method of their Proceedings there to the Proceedings of this Court; and what the Miſchief of that will be, I muſt leave to your Lordſhip. As I open'd it before, the Methods of both Courts are different, and their Proceedings very much vary, I think I need not trouble your Lordſhip with that, we all know it very well in the main. Indictments in this Court are to be tried by a Jury, where a Verdict muſt be given preſently. There is but very little time for giving the Evidence, or for making Obſervations for the Crown, or for the Publick; and in order to bring it to the Tryal, there muſt be an immediate Plea of Guilty, or Not Guilty. Now if the Proceedings of Parliament were ſo ſudden, there might be a great Surprize, and great Offenders paſs unpuniſhed, becauſe the Proſecutors had not greater time to inſpect the Records that might be of avail in the Caſe: Therefore in Parliament 'tis quite otherwiſe, there is time for Deliberation and Conſideration, there are many References, and many Examinations, which are Matters of Deliberation and Conſideration, which take up a great deal of time; but here you are ſtraitned not only in time, but bound up to ſtrict Rules, and ſo are ſtraitned in your Methods and Forms of Proceedings, as Mr. Attorney would here tye us up to the Forms of little Courts: but it is not fit that the Juſtice of the Kingdom, and the High Court of Parliament, ſhould be cramped by the Methods of an inferiour Court, and a Jury. So you will then ſubject the Methods of Proceedings in Parliament to the Courts in *Weſtminſter-Hall*, and what the Conſequence of that will be, is worth the conſideration.

Another reaſon I would humbly offer, is this, my Lord; the Parliament is the ſupreme Court certainly, and this Court is every way inferiour to it, and it will be very ſtrange that that ſupreme Court ſhould be hinder'd by an inferiour: for the higheſt Court is always ſuppoſed to be the wiſeſt; the Commons of *England* in Parliament are ſuppos'd to be a greater and a wiſer Body than a Grand Jury of any one County. The Peers, who are the Judges in that Court, are ſuppoſed to be the wiſeſt Judges, as the Commons the wiſeſt Inqueſt. Will the Law of *England* now ſuffer an Examination, Impeachment and Proſecution for Treaſon, to be taken out of the hands of the greateſt and wiſeſt Inqueſt in *England?* And will the Law of *England* ſuffer the Judicature upon this Proſecution to be taken out of the hands of the wiſeſt and greateſt Judicature, and put it into the power of a ſmaller number of Judges, or of an inferiour Jury? I do think it does not ſtand, my Lord, with the Wiſdom of the Law, or of the Conſtitution of the Government.

Another thing is this, my Lord, the common Argument in any extraordinary Caſe, there is no Precedent for this way of proceeding; 'tis my Lord *Coke*'s Argument in his Comment upon *Littleton*, *fol.* 108. and in the 4th Inſt. *fol.* 17. in his Comment upon the High Court of Parliament. And he takes occaſion to ſpeak it upon the account of that Precedent, the Caſe of the Indictment againſt the Biſhop of *Wincheſter*, and of that againſt Mr. *Plowden*, and he ſays this was never practiſed before; therefore it ought not to be: So he infers, and puts a black Mark upon it, by ſaying 'tis a dangerous Attempt for inferiour Courts to alter or meddle with the Law of Parliaments; for the Words I refer myſelf to the Book, I dare not venture to repeat them upon my Memory. So in this caſe, in regard that it never was done from the beginning of the World till now, the 33d Year of this King, I may ſay, it being without Precedent, there is no Law for it.

My Lord, there is another Miſchief that will certainly follow upon this, and that too runs upon the Compariſon of an Appeal and of an Indictment. In the Caſe of an Indictment 'tis in the power of the Prince to pardon that Indictment, to pardon the Puniſhment, and to pardon the Offence; but in the caſe of an Impeachment, I take it to be otherwiſe, as 'tis in the Caſe of an Appeal. And, my Lord, if your Lordſhip will take this Caſe out of the power of the Parliament, and bring it into this Court, where the Offence may be pardoned, you do by that means ſubject that Offence, and that Method of Proceedings, which would make it, without conſent of the Party proſecuting, not pardonable by Law, to a Pardon: and this may be of dangerous Conſequence to the Publick, that Crimes that are heinous and great in themſelves, mighty bulky Crimes, fit for the Conſideration of a Parliament, be they never ſo great, never ſo dangerous to the Government, yet ſhould by giving this Court a Juriſdiction, and poſſeſſing it of theſe Cauſes, expoſe them to the Will of the Prince; and ſo thoſe Crimes which are impardonable by Methods of Proceedings in Parliament, would become pardonable by Proſecution in this Court.

Now, my Lord, for my Authority, that Impeachments are not pardonable, I would only hint a little to compare it to the Caſe of an Appeal, as *Penryn* and *Corbett*'s Caſe in 3 *Croke*, *Hill.* 38. *Eliz. fol.* 464. There was an Appeal of Murder; upon which he is found guilty of Manſlaughter, and not guilty of the Murder. Then there was a Pardon pleaded of the Burning in the Hand, or of the Puniſhment: it is not plain in the Book whether the Pardon was after the Verdict or before (that I can't be clear in) but however there was a Queſtion whether the Queen could pardon the Burning in the Hand; however it was there allowed, but there was an Exception. My Lord *Coke*, who was then Attorney-General, took, that the King could not pardon, if it had been an Appeal of Homicide; and he concurr'd with the Court in that Opinion. But that Appeal being for Murder, and the Verdict of Manſlaughter, they paſſed over the Queſtion, for this Reaſon that I have mentioned, That the Appeal was not for Manſlaughter, it was for Murder; and if he had been found guilty of the Murder, it was not in the power of the King to pardon him, it being at the Suit of the Party: So the Opinion of that Book is, and of the then Attorney-General.

Thus I have ſtated the thing, and the Conſequences of it, and it is not fit for me to dwell upon it: You will conſider of it, I am ſure.

Another thing I would ſay, is this: If your Lordſhip ſhould meddle with this way of Proceeding, it will invert the Law in another thing; for 'tis a Principle with us, That no Man's Life is to be put twice in danger for one and the ſame thing. I will then put the Caſe thus: If your Lordſhip ſhould proceed upon this Indictment, and this Perſon ſhould be acquitted upon it, I am in your Lordſhip's Judgment whether that Acquittal will bind the Lords in Parliament; if that will not bind them, but they may ſtill proceed on the Impeachment, then you invade that common Right which every *Engliſhman* by the Law ought to have preſerved to him, that no Perſon ought twice to be brought in queſtion for one and the ſame thing.

And ſo, my Lord, you make a Man to run the riſque of his Life twice, by indicting him in this Court, where tho he be acquitted, he may be called to an account again, if the Law be ſo. And if the Lords in Parliament ſhould be opinion, for they are the Judges of that Caſe, that the Acquittal will not be binding to them, then a Man's Life is brought in queſtion twice upon the ſame account.

My Lord, I now come to this, the Time, how unſeaſonable a thing it is, and how dangerous to the Government: I take it to be a critical thing now at this time to make ſuch Attempts as theſe are. There are Lords now that lie under Impeachments of Treaſon, the higheſt Treaſon, I think, that ever was contrived; and upon this Impeachment one Lord hath been convicted and executed. Suppoſe upon the Diſſolution of that Parliament that impeach'd the late Lord *Stafford*, there had been an Indictment againſt him for one and the ſame Treaſon: and by the ſame reaſon that this Court may proceed, his Majeſty may appoint a High Steward to try by a Jury of Peers. For the Court held before the High Steward, is as much a Court as any Court in the Kingdom, except that of Parliament. I ſay, ſuppoſe the King had appointed an High Steward, and that Lord High Steward had proceeded againſt my Lord *Stafford*, I think my Lord *Stafford* had been alive at this day. For in the caſe of Treaſon your Lordſhip knows there muſt be two Witneſſes; and I am ſure there came in freſh Teſtimony againſt my Lord *Stafford* after the ſecond Parliament after the Impeachment. I appeal to thoſe noble Lords that are here, if it were not ſo; and had it not been for that freſh Teſtimony that came in afterwards, poſſibly my Lord *Stafford* might have been alive at this time. And the Lords in Parliament, as I obſerv'd in the beginning, when they find an high Crime before them, when they find ſuch a general contagious Deſign to ſubvert the Government, and yet they cannot come to cut off the principal Agents in this Deſign, becauſe perhaps there may not be two Witneſſes in ſtrictneſs of the Law at the firſt, 'tis the Wiſdom of a Parliament to deliberate and to take time. The good Queen who was us'd to ſay, Truth was the Daughter of Time, and Time would produce Truth, *Veritas filia temporis*. If then there had been any ſuch haſty Proceedings, as in this Caſe, I doubt my Lord *Stafford* had been now alive. Now then for theſe Lords that are now in the *Tower*, if your Lordſhips do go on in this way, do you not open ſuch a Gap as may be a ground to deliver them by the ſame Juſtice (I ſpeak it under Correction here, and I only offer it to your Judgment, for I have not had many Hours to conſider of it; but your Lordſhip will think well of it before you give any Judgment; by the ſame Juſtice) the other Lords may be try'd by another Court? This I offer in point of Reaſon, that this Proceeding will be very hard, and is an imprudent thing, if not an illegal Proceeding. My Lord, I am ſure it will have this Effect, it will ſtir up a Queſtion between the Juriſdiction of this Court and the Court of Parliament: for in all probability, if this Perſon ſhould be acquitted, the Commons and the Lords too will look into it. They are a Court that make a Survey of the Proceedings of all other Courts; and they will examine this Proceeding, or at leaſt may do. And if he be found guilty, here is the Power of the Commons in Impeaching, and the Juriſdiction of the Lords in Tryal and Judgment, taken away by an inferior Court to them, and ſo ſtir a Queſtion between this Court and that higheſt of Courts, the Parliament. And what will be the Conſequence of that, the Judgment of that Queſtion will be in the ſuperior Court, for there is no middle Court between this Court and the Parliament to judge of it: therefore I ſubmit it to your Lordſhips.

Theſe are the things which I offer to your Lordſhip in point of Reaſon, whereof ſome go to the Prudence of the thing, ſome to the Reaſon, and ſome to the ill Conſequences that may happen upon it, and I think many to the Illegality of the Act. And now this being ſaid in the general, I come to the particular Exceptions made by Mr. Attorney as to the Form of our Plea.

He was pleas'd to ſay, that this Plea was a plain frivolous Plea, which is his Exception in general; and he gave you three Reaſons for it at firſt, and does now inſiſt upon the ſame for Subſtance.

One was this, and he inſiſted upon it at this time, This Plea does not ſet forth any Record of an Impeachment, nor the particular Matter of it, ſo as this Court may judge of the Reaſon of it; and he compares it to the Caſe of a Plea of *auter foitz acquit*. If a Man hath been indicted and acquitted, he may plead it in another Court that hath Juriſdiction of the Cauſe, if he be again indicted for the ſame Matter: But, my Lord, firſt of all I take this Plea to be well pleaded in form; and in the ſecond place, if there be any Informality or Defect (which I do not take it that there is, but if there were any ſuch thing) I take it 'tis of another conſideration, which the Court will deliberate before they give their Judgment on.

But I ſay in the firſt place, I take it to be a very good Plea, and that it is good according to the Pleading of *auter foitz acquit*. In pleading of a general Act of Parliament, we need not ſet forth the whole Act, but refer to the Record; and that will depend upon the Method of Impeachments in Parliament, which I am of opinion, being the general Law of Parliaments, this Court ought to take cognizance of. In the Caſe of *auter foitz acquit*, there is firſt an Indictment, Proceeding of the Court upon the Plea, a fair Tryal, and a fair Acquittal; and a Record of all this Matter. If now this Perſon come to be indicted again for the ſame Offence, there is a Record for him to plead, that will ſhew forth the whole Matter; and if he does not plead that Record, 'tis his own Default. But in this Caſe here is no ſuch Record to plead, and there is the Miſtake upon which Mr. Attorney hath gone all along. And you muſt in this Caſe be governed by the Rules and Methods of Parliament, which is this; the Commons, in the name of themſelves, and of all the Commons of *England*, impeach ſuch a Perſon, and they bring up this Impeachment to the Lords in general, and there they have liberty to preſent Articles in due time, after due Conſideration, which ought not to be done haſtily. All this is no Record, ſuch as may be had in the Caſe of *auter foitz acquit*: for firſt, the Impeachment of the Commons is no Record; when 'tis brought up to the Lords, there is only an Entry into the Journal for the Lords, that ſuch a day ſuch a Perſon came from the Houſe of Commons, and impeach'd ſuch a one. And you are not to expect the ſame ſtrict Method, and Form of Proceeding, as in other Courts, the Courts of *Weſtminſter-Hall*, or inferior Courts. Your Lordſhip in this Caſe muſt be governed by ſuch Proceeding as is in Parliament, and muſt take it as it is; and we have ſaid enough, and as much as can be

be in our Case. We have not indeed set forth an Indictment, a Plea, a *Venire facias, &c.* for there is no such Proceeding in Parliament; but there was an Impeachment by the Commons, in the name of themselves and of all the Commons of *England*, before the Lords, that it is *in pleno robore & effectu*, and that it was *secundum legem & consuetudinem Parliamenti, prout patet inde inter Recorda remanen. &c.* And here is enough. For when we refer you to a Record, that is as much as if we had set forth the Record itself; for we tell you there is such a Record, and we point you to the Place where you may find it. So we take it; 'tis a very full Plea; and if not, 'tis as much as any Man can plead in such a Case, tho it be not pleaded particularly.

And, my Lord, that your Lordship is to judge in this Case according to the Methods of Parliament, I depend upon the Authority of my Lord *Coke*; I will repeat you some of his Words: Speaking of the Law of Parliaments, he says, and he borrowed it out of *Fleta*, That this High Court of Parliament *propriis suis Legibus*,

Et ista lex ab omnibus quærenda, a multis ignorata, & a paucis cognita. But he tells you, and certainly he says true in it, Whoever will be learned in the Law of Parliaments, must repair to the Rolls of Parliament; and give me leave to cite his Opinion, which I hope may be of great weight with this Court: It is in the fourth Institutes, *fol.* 15. he says, For any thing mov'd or done in the House of Commons, it ought to be determined, adjudged and discussed by the Course of Parliament, not by the Civil Law, nor yet the Common Laws of this Realm, used in more inferiour Courts, which was declared so to be *secundum legem & consuetudinem Parliamenti*, concerning the Peers, and the like, *pari ratione*, for the Commons; and that stops this Court in our Case: for so it is said in this Plea, which is the Matter you are to be governed by, that it is *secundum legem & consuetudinem Parliamenti*. He tells you further, there is no notice to be taken of any thing said or done in the House of Commons, but by the Report of that House, and every Member thereof hath a judicial Place; he takes it out of *Henry* VII. and so the Book is expressly. And he goes on; this is the reason that Judges ought not to give any Opinion of Matters of Parliament; because it is not to be decided by the Common Laws, but *secundum legem & consuetudinem Parliamenti*. So he tells you, you are bound by the Methods of Parliament; and I need not press the thing much after his Authority, for he was learned in Parliament-Matters.

But I would crave leave to mention a Case that was lately in this Court, and that was the Case of my Lord of *Shaftesbury*, who was brought by Habeas-Corpus to this Court, and upon that Habeas-Corpus it was thus returned, That he was committed by Order of the Lords in Parliament, there to remain during the Pleasure of the King, and of the House of Lords; and this for an high Contempt committed in that House. Upon this Return we insisted that my Lord might be bail'd, because it was uncertain, the Pleasure of the King, or the House of Lords; and upon reading the Order, there is no Crime expressed, but only in general for an high Contempt. I speak it not for the particular Case's sake, but to apply the Reason of it to our Case; the Reason then given by the Judges, Mr. Justice *Jones* will please to remember it, (for it was particularly declared by him) why they could not bail my Lord, was this; he was pleased to say, We in this Court take notice of the Court of *Exchequer*, and other Courts in *Westminster-Hall*; and it would be strange, if we should not take notice of the Course of Parliament, and House of Lords. And if you are bound so to do in other Cases, you are bound to do so in this And if without pleading you take notice of the Course of those Courts, you will also take notice of the Law of Parliaments, and Customs of Parliaments. And (that I may make use of it to our purpose in this Case) we need not particularly say, *secundum legem & consuetudinem Parliamenti in hoc*, instancing in this, and that, and t'other particular: but the Court is to look into it, without my pointing to the particular Law of Parliament. So that, my Lord, here is ground enough before the Court, and I know the Court will look into it before they give Judgment.

The second Exception is this, That it is not said in the Body of the Plea, that *Fitz-Harris* is impeached for this Treason, but it comes in only in the Averment. Now, my Lord, as to that we must pursue the Impeachment as it is in the Lords Journal. 'Tis for Treason generally there, and 'tis said to be *secundum legem & consuetudinem Parliamenti*, which goes to all, and there is a Record of it among the Records of Parliament, and Mr. Attorney hath confessed it by the Demurrer.

And that this is the same Treason we do aver in Fact, which also is confessed by the Demurrer; and your Lordship will see by the Records and Forms of Entries in Parliament, (that I may not repeat things over and over again) that this is the Course and Method of Parliaments.

Mr. Attorney hath fancied an Exception of Grammar, an Adjective for a Substantive, but I take it to be as well as any Man can plead in this Case. For what says the Prisoner? The Knights, Citizens, and Burgesses in Parliament assembled, did impeach me, which Impeachment is still in force before the Lords. I take it to be as plain as can be. If they did impeach me, then there was an Impeachment; it can bear no other Sense.

My Lord, another Exception, and which was thought a strong one the other day, and strongly urged, is, That the King may chuse his Court, and they compared it with the other Courts: but there is the mistake that runs all along in this Case. 'Tis no doubt the King may chuse his Court for his own Action and Suit; but the Impeachment is an Impeachment of the Commons, and their Suit is to be tried no where else but in Parliament. And the Case that was the other day cited by Mr. Attorney, for this purpose, is true of the Person that was arraigned for Treason, and had been indicted and arraigned in *Ireland*, and he may be arraigned and tried here, there is no Question of it; but to say, therefore, that this is a Consequence from that Rule, that therefore he will chuse whether he will proceed in Parliament upon the Commons Impeachment, and put a stop to the Proceeding of the Parliament, by proceeding in this Court, I take to be a great *non sequitur*.

My Lord, I have offered these Reasons, as to the Form of the Plea to maintain it. Now as to the Precedents, I would a little speak what hath been done in the like Case, where this Court hath taken hold of Causes, and the Prosecution of the Court hath been stop'd by Pleas to the Jurisdiction, and what hath been done upon those

Pleas,

Pleas. What doom they have had, I will hint ſome of them to you.

There was a Caſe mentioned by your Lordſhip the other day, the Biſhop of *Wincheſter*'s Caſe, 3 *Ed.* III. I dare not ſay I have looked upon the Parliament-Roll, but my Lord *Coke* tells us, he hath recited the Record, *de verbo in verbum:* in the 2d Inſtitute, Fol. 15. there are all the Proceedings. It was not an Indictment, for my Lord *Coke* contradicts that, and ſays, it was a Declaration; there the Record at large ſets forth, that the Biſhop of *Wincheſter* was attached to anſwer the King; for that whereas at a Parliament held at *Sarum*, it was ordained, *per ipſum Regem ne quis ad dom. Parliament. ſummonitus ab eodem recederet ſine licentia Regis.* And that this Biſhop in contempt of the King, *receſſit*, without leave of the King; I think, 'tis rather an Action than a Criminal proceeding: What ſays the Biſhop to this? He comes and ſays, *ſi quis deliquerit erga Dominum Regem in Parliamento aliquo, in Parliamento debet corrigi & emendari, & non alibi in minore Curia quam in Parliamento*, &c. What becomes of this Plea? 'Tis ſtrange there ſhould be ſuch an Inhibition, that no Man ſhould depart without leave of the King, and the Biſhop be puniſhed for it; we do not find any Judgment was given, nor would they venture to do it. My Lord *Coke* hath a Mark upon it; for this very reaſon, it looked as if there was a deſign to weaken the Parliaments, by bringing their Proceedings into *Weſtminſter-Hall*, but they would not do it, they would give no Judgment for the King, but for ought appears the Plea ſtood.

Then there is the other Caſe of Mr. *Plowden*, and many more *in primo & ſecundo Phil. & Mar.* where a great many of them, ſome whereof were Burgeſſes, and they ſubmitted, but he did not. The Information there is this, that theſe Perſons were ſummoned to the Parliament, and departed from thence, without the leave of the King and Queen, tho it was prohibited by them that any ſhould depart: moſt of them ſubmit to a Fine; and if it had reſted there, it might have turned to the prejudice of the Commons as an example.

But Mr. *Plowden*, he pleads as one that underſtood himſelf, and the Power of Parliaments, and their Proceedings very well, and conſiders the time to have pleaded in: Says he, I continued in the Parliament from the beginning to the end of the Parliament, but he relies not there; but he brings a Traverſe full of pregnancy, and if our Plea be faulty, theirs was 100 times as faulty, *abſque hoc*, That he the ſaid *Edmond Plowden*, the ſaid day and year, during the ſaid Parliament, without Licence of the ſaid King and Queen, and the Court aforeſaid, did contemptuouſly depart, in contempt of the ſaid King and Queen, and their Commandment and Inhibition, and to the great detriment of the Common-Weal and State of this Kingdom, *&c.* All theſe things he pleads, which your Lordſhip knows to be a very ill Traverſe; and yet this Caſe continued all the time of that Queen, and the Court would never give Judgment in it. This was *in primo & ſecundo*, and yet it appearing upon the face of the Information, that it was a Caſe that concerned the Commons, the Court would not give Judgment for or againſt the Commons as long as the King and Queen lived.

There is a later Caſe, and that is *Elliot*'s Caſe, 5 *Car.* There is an Information againſt my Lord *Hollis*, Sir *John Elliot*, and many more; and there is a Plea put in to the Juriſdiction of the Court; I have a Copy of my Lord *Hollis*'s Plea, and 'tis in a manner as faulty as *Plowden*'s Plea: but the Court in that Caſe does go not upon the Inſufficiency of the Plea, but gives Judgment generally that this Court had a Juriſdiction; the Aſſault happened in Parliament, and the Words were ſpoken there; and upon the Demurrer, they gave Judgment upon the whole Matter. What became of that Judgment? We know very well, it was reverſed, 19 of this King; and pray obſerve the Proceedings in the Reverſal of that Judgment. Judgment was given againſt my Lord *Hollis* and the reſt of the Gentlemen of the Houſe of Commons, tho there was no proſpect of a Parliament, yet they were obſtinate and would not plead: for they thought the Judgment to be a very hard Judgment, and this being a Plea in abatement, Judgment was given for want of a Plea over. It may fall out in this Caſe, that this Perſon may be obſtinate, and not plead over, if you ſhould give your Judgment againſt this Plea. In *Elliot*'s Caſe they were fined ſeverely, and they continued under this Judgment in Priſon, and in Execution for the Fine a great while; and they were delivered, by what I cannot indeed juſtify in all its Proceedings, I mean the long Parliament: but what was done in 19 of this King, I think is good Authority, which none can ſay but was a Parliament as uſeful to the King and Kingdom as ever could be. In that Parliament the Commons examined this Judgment, I ſpeak becauſe I have it in my printed Book; 'tis in *Croke Car.* I confeſs, 'tis not in the firſt Impreſſion, but it is in the 2d Edition that I have, and theſe are the Expreſſions in it.

L. C. J. What Caſe is that?

Mr. *Williams.* 'Tis in *Croke, Car.* but the Reverſal was in 19 of this King.

L. C. J. Was the Judgment given, do you ſay, 19 of this King? Can a Caſe of that time be reported in *Croke*?

Mr. *Williams.* I don't ſay ſo abſurd a thing. If your Lordſhip will have patience to hear me, I'll tell you what I ſay. My Book, which is the 2d Impreſſion of *Croke*, reflecting upon that Caſe in 5 *Caroli*, does publiſh the Votes of the Houſe of Commons about, and the Reverſal of the Judgment, in the 19th of this King. There the Proceeding is this; Information is given to the Houſe of Commons, that there was ſuch a Caſe publiſhed, which did derogate much from the Privilege of Parliament, invading the Liberty of Speech; and the Houſe of Commons conſidering the Conſequence, ordered the Book to be ſent for and read, and taken into Conſideration and debated; and upon Debate, the Houſe came to this Reſolution, That the Judgment againſt *Elliot* and others is an illegal Judgment, and againſt the Freedom and Liberty of Speech: and this Vote they ſend up to the Lords, where 'tis confirmed and reſolved in Agreement with the Vote of the Commons: And by the way, in anſwer to a Paper that is commonly ſpread about by the name of the *Obſervator*. I ſay, the Commons come to a Reſolution, and paſs a Vote which is not indeed a Law, and when they have done that, they may tranſmit their Opinions to the Lords, and deſire them to concur; then the Lords and Commons have a Conference upon it, and at the Conference the Commons Reaſons are delivered, which the Lords take up with them to their Houſe, and debate them.

them. Then they come to a Reſolution to agree with the Commons. Afterwards, upon this Reſolution of both Houſes they go regularly to work, by Writ of Error to reverſe the Judgment. And if it ſhould fall out in this Caſe, that your Lordſhip ſhould give Judgment againſt the Plea, and this Perſon ſhould be obſtinate, and not plead over, and thereupon your Lordſhip give Judgment of Death upon him; it may come to be a very hard Caſe, if a Writ of Error ſhould be brought in Parliament, to reverſe this Judgment, and it ſhould be reverſed when the Party is dead. Therefore it will be of great conſequence in that particular.

My Lord, I'll mind you of one old Caſe, it was 20 *Ric.* II. A Perſon there preſents a Petition to the Commons in Parliament; and it ſeems there was ſomething ſuggeſted in the Petition, which did amount to High-Treaſon, as there may be ſome Petition or ſome Complaint againſt a great Miniſter that may contain an Inſinuation, as it were of High-Treaſon; he was indicted out of Parliament for High-Treaſon, and was found Guilty, and by the Grace of the Prince he was pardoned: but becauſe the Commons would not lie under that Precedent of an Invaſion of their Privilege, tho he was a Perſon without doors that prepared the Petition, and no more hurt done to him but the Proſecution; he being pardoned, the Judgment was voided.

L. C. J. Where is that Authority?

Mr. *Williams.* 20 *Ric.* II. *Ro.* Parl. 12. And you will find it in the Argument of *Selden*'s Caſe, publiſhed in *Ruſhworth*'s Collections, Fol. 47. and 48.

And now my Lord, I have done with the Subſtance of the Caſe, with my Reaſons for the Matter and for the Form. In this Caſe here is the Life of a Perſon before you, here is the Right of the Commons to impeach in Parliament before you, here is the Judicature of the Lords to determine that Impeachment before you; here is the Method and Proceedings of Parliament before you, and how far you will lay your hands upon this Caſe, thus circumſtantiated, we muſt ſubmit to you; but I hope you will proceed no further on the Indictment.

L. C. J. Pray, Gentlemen, let us a little direct you not to ſpend our time about that which is not to the purpoſe, or that is not in the Caſe; here is nothing of the Commons Right to impeach in Parliament before us, nor of the Lords Juriſdiction, nor the Methods of Parliament in this Caſe: they are things quite foreign to the Caſe and the matter in hand, which is, whether this Plea as thus pleaded, be ſufficient to protect the Priſoner from being queſtioned in this Court, for the Treaſonable Matter in this Indictment before us. Therefore you ought not to ſpend time in things that are not before us to be conſidered, being out of the Caſe: for we have nothing to do with any Privilege of Parliament, or of either of the Houſes here at this time.

Mr. Juſt. *Jones.* And Gentlemen, there is nothing at all here of any Fact done in Parliament that can be inſiſted on here, nor is there any complaint againſt Mr. *Fitz-Harris* for any thing he hath done in Parliament. All Mr. *Williams*'s Precedents run to that, but this is for a thing done without doors.

L. C. J. We ſpeak to you to come to the point, which is the duty of all Courts to keep Counſel to the points before them. The ſole matter before us is, whether this be a good Plea to ouſte this Court of a Juriſdiction, which otherwiſe unqueſtionably we have of this matter.

Mr. *Williams.* 'Tis a hard matter for the Bar to anſwer the Bench, my Lord.

Sir *Fran. Wining.* My Lord, I ſhall purſue your Direction as well as my Underſtanding will give me leave, and ſave your time as much as I can; but the Court having aſſigned us of Counſel, you will give us leave to uſe our Diſcretion, keeping as near as we can to the points of the Caſe, and to the pleading. But if upon the reaſoning of this Caſe, other Parliament-Caſes fall in, I hope you will give me leave to cite them for maintaining our Plea. The Plea here is to the Juriſdiction, and conſiſts of two Parts First, Matter of Record, which is that an Impeachment is depending in the Houſe of Lords (for ſo it muſt be taken upon the pleading, as I ſhall manifeſtly prove:) The ſecond is Matter in *pais* (*viz.*) the Averment, that the Impeachment and Indictment are for one and the ſame Treaſon; and the Plea is made up of theſe two Parts, together with an Averment, that the Perſon is the ſame. The King's Attorney hath been pleaſed to demur generally to us, and I am ſure that if our Plea be well and formally pleaded, all the Matter of fact is confeſſed by the Demurrer.

Mr. Attorney did to my apprehenſion make but one Objection the other day, and he ſtill inſiſts upon it, that here is a Record too generally pleaded, and they compare it to the common Caſe of an *auter foitz acquit*, upon another Indictment; but I hope to make it evidently appear, that it is in no ſort a parallel Caſe. The matter which I conceive is confeſſed by the Demurrer, is that there is an Impeachment by the Commons of *England* of High-Treaſon againſt *Fitz-Harris* lodged in the Houſe of Lords, *ſecundum Legem & conſuetudinem Parliamenti*: And that the Treaſon for which he was impeached, is the ſame Treaſon contained in the Indictment, to the which the Priſoner hath now pleaded. Upon this Matter of fact ſo agreed, the general Queſtion is,

Whether an Impeachment for Treaſon, by the Houſe of Commons, and ſtill depending, be a ſufficient matter to ouſte the Court from proceeding upon an Indictment for the ſame Offence. My Method will be ſhortly to ſpeak to theſe things.

L. C. J. Pray let us give you ſome Direction; that is not the Queſtion, nor can come in queſtion in the Caſe: you miſtake the points of the Caſe.

Sir *Fran. Wining.* Why, my Lord?

L. C. J. The Queſtion is, whether you have pleaded ſufficient matter here to out us of our Juriſdiction. It is to no purpoſe to put Queſtions in the Caſe, that are not in it.

Sir *Fran. Wining.* My Lord, I know the Caſe is very nice and tender on all ſides, and therefore may very well bear an Interruption; however I expreſs my ſelf, my meaning is the ſame with your Lordſhips. The Method that I ſhall proceed in, will be this; I will ſuppoſe the Caſe before you had been of an Impeachment, containing the ſpecial Treaſon for which he is now indicted. I will ſhew in the next place, that as it is now pleaded, 'tis as available as if the Impeachment in the Houſe of Lords had mentioned the particular Treaſon. I ſhall then give ſome Reaſons why it is ſo, and mention one or two Precedents that have not yet been cited. Two of the King's Counſel did agree, that they would not make a doubt of the

Plea,

Plea, if there had been a particular Impeachment; and therefore I would, by conſidering what would be the reaſon of that Caſe, apply it particularly to the preſent Caſe. The Houſe of Lords is a Superior Court to this; and is agreed to be the higheſt Court of Record in the Kingdom, *Plowden* 389. *Co. Litt.* 109, 110. 9 *Co. in Præfat.* And then I am within the common Rule of Pleading, according to the differences taken in *Sparrie*'s Caſe, 5. *Co.* 61, and 62. That a Suit firſt commenced in an Inferior Court, cannot ſtop a Suit in a Superior Court, tho ſubſequent; but a Suit in a Superior Court, may be pleaded to ſtop the proceedings of one that is Inferior. And tho it may be objected here, that the Parliament is determined and diſſolved, and ſo there would be a failure of Juſtice, yet this Objection is of no force; for if once the Suit be well commenced in the Superior Court, it cannot after go down to the Inferior. And what is begun in one Parliament may be determined in another; ſo is the Caſe 4 *Edward* III. *n.* 16. of the Lord *Berkeley*, and thoſe that were accuſed for the Death of *Edward* II. And tho it was objected there, as hath been here, that by this means there might be a ſtop of Juſtice, by the Diſſolution of the Parliament; yet the ſhort and true Anſwer is, That it is in Law to be preſumed Parliaments will be called frequently, to conſider of the buſineſs of the Kingdom, and redreſs Grievances, acording to the ſeveral Statutes made for that purpoſe, 4 *Ed.* III. cap. 14. 36 *Ed.* III. cap. 10. I ſhall labour this no farther, but taking it as the common Rule of pleading, that a Record in a Superior Court may be pleaded to ſtop a proceeding in an Inferior; I ſhall come to prove that this Record is well pleaded, and could not be otherwiſe, unleſs Mr. Attorney would have had us plead what is falſe, this being the truth of the Caſe. For the Commons did impeach Mr. *Fitz-Haris* generally of Treaſon, as 'tis the Courſe of Parliaments for them to do; and in our very Plea, we alledge, that he was impeached *ſecundum legem & conſuetudinem Parliamenti*; and ſo Mr. Attorney hath confeſſed by the Demurrer: and if they may prefer an Impeachment in general, according to the Law and Cuſtom of Parliament; why then ſo far it muſt be allowed, that we have pleaded well that he was impeached of Treaſon. It is very true, my Lord, if a Man will plead generally that he was indicted of High Treaſon, it would be ill, becauſe the Court cannot take it otherwiſe than he has pleaded it; and ſuch a general Indictment would be altogether void, and therefore no Averment could make it good, or ſupply that Generality and Uncertainty.

But an Impeachment generally for Treaſon, is good and warranted by the Law and Courſe of Parliament, and ſo confeſs'd by the Demurrer. And ſo your Lordſhip will take it to be, and will give Credit, that all is regular in the Proceedings of that High Court. You will preſume, even in the Eccleſiaſtical Courts (as my Lord *Coke* ſays, in the 4th Report) that all things are rightly done, when they have a Juriſdiction; *a fortiori* you will believe the greateſt Court in the Kingdom does proceed regularly. My Lord *Coke* in the 4th Inſt. Fol. 14. and 15. does ſay what the Law and Courſe of Parliament is, the Judges will never intermeddle with. They always leave it to the Parliament, who are the Superior Judges, and are to determine the matters before them. For they take notice, that the Courſe of a Court, is the Law of a Court, as 'tis in *Lane*'s Caſe in the 2d Report, in the Caſe of the Exchequer. And therefore if a general Impeachment is *ſecundum legem & conſuetudinem*, which is confeſſed by the Demurrer in this Caſe, then you muſt take it for granted, that the Parliament proceed rightly, and that ſuch a general Impeachment is ſufficient in Law. There is a famous Caſe that ſtrengthens what I ſay, 11 *Ri.* II. *di. Rot. Parl. par.* 2. the Caſe of the Lords Appellants. You will find it alſo cited in *Ruſhworth*'s Col. Part 1. in the Appendix, Fol. 51: *Treſilian* and others were appealed againſt for Treaſon, and both the Judges of the Common and of the Civil Law were by direction of the King called to adviſe of that matter. And they did all declare, that the Proceedings in that Caſe were neither agreeable to Common Law, nor Civil Law. But the Lords in Parliament ſaid, it did not belong to the Judges of the Common Law, or Civil Law to guide them; but that they ought to proceed according to the Courſe and Law of Parliaments, (which are the words of our Plea) and that therefore no Opinion of theirs ſhould out them of their Juriſdiction, or alter the Courſe and Method of their Proceedings. My Lord, this Caſe is very remarkable, but I will go a little further; the Judges in all Ages have been ſo far from taking upon them to judge of the Laws and Cuſtoms of Parliament, that they have denied to anſwer when their Advice has been demanded, and inſiſted upon it, that they were not proper Judges of ſuch Matters, as in 31 *Hen.* VI. *Rot. Par. N.* 26. For there among other things the Judges were demanded, whether the Speaker of the Houſe, during the Adjournment of Parliament, might be arreſted: they deſired to be excuſed from giving any Opinion; for ſaid they, in this great matter they ought not to interpoſe, it being a matter of Parliament.

In the great Council *primo & ſecundo Jacobi*, about the Union of both Kingdoms, the Judges refuſed to give their Opinions upon ſeveral Queſtions put to them; deſiring to be excuſed, for that ſuch things did not belong to them, but were matters fit for Parliament only. My meaning is, to infer from hence, that ſince it is pleaded here to be according to the Law and Courſe of Parliaments, and Mr. Attorney hath acknowledged it, that now your Lordſhip is foreclоſed from further meddling with this Caſe, it appearing upon Record to be a matter whereof you cannot judge.

But the Objection is, that admit the Impeachment ſhould be taken to be according to the courſe of Parliament, yet it is ſo general, that the Court cannot judge upon it: I anſwer, that 'tis evident the Impeachment was not for nothing, 'tis moſt certainly to be preſumed, that ſuch a Body of Men as the Houſe of Commons would not impeach a Man for no Crime. *Fitz-Haris* avers by his Plea, that it was for the ſame Treaſon, for which the Jury have found this Bill againſt him. Now this Averment makes the matter as clear to the Court, as if the Impeachment had mentioned the particular Treaſon.

Every day's Experience ſhews that Averments, which are conſiſtent with the Record, are good, and are of neceſſity to clear the Fact to the Court; ſo that the Judges may give a Judgment upon it. If the Defendant will plead a Recovery in a formal Action, in bar to an Action of Debt, or other Action; it is not enough for him to ſet out the Record; he muſt aver alſo, that the Cauſes of the Action are the ſame, and that it is the ſame Perſon,

ſon, who is mentioned in one Record, and in the other Records; and this ſhews, that the moſt ſpecial and particular are of no uſe without Averments.

My Lord, there is a Caſe that I find directly to this purpoſe, which goes further than the Caſe I did but now put, and that is, 26 *Aſſiz. pl.* 15. It is alſo mentioned in *Stamf. Pla. Cor.* 105. Where a Man was indicted for the Murder of *J. S.* and he pleads a Record of Acquittal, where he was indicted for the Murder of *J. N.* But he avers, that *J. S.* in this Indictment, is the ſame Perſon with *J. N.* in the other Indictment; and that was adjudged a good Plea, and the Party was acquitted, tho the Averment there ſeemed to be a contradiction to the Record. This makes it clear, that if an Averment may conſiſt with the Record, the Law will allow it. In *More's Rep.* 823. *Pl.* 1112. the King againſt *Howard*, it is ſaid, that if an Act of Parliament be certified into Chancery, no Averment lies to ſay this is no Act of Parliament, becauſe the Commons did not aſſent to it; but if it appears in the Body of the Act, that the Commons did not aſſent, as if it was ordained by the King and Lords, and without mentioning any Aſſent of the Commons; there it may be aver'd to be no Act, for this being a matter conſiſtent with the Record, is averrable: And ſo it is agreed in 33 *H.* VI. Fol. 18. *Pilkinton's* Caſe.

Now Mr. Attorney has his Election here (as it is in all ſuch Caſes) either to plead *Null. tiel Record.* and then we muſt have produced it; and if we had fail'd, it had been againſt us, as to the whole Plea. Or if he would not deny the Record (as indeed he could not) he might have taken iſſue upon our Averment, that it was not for one and the ſame Offence; but he has demurred, and thereby confeſſed there is ſuch a Record, and confeſſed the Averment to be true, that he was impeached for the ſame Crime, and that he is the ſame Perſon. And now it is plain to your Lordſhip, that I ſtated the Queſtion right at firſt.

My Lord, I ſhall cite you one Precedent out of *Raſt. Ent. Fol.* 384, and 385. where a Man was indicted and acquitted before certain Juſtices, and being indicted *de novo*.——

L. C. J. It is Title *Goal-Delivery*, is it not?

Sir *F. Win.* Yes, my Lord, it is. And he pleads, that he was indicted *coram aliis Juſticiariis*, for the ſame Felony, and upon this Plea the Entry is made, *Quia teſtatum eſt hic in Cur. in præfatos Juſticiarios*, that the ſaid Party was acquitted of the Felony, in manner and form as he had alledged in his Plea. Therefore 'tis adjudged, that he ſhould be diſcharged and go without delay. My Lord, I do not altogether rely upon this Precedent for Law, but I find it in that Book.

Now, my Lord, I ſhall offer ſome Reaſons in general. Firſt, that when once the Commons in Parliament, in the name of themſelves, and of all the Commons of *England*, have lodged an Impeachment againſt any Man, it ſeems to me againſt natural Juſtice, that ever any Commoners ſhould afterwards come to try or judge that Man for that Fact. I ſpeak this, becauſe every Man in *England* that is a Commoner, is a party to the Accuſation; and ſo we have pleaded by ſuch an Impeachment, a Man is ſubjected to another ſort of Tryal: *Magna Charta* ſays, that every Man ſhall be tried by his Peers, or by the Law of the Land. And by the Law of the Land, there are ſeveral ſorts of Tryal, ſome by Juries, others not by Juries. This is one of thoſe ſorts where the Tryal is by the Law of the Land, but not by his Peers; for it would be hard that any Man ſhould come to try or to give Judgment upon a Perſon, who hath been his Accuſer before: And in effect hath already given his Judgment, that he is guilty by the Accuſation of him, and ſo ſtands not indifferent. By this means the Tryal by Jury is gone; and the Lords, who are the Peers of the Realm, are Judges in point of Fact, as well as Law. Here is an enormous Offence, againſt which all the Nation cries, for ſo they do in the Impeachment. Then ſays the Law, it is not fit that you ſhould try him, who are Parties, but the Lords are the proper Judges, they ſhall try him *per teſtes*; and the Commoners may come in as Witneſſes, but not as Judges.

My Lord, another Reaſon is this, that if an Appeal of Death, or any other Appeal were depending before the Statute of 3 *H.* VII. *cap.* 1. the King could not proceed upon an Indictment for the ſame Fact, becauſe the King, as the common Parent, does only take care that ſuch Offenders ſhould not go away with Impunity; but the preference was given to the Perſon more particularly concerned, and the King's Indictment muſt ſtay till the year and day were out, to ſee whether they will proceed in their Suits. And ſo ſays my Lord Chief Juſtice *Hales*, in his Pleas of the Crown, 2442,45. Then *a minori ad majus*, does the Law ſo regard the Intereſt of the Wife or the Heir, *&c.* in their Suit, and has it no regard to the Suit of all the Commons of *England*? For manifeſtly an Impeachment is the Suit of the People, and not the King's Suit.

That's the 2d Reaſon; another Reaſon I ſhall urge, is that which was touched by Mr. *Williams*. Suppoſe this Man ſhould be tried here and be acquitted; is it to be preſumed that he can plead this Acquittal in bar to the Impeachment before the Lords? My Lord, I believe there is no conſidering Man in *England*, that has regard either to the Juriſdiction of Parliament, or to the Nature of the Suit, will affirm, that it would be a good Plea; and that he could bar the great Court of the Kingdom from proceeding againſt him, by ſaying he was acquitted by a Jury in *Weſtminſter-Hall*, after the Suit was firſt well commenced in that Court.

My Lord, I ſay, with reverence to the Court, that ſhould you proceed in this Tryal, it may fall out, that contrary to a fundamental Rule of Law, a Man ſhall be twice put in danger of his Life for one Offence, which by the Law he cannot be; and therefore I urge that as a Reaſon, why you cannot proceed here on this Indictment.

My Lord, I will now mention two or three Precedents, which will prove that this Impeachment is according to the Courſe and Law of Parliaments, tho it may ſeem needleſs, after the King's Learned Counſel have agreed it.

My Lord, I ſhall firſt mention the Caſe of *Michael de la Poole*, *Rot. Par.* 18 or 28 *H.* VI. *n.* 18. He was a very great Man, and came to the Houſe of Lords voluntarily, and ſaid, there was a Rumour that he was guilty of horrible things.

L. C. J. Where did you take this Caſe, out of *Cotton?* It is mentioned there: But I have ſeen a Copy of the Roll.

Sir *Fran. Win.* Yes, my Lord: thereupon the Commons pray he may be committed upon his own Confeſſion, and that the thing being debated in the Houſe, the Lords ſaid we know not what was meant by thoſe Words, *horrible things*, it may import only Miſdemeanours; if it had been ſaid Treaſon, we had known how to have proceeded

thereupon: And thereupon within a few Days after the Commons came and accuſed him of Treaſon. And there 'tis ſaid that the Courſe of Parliament is to find out the Truth by Circumſtances, and ſuch Degrees as the Nature of the thing will bear, and they are not confined to the ſtrict Rules of other Courts. I will not cite any more antient Caſes, tho there are many to be found of general Impeachments; for we are not diſputing what is the Right and Courſe of Impeachments, which is confeſſed, upon the pleading: But we have had ſeveral Caſes of late, the Earl of *Clarendon* was impeached generally, and the Commons took time to bring in their Articles; and I have had the Experience in three or four Parliaments, wherein we have been pretty well buſied with Impeachments, tho we have had no great Succeſs in them, that tho the Commons may if they pleaſe carry up particular Articles at firſt, yet the Law and Courſe is, for the Lords to receive the general Impeachment, and the Commons ſay that in due time they will bring in their Articles. So it was done in the Caſe of the five Popiſh Lords, ſome particular Member was appointed to go up and impeach them of High-Treaſon in general; and in that Caſe, tho the Parliament was diſſolved before any Articles ſent up, yet afterwards, in the next Parliament, the Articles upon the former Impeachments were ſent up, and received, and my Lord *Stafford* ſince executed, upon his Conviction upon that Impeachment: yet Indictments were exhibited againſt them, before ever any Impeachment was ſent up by the Commons, and Preparations were made for their Tryals. But from that day to this, there hath been no Attempt to try them upon their Indictments, tho there have been ſeveral Intervals of Parliament.

Our Caſe is ſtronger than that of the Lords; for in the Caſe at the Bar, the firſt Suit was in the Houſe of Lords by the Commons, whilſt in the other Caſe the firſt was the Suit of the King, by Indictment; and yet by a ſubſequent Impeachment that was ſtopped, and the Lords continue yet Priſoners in the *Tower*. Our time hath been ſo ſhort, that we could not ſee the Copies of Orders, which we might otherwiſe have made uſe of, for maintaining this Plea; we ſent to the Houſe of Lords, but the Officers were out of Town, and we could come at the ſight of nothing there. We have been told the Opinion of the Judges was delivered at Council concerning theſe very Lords, that the Impeachments being lodged in Parliament, no other Proſecution could be againſt them, till the Proſecution of the Commons was determined. So far the Courts below have always been from meddling with the Juriſdiction of Parliament, that even many times in Queſtions upon Acts of Parliament, they have gone up to the Parliament, to know what was meant by it. And I remember it was ſaid by the Court in that Caſe of my Lord of *Shaftesbury*, where it was agreed by all, that the Commitment was too general, for it was only for a Contempt; whereas the Crime ought particularly to appear in the Warrant, that it being in a Caſe of Commitment, by the Parliament, (at leaſt while that Parliament was continuing) they ought not to meddle with it, nor could they inquire into the Formality of the Warrant.

My Lord, I muſt mention one thing touching the Caſe of my Lord *Hollis*, which was cited by Mr. *Williams*, and I have but a word to add: It is in the Appendix to the firſt part of *Ruſhworth*'s Col. and alſo in *Coke*, *Car. fol.* 181. It was there pleaded to the Juriſdiction of this Court, that it was a Matter done in Parliament: In our Caſe 'tis pleaded that an Impeachment is depending in Parliament; that was but a Proſecution for a Miſdemeanor, this is a Caſe of High Treaſon. It fell out in that Caſe, the Court here did adjudge, that the Information did lie but upon a Writ of Error; it was agreed by the Lords unanimouſly, that the Judgment was erroneous, and that the Parties ſhould be reſtored to all which they had loſt, by reaſon of it: but if this Man ſhould loſe his Life by your Judgment, what help would there be upon a Writ of Error? The Danger of ſuch a thing requires great Conſideration, and it would be of fatal Conſequence, if the Lords ſhould hereafter adjudge that this Court had no Juriſdiction.

As for Mr. Attorney's Objection to-day, that we have not ſet forth actually, that there was any Impeachment; I do confeſs I was a little ſtartled at it; for the Words of the Plea are, that *Edward Fitz-Harris*, by the Knights, Citizens, and Burgeſſes was impeached, which Impeachment is in force. I do not know how in the World we could have thought of more expreſs Words, than to ſay, he was impeached; and that that Impeachment is in full force, as appears by the Record.

For the other Objection, the other day (for we would mention all, how little ſoever they deſerve an anſwer) that the King may chuſe in what Court he will ſue; it is agreed, when it is at his own Suit: but this is not ſo, but at the Commons Suit, and can be no where elſe proſecuted, than where it now depends. This is the Method and Courſe of Parliaments, we ſay; and that the Method and Courſe of Parliaments is the Law of the Land, your Lordſhip will take notice that it is ſo.

To conclude, as this Plea now ſtands, the Demurrer confeſſing the matter of it, it cannot be over-ruled, without deciding whether the Lords can proceed upon ſuch general Impeachments, and whether the Commons can impeach in ſuch a general Way. We ſubmit the whole to your Judgment: It is a Caſe deſerves great Conſideration, as being of great Weight and Moment; and highly concerns the Juriſdiction of the Lords, the Privileges of the Commons, and the Rights of all the People of *England*.

Mr. *Wallop*. May it pleaſe your Lordſhip, there are in this Plea three principal Parts upon which it turns, which are expreſly alledged. Firſt, That *Fitz-Harris* before the Indictment was according to the Law and Cuſtom of Parliament impeached of High-Treaſon, and this I humbly conceive is confeſſed by Mr. Attorney upon the Demurrer. The ſecond thing is, That this Impeachment, be it as it will, general or particular, does remain in full Force and Virtue. This is plainly alledged and demurred to, and ſo confeſſed by Mr. Attorney; for all things well alledged and pleaded, are confeſſed by the Demurrer. The third great Point and Hinge upon which it turns, is this, That the High-Treaſon mentioned in the Indictment, and the High-Treaſon for which he was impeached in the Houſe of Lords, is one and the ſame Treaſon. This we have plainly averred, and this Mr. Attorney hath likewiſe by his Demurrer plainly confeſſed, as we humbly conceive.

For the two former Points there is no difficulty in them, and therefore I ſhall paſs them over. 'Tis this third matter which I take to be the only Point in the Caſe; and if we have well averred it, and can by Law be let into ſuch an Averment: then I hope your Lordſhip and this Court will not pretend to go on in this Caſe. They object,

Object, and ſay, becauſe he is impeached of High-Treaſon generally, without naming any particular Treaſon, that cannot be averred to be the ſame, and a Demurrer does never confeſs the Truth of that which by Law cannot be ſaid; but if it may be ſaid, and is ſaid plainly, then the Demurrer confeſſes it.

My Lord, I humbly conceive this matter is well averrable, and we have taken a good Averment, I grant that a repugnant and an impoſſible Averment cannot be taken, as to aver a Horſe to be a Sheep, which is apparently repugnant and impoſſible; and in that Caſe a Demurrer can never confeſs the Truth of that which appears impoſſible to be true. But, my Lord, if there be no Impoſſibility nor Repugnancy, nor Contradiction in the Averment between the matters that are averred to be the ſame, as there is not between that which is but generally expreſſed, and that which is more ſpecially alledged; where all may well ſtand together, and the one includes the other, and needs only ſome farther Explanation; it is not only allowable to aver it, but moſt proper, and in ſuch Caſe only neceſſary. For, *quod conſtat clare non debet verificari*, in this Caſe it is not neceſſary that it ſhould appear to the Court upon the view of the Indictment and Impeachment, that the matter contained in both, is the ſame; but it is ſufficient, that it be proveable upon an Iſſue to be taken. And ſo much is admitted by the Judges in *Sparry*'s Caſe, *Co.* 5. *Rep.* 51. That if there be convenient certainty which may be put in Iſſue, it is ſufficient, and conſequently not neceſſary to appear at the firſt, but upon the event of the Iſſue afterwards to be tried. And if they intend it otherwiſe, I confeſs I underſtand them not. It is true, it muſt appear to the Court, either at the firſt opening, or upon an Iſſue ſubſequent to be found. And, my Lord, if this matter may appear at firſt or at laſt, and the thing is poſſible to be proved, then we are well enough. In *Corbet* and *Barne*'s Caſe, in the firſt *Croke*, Fol. 320. A Battery ſuppoſed to be in *London*, and a Battery ſuppoſed to be in *Herefordſhire*, were averred to be one and the ſame Battery, which naturally is impoſſible; yet being tranſitory, and therefore ſuppoſable to be done in any County, ſuch an Averment is allowable, tho it ſeemed contradictory, and could not appear to the Court by comparing the ſeveral Declarations to be any way the ſame. And there being a Demurrer for that Cauſe in that Caſe, the Truth of the Averment was ruled to be confeſſed by the Demurrer. And ſo here by the Demurrer, the Truth of the Suggeſtion that the Treaſon in the Impeachment, and the Treaſon in the Indictment is one and the ſame, is confeſſed.

By taking this Averment, we offer them here a fair Iſſue, an Iſſue of Fact triable by a Jury, wherein the Attorney-General might have joined with us, if he had pleaſed; but refuſing that, and having demurred, and thereby confeſſed what we have alledged, it muſt be taken to be true, as if found by a Jury. And, my Lord, That this matter is properly averrable and tryable, I think, 'tis plain; it being a Queſtion of Fact, which is properly tryable by the Country: and if they had taken Iſſue upon that, we might have gone to a Jury, where the matter would have been eaſily proved. For upon Evidence given, the Jury might fairly take into Conſideration the reading of this very numerical Libel ſet forth in the Indictment, and the particular and ſpecial Debates of the Houſe of Commons thereupon. And that upon thoſe very Debates the Houſe voted that *Fitz-Harris* ſhould be impeached for matters contained in that Libel. And that upon thoſe Votes the Impeachment was carried up to the Lords. This is Evidence ſufficient, that the Houſe of Commons did intend to accuſe him of the ſame Treaſon contained in the Indictment, which proves the Iſſue, that is, that the Treaſon contained in the Impeachment, is the ſame with that contained in the Indictment. Neither is this to put the Intention of the Mind or ſecret Thoughts of the Heart in Iſſue, which is againſt the Rules of Law; but to put them into a way of Proof, which well ſtands with the Rules of Law, which upon the general, or other collateral Iſſue, may well be inquired of by the Jury. As in an Action, *quare canem mordacem defendens ſcienter retinuit.* Here [*Scienter*] is not directly iſſuable, but it is proveable, and muſt be proved upon the general Iſſue. So in the preſent Caſe, the Intention of the Commons upon the Iſſue offered by us, and refuſed by the Attorney-General, might, and ought, and would have been proved; and, without doubt, found by the Jury. Neither is this general Impeachment ſuch a notional thing as the other ſide would pretend; but 'tis as if they ſhould ſay, We do charge him to have committed certain Crimes that are Treaſon. Now whether the Crimes they ſay he had committed, and for which they impeached him, are the ſame with thoſe for which he is indicted, is a good and proper Iſſue. And if it appear to the Court to be the ſame, you will certainly your ſelves take off your hands from thoſe Proceedings. This is all I ſhall ſay as to the Averment. And if we can well get over that, I take it, all the reſt is well enough.

But again, they ſay the Impeachment is too general, and no Man ſhall be put to anſwer to ſuch a general Accuſation.

And I ſay ſo too, neither ſhall *Fitz-Harris* be put to anſwer to it without ſpecial Articles; yet he cannot quaſh the Impeachment for this Cauſe, as he might an Indictment: which ſhews the difference betwixt an Impeachment and an Indictment, which always contains the ſpecial matter, and without which it might be quaſh'd, and made no Record. But here by the Law of Parliament ſuch general Impeachments are held good; and Articles are uſually brought in afterwards, and after thoſe additional Articles, which cannot be in the courſe and way of Indictment; and therefore we muſt take the Impeachment as we find it, and ſince it ſtands againſt us as a Record, tho 'tis general, we may, and muſt plead it in the ſame generality; having no way to make it no Record, as we have in caſe of ſuch a general Indictment.

So then this being an Impeachment according to the Courſe of Parliament; it is well lodged in the Houſe of Lords, where it only ought to be tried, and we muſt plead it as we may, and as we find the Caſe to be. And having averred the Crimes to be the ſame, we have done what we could, and therefore enough.

And that a general Impeachment without Articles is a Bar to any Indictment for the ſame matter, was reſolved by all the Judges, as I am informed, in the Caſe of the Lords in the *Tower*, who were all indicted for Treaſon, either in the King's-Bench, or before Commiſſioners of *Oyer* and *Terminer*. And afterwards [5. *Dec.* 78.] generally impeached before the Lords in Parliament;

and no Articles exhibited till 3. *April* 79. And yet in the mean time it was reſolved at the Council-Table by all the Judges there attending, that after the general Impeachment, before Articles, they could not be proceeded againſt upon thoſe Indictments, tho the Parliament wherein they were impeached was diſſolved.

And that was a ſtronger Caſe than this of *Fitz-Harris*: for there the Inferior Court was firſt poſſeſſed of the Cauſe, and yet the general Impeachment cloſed up the hands of the Court. But in this Caſe, the Superior Court the Parliament was firſt poſſeſt of the Cauſe, which cannot be taken out of their hands by the Inferior Court.

There is a farther difference betwixt an Impeachment in Parliament, and an Indictment; that in an Indictment, which is always as particular as Articles upon an Impeachment, you cannot plead *auter foitz* arraigned, but you muſt plead either *auter foitz* convict or acquit, as appears in Sir *William Wiſhipole*'s Caſe, *Cron.* 1. 105. But in an Impeachment in Parliament, the other ſide will acknowledge, that after Articles exhibited, there can be no Proceedings upon an Indictment for the ſame Offence, altho the Defendant in the Impeachment be neither convict, or acquit. Otherwiſe you may bring back all the Lords in the *Tower* to the King's-Bench to be tried, which Mr. Attorney will not I ſuppoſe attempt.

And it is obſervable in the Caſe of Sir *William Wiſhipole*, That to avoid the Doubt that the Party there ſhould not be queſtioned, both upon the Coroner's Inqueſt, and the Indictment of Murder; it was ruled by the Court, that the firſt ſhould be quaſh'd as inſufficient: ſo careful were the Judges to avoid double Vexation, in a Caſe, compared with this, of no great import.

I ſhall ſay no more to the Caſe, but only obſerve how ſcrupulous the Judges have been to touch upon a Caſe, where they had the leaſt ſuſpicion of jealouſy that the Parliament had, or pretended to have a Juriſdiction, or were poſſeſſed of the Cauſe. I am ſure I could never get any thing by any Labours of mine in thoſe Caſes. But upon all ſuch Motions they were ſo aware of what might be the Conſequence, that they would always worſhip afar off, and would never come near the Mount, they would ever retire when they came but near the brink of this Gulf.

Now, my Lord, if you retain this Cauſe, in conſequence you charge your ſelves with the Blood of this Man; wherein, if you proceed regularly, and according to Law, all is well. But however, by over-ruling his Plea, you take upon you his Blood one way or other; thro which you muſt wade to come at the Cauſe. And whether it be adviſable to come at it upon theſe terms, I leave it to your Lordſhip's Wiſdom to conſider.

Mr. *Pollexfen*. My Lord, I ſhall not make any long Argument, there hath been ſo much ſaid before me. But I would fain come to the Queſtion if I could; for I muſt confeſs after all, I cannot ſee what the other ſide make the Queſtion. Mr. Attorney was pleaſed to ſay, that both for the Matter and Form he objected againſt our Plea. But if for the Matter it be admitted to me, that an Impeachment in Parliament for the ſame Matter will out this Court of Juriſdiction; I will ſay nothing at all of it, for I apprehend that is not then in queſtion.

L. C. J. No, not at all.

Mr. *Pollexfen*. Then the Matter ſeems to be agreed, and only the Manner and Form of the Plea are now in queſtion. And for the Manner, they except to it in theſe particulars. Firſt, they ſay, 'tis not alledged that there is any Impeachment upon Record; now I confeſs, Form is a ſubtile Matter in it ſelf, and it is eaſy for any Man that reads other Mens Words and Writings, if he will, to make what Conſtruction he will of them, even *Nolumus* to be *Volumus*; but I know the Court will not do ſo. But for an Anſwer to the Objection, I think it is as ſtrongly and cloſely penned as I can tell how to pen any thing, he was impeached, *Quæ quidem Impetitio, &c.* What can that *Quæ quidem* ſignify, but the Impeachment that was juſt mentioned before? But what they mean by this, to ſay, this is not the ſame Impeachment, when the Words are poſitive that 'tis the ſame, I muſt confeſs I cannot fathom.

My Lord, there was another thing ſpoken the laſt day, but they have not mentioned it now; if there be any thing ſtirred in it, I hope your Lordſhip will be pleaſed to hear us before you give your Judgment in it, That it was not ſaid to be *ſub pede ſigilli*; but I know they won't inſiſt upon it, therefore I ſay nothing to that.

But the great Queſtion now is, whether or no this be not too general, the alledging that he was impeached in Parliament, and not ſaying how or for what Crime; tho there be an Averment afterwards, that 'tis for the ſaid Crime? Whether this be not ſo general, as that therefore this Plea ſhould be naught?

Firſt, For this of the Averment, I take it with ſubmiſſion, let the Crimes be never ſo particularly ſpecified in the Record that is pleaded, and in that upon which the Party is brought in Judicature, yet always there muſt be an Averment; and that Averment is ſo much the ſubſtantial part of the Plea, that let the Matter never ſo much appear to be the ſame without an Averment, it would be naught; and it muſt come to be tried *per pais*, whether the Offence be the ſame or not: for if a Man plead one Indictment for the Murder of *J. S.* to another Indictment for the Murder of *J. S.* tho they bear the ſame Name, he muſt aver they are one and the ſame Perſon. For elſe *non conſtat* to the Court, but there may be two *J. S*'s. Therefore all Averments are ſtill the ſubſtance of the Plea, to bring the *Indentity* of the matter into Judgment, and are to be tried by the Country: ſo then the Objection to the Generality is not an Objection to the Subſtance, but rather an Objection to the Form on their ſide; becauſe the Subſtance is alledged in the Plea, that it is for the ſame Treaſon: which Subſtance, if Mr. Attorney had thought not fit to have demurred to, but taken Iſſue on, muſt have been tried *per pais*.

Having thus ſpoken to the Averment, my Lord, let me ſpeak to the general Allegation that he was impeached for Treaſon, and not ſaying particularly what the Fact was.

My Lord, if they admit the Law, that an Impeachment in Parliament does ſuſpend or take away the Juriſdiction of this Court, then they have admitted a great part of the Fact, and then the matter in queſtion will be what Impeachment in Parliament it is that will take away the Juriſdiction of the Court, and there can be be but two ſorts; the one at large, where the whole Offence is ſpecified; the other not at large, but only in general Words, The Knights, Citizens, and Burgeſſes in Parliament aſſembled, in the Name of themſelves and of all the Commons of *England*, do impeach ſuch an one of High-Treaſon.

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ſon. Now, my Lord, if ſo be ſuch Impeachment in Parliament be a good Impeachment, then have we, I think, the moſt plain Caſe pleaded that can be, as plain as the Fact, that this is an Impeachment in Parliament; and then this Court is outed of its Juriſdiction.

They that have gone before, have ſaid, which I muſt pray your Lordſhip to remember, that the Court and we are to take notice of the Proceedings in other Courts, as other Courts are bound to take notice of the Proceedings of this; then I would ſuppoſe in other familiar Caſes, there is generally (as 'tis true in *Sparry*'s Caſe) the Writ or the Declaration, which does in all civil Cauſes ſet forth the particularity of the thing in queſtion, yet in ſome Caſes we are ſure it does not do ſo, but the Courſe and Practice of ſome Courts admit general Proceedings. Now whereever that is ſo, the Party cannot mend himſelf by making their Courſe otherwiſe than it is: for he muſt not ſay it is more particular than the Courſe of the Court does make it. Therefore he hath no other way by the Law to bring his matter on, and help himſelf, but by an Averment that 'tis the ſame. I will ſuppoſe a Caſe of ſuch a nature as this; A Man brings an Account in *London* upon *Conceſſit ſolvere*, and he does not particularize in the Court any thing what or how his Debt did ariſe; but after he brings another Account or Delivery, a ſpecial Declaration in an Account of Debt: ſhall not I, becauſe the firſt Declaration is in general Words, aver that this is the ſame Matter that he ſued for by the *Conceſſit ſolvere*, which he now ſues for in this particular Declaration? Or ſuppoſe a Man in this Court does bring an Account for divers Wares and Merchandizes ſold, and does not expreſs any particulars, but that he was indebted, in general words, for Wares ſold; and afterwards he comes and brings another Account, and ſays, it is for ſuch and ſuch Wares; ſo much for Cloth, ſo much for Wine, *&c.* tho his firſt Declaration be in general, not expreſſing what the Wares were, and the laſt is particular, ſhall not I come and plead in Abatement to the ſecond Declaration, that the firſt and ſecond were for one and the ſame thing? Suppoſe again an Indictment of Barretry be found againſt a Man, which is an Offence that is only general, and hath no particulars alledged in the Indictment; ſhould not a Man that is the ſecond time indicted come and ſay, this is one and the ſame? My Lord, under favour, in all theſe and ſuch like Caſes, the Law muſt be governed by its own Proceedings, and take notice of the Nature of the things depending before the Court. And if ſo be, upon Conſideration of the Nature of the thing, there is as much of certainty ſet forth as the Caſe will admit, and is poſſible to be had, we muſt permit the Party to plead as he can, and help himſelf by the Averment.

Then, my Lord, the Queſtion is, whether an Impeachment generally in Parliament, without particularly ſetting forth for what, be a good Impeachment there or no. If they ſay it is not, then the bottom of the Plea is naught, and all is quite gone; but if they ſay it is, then I have pleaded my matter as it is. For I cannot ſay, that that is particular, or make that particular that is not, and I have done all that is poſſible for me to do in my Caſe. I have pleaded what is in the Record; and as 'tis in the Record, from which my Plea muſt not vary, and I have averred 'tis for the ſame matter, and you have confeſſed it by the Demurrer.

My Lord, I would not intangle the Queſtion, but I muſt confeſs I do not ſee how they can extricate themſelves out of this *Dilemma*, if they do admit a general Impeachment is a good Impeachment. Then there are freſh Inſtances of this conſiderable in the Caſe, as that which hath been particularized of the Lords in the *Tower*, and of the Opinion in *February* of the Judges in their Caſe. For in the beginning of *December* were thoſe Lords indicted, and after, on the 5th of *Dec.* the Houſe of Commons taking it into their Conſideration, that there was a Commiſſion going out for an High-Steward, with an intent to bring them to tryal before the Peers; they purpoſely to have the Carriage and Proſecution of this great and horrid Treaſon, and take off the Proſecution upon the Indictment, do impeach the ſame Lords, and there the Impeachment is juſt the ſame as this in our Plea of High-Treaſon; but not of any particular Fact, adding, only of other Crimes and Miſdemeanors, which is as general as can be. Now, my Lord, the Judges did take ſo much notice of it, that tho the Parliament was diſſolved before the particular Articles were carried up to ſet forth the particular Offence; yet in *February* following (ſome of the Judges are here, and they will rectify me if I be miſtaken) their Opinions being asked about it at the Council-Board, upon the Petition of the Lords, to be either bailed or tried; they were of opinion, that this Impeachment, tho thus general, was ſo depending in Parliament, that they could not be tried. So that I think the Proceedings in Parliament are of that nature, that if you will meddle with what they do, you will take notice of their Method of Proceedings, as you do of other Courts.

Why then, my Lord, if this be ſo, how is it poſſible for us to do better? We have pleaded as our Fact is an Impeachment of High-Treaſon, what would they have had us to do, or wherein is our Fault? What would they have had us ſaid? We were impeached of any High-Treaſon, ſo and ſo particularizing, how can that be? There is no ſuch thing. Then they would have ſaid, *Nul. Tiel. Record*; and we muſt have been condemned for failing in our Record: then indeed we had been where they would have had us. But having done according to our Fact, if that Fact be ſuch as in Law will out this Court of Juriſdiction, I ſee not how it is poſſible we ſhould plead otherwiſe, or what Anſwer they will give to it.

My Lord, I will meddle as little as I can with what hath been ſaid, they have mentioned that it is a Caſe of an high nature, and this Impeachment in Parliament they will look upon it as the Suit of all the People of *England*; why then, my Lord, this muſt needs be agreed to me, if this Impeachment in Parliament be in the Nature of an Appeal, ſurely an Appeal does ſuſpend the Proceedings upon any Indictment for that Fact: which is the Caſe expreſly in my Lord *Dyer*, Fol. 296. *Stanley* was indicted of Murder, and convicted; after he was convicted, and before any Judgment, the Wife of the Party murdered brought her Appeal, then came they and moved for Judgment: no, ſaid the Court, here is an Appeal brought, and they could not go to Judgment till that Appeal was determined. So the *Stat.* of 3 *H.* VII. *Ca.* 1. and *Vaux*'s Caſe 4 *Report.*

Fol.

Fol. 30. An Appeal of Murder, the Party convicted before Judgment, the Petitioner in the Appeal did die. Then an Indictment brought, and this Conviction pleaded in Bar of that Indictment, and adjudged to be a good Plea; but then there was a Fault found in the Appeal, upon which the Conviction on the Appeal was void in Law, and they went on upon the Indictment. This is to shew, that if this be of the nature of an Appeal, then ought this Suit first to have its Course and Determination, before your Lordship proceed on this Indictment.

But, my Lord, whether it be of this nature or no, is a matter we know were under great Controversy; and whether your Lorship will interpose in that great Question, or whether it comes in Judgment under this Question, you will do well to consider: for 'tis a matter of Parliament, and determinable among themselves, not in the Courts below, nor have ever Inferior Courts taken upon them to meddle with the Actions of the Superior Courts, but leave them to proceed according to their Laws: and if that be done in any Case, there will be as much regard had in this great Cause to the Court of Parliament, as in others.

Besides the Authorities cited out of my Lord *Coke* and others, I would cite one more, and that is *Cotton*'s Records, 5 *H.* IV. Fol. 426. the Earl of *Northumberland*'s Case. He comes and confesses himself to be guilty of an Offence against his Allegiance, the King delivered his Petition to the Justices, and would have them to consider of it; no, said the Parliament, 'tis matter of Parliament, and the Judges have nothing to do with it: the Lords make a Protestation to this purpose, and then they went on themselves, and adjudged it to be no Treason. There is only that one Record more which has been often cited, and that is, *Rot. Parliamenti* 11 *R.* II. *pars* 1. *N.* 6. In this Parliament the Lords Spiritual and Temporal claimed the same Privilege. My Lord, I only offer these things, with what my Lord *Coke* says hath been formerly thought Prudence in the Judges to do.

So that I hope, that if the Matter be good, the Form is as good as the Matter can be put into, and therefore we hope you will allow us the benefit of it.

Mr. *Attorney*. May it please your Lordship, I am of Counsel in this Case for the King, and notwithstanding what hath been said, I take it with Submission, that this Plea is a naughty Plea, as a Plea to your Jurisdiction, and there is no matter discloſed therein that we can take a good Issue upon.

The great Substance of the Arguments of these Gentlemen assigned of Counsel for the Prisoner, is against the Prisoner. For the great matter of their Arguments was, lest this Gentleman should escape (which Arguments in several Instances they have used to support the Plea) but the Prisoner pleads this Plea to the purpose that he might escape. Therefore if these Gentlemen had taken Instructions from him, surely they would have used Arguments to the same purpose that he might escape.

My Lord, they object we have admitted here that there is an Impeachment depending, that we have admitted 'tis for the same matter, and that we have admitted the Parliament to be in being; but no Fact is admitted that is not well pleaded. Indeed if that be admitted that the Parliament is still in being, then it goes very hard with us; and if not so admitted, the whole force of Mr. *Williams*'s Argument falls to the ground. But I say, my Lord, with submission, to this matter, that the Beginning, Continuance, Prorogation, Adjournments, and Dissolution of Parliaments, are of publick Cognizance, and the Court *ex Officio* will take notice of them, so that they need not be averred. And so is the 41 of the Queen, the Bishop of *Norwich*'s Case. A private Act of Parliament was pleaded, and the Day of the Parliament mistaken; there was a general Demurrer, and it was resolved that it was naught, and Judgment given against the Bishop, tho no Exception was taken in particular, because the Days of the beginning and ending Parliaments are of publick notice; and the Judges take notice, when a Parliament is in being, and when not. That's a sufficient Answer to that matter.

Then for those many Cautions that have been given you, what a difficult thing it is for two Jurisdictions to interfere, Mr. *Fitz-Harris* is much concerned in that matter, who hath forfeited his Life to the Law, as a most notorious Offender that certainly deserves nothing but Punishment, yet he would fain live a little longer, and is much concerned that the Judicature of Parliament should be preserved. If it be not Law, he shall not be oppressed in it; but if it be Law, *fiat Justitia*. Certainly no Consideration whatsoever ought to put Courts of Justice out of their steddy Course; but they ought to proceed according to the Laws of the Land.

My Lord, I observe 'tis an unusual Plea, and perhaps they had some reason to put it so. It concludes, *si curia procedere vult*, I wonder they did not put in *aut debeat*, that is the usual Form of such Pleas; for you have no Will but the Law, and if you cannot give Judgment, you ought not to be pressed in it; but it being according to Law that great Offenders and Malefactors should be brought to condign Punishment, we must press it, whatsoever the Consequences are. And if we did not take it to be the Interest of all the Kingdom, and of the Commons too as well as of the King, my Lord, I should not press it; but it is all their Interest, that so notorious a Malefactor that hath certainly been guilty of Treason in the highest Degree; and that for the utmost Advancement of the late Popish Plot, should not escape, or the Truth be stifled, but brought into Examination in the face of the Sun, that all Men may see what a villanous thing hath been attempted to raise up the whole Kingdom against the King: but they say, if it be not Law you will not proceed, it ties your Hands. But with Submission, they have not given you one Instance to make good what they say. Many things have been, that a Plea depending in a Superior Court is pleadable to the Jurisdiction of an Inferior Court; for, my Lord, that is it we put upon them to shew: if it had been pleaded in Abatement, it would have had its weight, and been considered of, as in *Sparry*'s Case, where it was no Plea to the Jurisdiction.

Put the Case it had been a good Impeachment, and he had been arraigned upon it and acquitted; if he had afterwards come to be indicted in this Court, and the Prisoner will not plead this in Bar but to the Jurisdiction of the Court, it would not have been a good Plea; but he had lost his Advantage by mispleading. If then an Arraignment, and an Acquittal, or Conviction thereupon, is not a good Plea to the Jurisdiction; then

then certainly an Impeachment depending singly cannot be a good Plea to the Jurisdiction. This Court hath a full Jurisdiction of this Case and of this Person, both of the Crime and of the Party who is a Commoner, and not only to find the Indictment, but to proceed to Justice, and this you had at the time of the Fact committed. For certainly, we need not put Cases for to prove that the King's-Bench, especially since the Statute for trying Treason beyond the Seas, hath an universal Jurisdiction of all Persons and Offences. Pray then what is it that must out this Court of their Jurisdiction? For all the Cases that have been, or can be put about matters which are not originally examinable in this Court, make not to the matter in question: there 'tis true, the Court may be by Plea outed of its Jurisdiction; as at Common-Law, where a Fact is done *super altum mare*, and so pleaded, that puts it out of the Court's Jurisdiction; and that was my Lord *Hollis*'s and Sir *J. Elliot*'s Case, and so that was my Lord *Shaftesbury* Case's too, the Fact was done out of their Jurisdiction, and that may be pleaded to the Jurisdiction, because they had no Original Jurisdiction of the Fact; but where the Crime and the Person were absolutely within the Jurisdiction of the Court, and the Court may originally take Cognizance of it, as this Court had of the present Case, I would fain know what can out that Jurisdiction less than an Act of Parliament: I will be bold to say, the King by his Great-Seal cannot do it, nor can an Act of either House, or both Houses together without the King, out the Jurisdiction. To say, their Proceedings ought to be a Bar, that is another Case, the Party hath his Advantage, and may plead it in Abatement or Bar, as the Case requires: for if there had been an Acquittal or Conviction, the Party could not plead it to the Jurisdiction. Therefore for those Cases they put, when you come to examine the reason of them, you see how they stand, *viz.* that the Court had no Original Jurisdiction.

My Lord *Shaftesbury* was committed by the Lords for a Crime in that House, a Contempt to that House; he is brought here, and it appears to be a Commitment in Execution. My Lord, that was out of your Jurisdiction; and if you had bailed him, what would you have done? would you have bailed him to be tried here? No, you could not do it, and therefore you proceeded not in that Case. And so in the other Cases: for there is not one of their Cases that have been cited of the other side, but where it was out of the Jurisdiction of the Court originally, and not at all within it. As for the Case of the five Lords in the *Tower*, because they say it will have a mighty influence upon them, and they put the Case, that there was in *December* an Indictment, and afterwards an Impeachment from the Commons; and they cite some Opinion given at the Council-Board, which I hope these Gentlemen will not say was a Judicial Opinion, or any way affects this Cause: But for that, my Lord, I observe the Lords took care that these Indictments should be all removed into the Lords House; so they did foresee that the King might have proceeded upon the Indictments, if they had not been removed thither. But our Case now is quite another thing: for those Lords were not fully within your Jurisdiction. You cannot try a Peer of the Realm for Treason; and besides, the Lords have pleaded in full Parliament, where, by the Law of Parliament, all the Peers are to be their Judges; and so you can't out them of that Right. And the reason is plain, because thereby you must do them an apparent Prejudice; they having pleaded there, all the whole Peerage are their Tryers. But upon Tryal before Commissioners, they must have but a select number of Peers to be their Tryers. But in none of those Cases hath any Judicial Opinion been given: for the Case of 11 *R.* II. first cited by Sir *Fran. Winnington*, and then by Mr. *Pollexfen*, a Declaration in Parliament, That they proceeded according to the Law of Parliament, and not according to the Common-Law, nor according to the Practice of Inferior Courts; that will be nothing to our purpose at all, that was in Case of the Lords Appellants. A Proceeding contrary to *Magna Charta*, contrary to the Statute of *Ed.* III. and the known Privilege of the Subject. But those Proceedings had a countenance in Parliament: for there was an Oath taken by all the Lords in Parliament, that they would stand by the Lords Appellants. And thereupon they would be controuled by none, and they would not be advised by the Judges, but proceed to the trying of Peers and Commoners according to their own Will and Pleasure. And between that time of 11 *R.* II. and 1 *H.* IV. see what havock they made by those illegal Proceedings; and in 1 *H.* IV. you will see, that these very Lords were sentenced, except one or two of them who were pardoned; and then it was expressly resolved by Act of Parliament, that no more Appeals of that nature, nor any Appeals whatsoever, should be any more in Parliament. And if so, these Gentlemen had best consider how they make an Impeachment like an Appeal: for in that Statute, 'tis said, there shall be no more Appeals. And the Petition upon which this Act is founded, runs thus. They pray that no Impeachment or Appeal may be in Parliament. But when the King came to make the Grant, he grants only for Appeals, and principally to out those Lords Appellants who were condemned by that very Parliament. So that 'tis a very pretty matter at this time of day to liken an Impeachment to an Appeal.

But, my Lord, the other great Point is this. There is nothing at all certainly disclosed to you by this Plea; therefore there is nothing confessed by us, only the Fact that is well pleaded: therefore I shall come to consider what is said by them, as to the Form of it. They say, my Lord, that they have pleaded it to be *secundum Legem & Consuetudinem Parliamenti*; and if that be sufficient, let them have said what they would, that would have healed all. But I say, my Lord, with Submission, they must disclose to you what is the Law and Custom of Parliament in such Case, or else you must take it upon you upon your own Knowledge, or you cannot give Judgment. 'Tis very well known what this *Lex & Consuetudo Parliamenti* is; no Person versed in the Records, but knows it, that by course of Parliament a Message goes up with a Declaration to impeach the Party generally; and then after, there are Articles or a Bill of Impeachment produced. Now till that be produced, sure there is no Counsel of the other side will say, that ever the Party can be called to answer. And because these Gentlemen do pretend to urge their Knowledge herein, I would observe, there are three things to be considered of the Parliament; the Legislative Part, the Matters of Privilege, and the Judicial Part proper to this Case. For the Legislative Part, and Matters of Privilege, both Houses do proceed only *secun-*

dum Legem & Conſuetudinem Parliamenti; but for the Judicial Part, does any Man queſtion, but that in all times they have been guided and directed by the Statutes and Laws of the Land? And have been outed of a Juriſdiction in ſeveral Caſes, as by the Statute of 4 *Edw.* III. and 1 *H.* IV. And the Lords in all Writs of Error, and all Matters of Judgment, proceed *ſecundum Legem Terræ*; and ſo for Life and Death. And there is not one Law in *Weſtminſter-Hall*, as to Matters of Judgment, and another in the Court of the Lords above. But I will not trouble your Lordſhip any farther to purſue theſe things. But it is not ſufficiently diſcloſed to you, that there is any ſuch thing as an Impeachment depending there; 'tis only alledged, that he was impeached, and ſo much the News-book told us, that he was impeached: but to infer thence that there was an Impeachment carried up and lodged for the ſame High-Treaſon, is no Conſequence. And then 'tis alledged, *Quæ quidem Impetitio*, when no Impeachment is before ſet forth, but only that he was impeached generally. And as I obſerved before, a Perſon might go up with a Meſſage to impeach, but that cannot be ſaid to be an Impeachment to which the Party is compelled to anſwer; it muſt be an Impeachment on Record, and appearing on the face of the Record for what Crime it is; and ſo they ought to have ſet it forth.

Now that this is too general that is alledged here, I take it the Books are very full. When a Record is pleaded in Bar or in Abatement, the Crimes ought to be ſet out to appear the ſame; and ſo, my Lord, are all the Precedents of *Coke*'s Entries 53, *Holdcroft*'s and *Burgh*'s Caſe, and *Watt*'s and *Bray*'s Caſe in 41 and 42 of Queen *Eliz.* *Coke*'s Ent. 59. *Wrott*'s and *Wigg*'s Caſe, 4 *Rep.* 45. and in *Lewe*'s and *Scholaſtica*'s Caſe, and *Dive*'s and *Manning*'s Caſe. The Record muſt be ſet out, that the Court may judge upon it; and the Record muſt not be tryed *per pais*, but by it ſelf. But for what they ſay, plead it never ſo certainly, there muſt be an Averment, it muſt be ſo 'tis true; but that is for another purpoſe than they urge it. The reaſon is, becauſe if it be for another Fact that he hath committed, he may be indicted again, tho it be of the ſame nature; but whether of the ſame nature or not of the ſame nature, is the thing muſt appear upon the Record pleaded, becauſe the Court muſt be aſcertained, that it was ſufficient for the Party to anſwer to it; for if it were inſufficient, he may be again proceeded againſt: As if an Indictment be pleaded which was inſufficient, tho the Party pleads an Acquittal or Conviction upon it, it will not avail him; for the Court will proceed on the other Indictment. And ſo is the Reſolution in *Vaux*'s Caſe, and in *Wigg*'s Caſe; tho there was a Judgment given of Acquittal, yet he was tryed again. So that, my Lord, that is one great Reaſon why it muſt appear, that the Court may judge whether it be ſufficient for the Party to anſwer. And you have now that here before you, if this be ſuch an Impeachment as they have pleaded it, as this Perſon could not anſwer to by any Law of Parliament or other Court; then 'tis not ſufficient to out you of your Juriſdiction. And I do think that by no Law they are or can be compellable to anſwer to a general Impeachment of High-Treaſon. And to give you Authority in that, there are many might be cited, as the Caſes of my Lord *Stafford* and the other Lords in the *Tower*, and ſo is the antient Courſe of Parliament: with ſubmiſſion, I will be bold to ſay, the Impeachments are all ſo, that ever I met with. And it appears by them, that they all conclude *contra Coronam & Dignitatem Regis*, in the Form of Indictments, laying ſome Overt-Acts and the ſpecial particular Crimes for which the Perſon is impeached, as Overt-Acts for Treaſon required by the Statute of 25 *Edw.* III. And I hope they will not ſay, that without an Overt-Act laid in the Impeachment, the Impeachment can be good. If then this be ſo general that it cannot make the Crime appear to the Court, and is ſo inſufficient that the Court cannot give Judgment, I take it you will go on upon the Indictment, which chargeth him with a particular Crime.

My Lord, Mr. *Pollexfen* does put the Caſe of Barretry where ſuch Averment is allowable, but that is a ſpecial, certain, and particular Crime, but High-Treaſon is not ſo; there are abundance of ſpecial ſorts of High-Treaſon, there is but one ſort of Barretry, and there are no Sub-diviſions; therefore there is nothing to be averred but the ſpecial Facts that make that Barretry.

Then there was another Authority out of the Book of Aſſizes cited by Sir *Fran. Winnington*, and greatly relied upon. A Man is indicted for the Murder of *J. S.* and afterwards for the Murder of *J. N.* the former was pleaded to the ſecond with an Averment that it is the ſame Perſon; that is but according to the common Form of Averments, to be of Matter of Fact. For if *J. S.* was known, as well by the Name of *J. N.* as of *J. S.* the Indictment was for the Murder of the ſame Perſon, and there 'tis pure Fact averred. But where 'tis eſſential, as this Caſe is, that the particular Treaſon do appear; to ſay, that it is the ſame particular Treaſon, and to ſay, that Matter of Fact averred ſhall enlarge a Record, I think, is impoſſible to be found any where. And of all the Caſes that I have ſeen or heard, I confeſs none of the Inſtances come up to it. For the Caſe in *Moor*, *King*, and *Howard*, cited by Sir *Francis Winnington*, that is an Authority as expreſly againſt him, that nothing can be more: for if there be an Indictment for Felony in ſuch a particular Act, and then he is indicted again, he cannot come and plead a general Indictment of Felony, and then aver 'tis for the particular Felony, and ſo to make the Fact enlarge the Record, and put Matter of Record to be tried by a Jury.

Mr. *Wallop* was of Opinion, that upon this Averment the Jury may try the Fact. What a pretty Caſe would it be, that a Jury ſhould judge upon the whole Debates of the Houſe of Commons, whether it be the ſame matter or no: for thoſe Debates muſt be given in Evidence if ſuch an Iſſue be tried. I did demur with all the care that I could, to bring nothing of that in queſtion; but your Lordſhip knows if they have never ſo much in particular againſt a Man, when they come to make good their Impeachment, they muſt aſcertain it to a particular Crime; and the Overt-Acts muſt be alledged in the Impeachment, or elſe there is another way to hang a Subject than what is the King's High-way all over *England*. And admit there was an intimation of a purpoſe to impeach, a Meſſage ſent up, and any Judgment given thereupon, pray conſider what may be the Conſequence as to the Government; a very great Matter depends upon this: if there be any Record of that Parliament, then is the *French* Act gone: for ſo is the Reſolution in 12 *Jacobi*, where

where the Journal-Book was full of Proceedings, yet becauſe there was no Judgment paſſed, nor no Record of a Judgment in a Writ of Error, they adjudged it no Seſſion; but if any Judgment had been given, then it had been otherwiſe. So that the Conſequences of theſe things are not eaſily ſeen, when Men debate upon touchy Matters.

But that which is before your Lordſhip is this point upon the pleading, and, I conceive I have anſwered all the Precedents they have cited; therefore, my Lord, I do take it, with Submiſſion there is nothing of that Matter before you concerning an Impeachment depending before the Parliament; but whatſoever was done, 'tis ſo imperfectly pleaded, that this Court cannot take any notice of it.

Mr. Sol. Gen. My Lord, I ſhall endeavour to be ſhort, and ſhall confine my ſelf (becauſe I am tender of your time) to the Point in queſtion; which is, whether this Plea be ſufficient in point of Form. There have been many things ſaid on the other ſide, which I muſt crave leave to take notice of, ſo far only as to ſhew they are not in queſtion before you. Thoſe are what relate to the Matter of the Plea; for they argue 'tis good both in Matter and Form: and from the Matter of the Plea they have taken occaſion to debate, whether a Commoner may be impeached? Whether this Court hath Power to judge of the Privileges and Courſe of Parliament? None of which Queſtions will ariſe upon our Caſe now. Therefore I will not now debate whether *Magna Charta*, which hath ordained that every Man ſhall be tried by his Peers, and the Statute of 4 *Edw.* III. which ſays, that the Lords ſhall not be compelled, nor ſhall have power to give Judgment upon a Commoner, have ſufficiently ſecured the Liberty of the Subject from Impeachments. Nor is it the queſtion before your Lordſhip, whether you ſhall judge of any matter that is a Right or Privilege of Parliament; here is nothing before you that was done in Parliament; but this is an Indictment for High-Treaſon, committed by *Fitz-Harris* in this County. Now, my Lord, as that is not the Queſtion, neither will it be the Queſtion, Whether an Impeachment depending in the Houſe of Lords againſt a Commoner, by the Houſe of Commons, will bar this Court of its Juriſdiction? For though they have entred upon it, and debated it at large, and ſeemed to obviate the Objections made to that if it had been a Queſtion; as by ſaying that the King hath no Election, becauſe this is not the Suit of the King, but the Suit of the Subject: I will not now *ex inſtituto* argue that Point; but I will humbly offer a few things to your Lordſhip's Conſideration, and I ſhall take my hints from them. They ſay the Houſe of Commons are the grand Inqueſt of the Nation, to enquire of Treaſons and other High Crimes, and they make theſe Preſentments to the Houſe of Lords. Now when ſuch a Preſentment is made, 'tis worthy Conſideration whether it be not a Preſentment for the King; for an Impeachment does not conclude as an Appeal does, but *contra Ligeantiæ ſuæ Debitum, & Coronam & Dignitatem Domini Regis*; ſo far 'tis the King's Suit. In an Impeachment the Witneſſes for the Priſoner are not ſworn, the Priſoner hath not Counſel for his Life in Matter of Fact, as in Caſes of Appeal, at the Suit of the Subject he hath. The King may pardon part of the Sentence, it was done ſo in *Rich.* the 2*d*'s Time, and it was done ſo lately in my Lord *Stafford*'s Caſe; but take it for a Suppoſition that it is the Suit of the People, yet that cannot preclude the King from his Suit neither; for at Common Law before the Statute of 3 *Hen.* 7. where a Man had an Appeal for Murder, the King had not his hands tied up, not to proceed upon the Indictment: it had been uſed ſo, I do agree, and ſo 'tis recited, that it had been uſed ſo, in the Statute of 3 *Hen.* VII. but there was no poſitive Law for it, nor could it have been pleaded in bar of an Indictment, that the Indictment was within the Year, but the King uſed to ſtay out the Year in favour of that Suit. But ſince the Statute, the uſe is otherwiſe; and the reaſon why they proceed immediately is, becauſe now an Acquittal or an Attainder upon the Indictment is no bar to the Appeal, but the Party may go on in his Appeal. I mention this, becauſe the Conſequence which they urge as ſuch a diſmal one, will be nothing; which is, What if he ſhould be acquitted here, he could not plead *auter fois acquit*, ſo would be twice brought in jeopardy for the ſame Offence. For it is the ſame in all Caſes of Appeals, a Man comes in jeopardy twice if he be indicted within the Year, and attainted or acquitted within the Year; it is no bar to the Appeal. But this is not like the Caſe of an Appeal for Murder neither, for though it hath been uſed diſcretionarily in the Court to ſtay the Suit of the King, and to prefer the Suit of the Subject, it was then becauſe the Subject had the firſt and neareſt Concern, as the Son in the Death of his Father, and it did moſtly concern him to proſecute it. The King is concerned as the Fountain of Juſtice only, to bring Offenders to condign Puniſhment; but the neareſt damage, and the firſt to be prefer'd, was that of the Party who had loſt his Relation. Now the reaſon of that turns quite contrary here: For as in that Caſe the Subject had the neareſt Concern in the Loſs of his Father, and ſo was beſt intitled to the Suit; ſo in this Caſe that very reaſon will have the King's Suit to be prefer'd: for there is no Treaſon but againſt the King, and in Treaſon againſt himſelf, the King has the neareſt Concern, and the Wrong is primarily and originally to himſelf. And the Subjects damage is but a Conſequence of that, as all hurt to the King muſt needs hurt the People. So the King's Suit is to be prefer'd here, as the Subjects was in the other Caſe.

Now for the Objection that has been made, That if you try this Man, upon the ſame Reaſon you may try the Lords in the *Tower*. Their Caſe is different, as has been already obſerved by Mr. Attorney; and that which has been done by the Lords in that Caſe, to me does rather ſeem to imply that this Tryal may be in this Caſe. For if the Lords after an Impeachment brought up againſt the five Lords in the *Tower*, and after the ſpecial Matter in the Articles which does aſcertain upon what they do proceed, have thought fit notwithſtanding to remove the Indictment by *Certiorari* into Parliament, (for ſo it was in Fact) that no Proſecution might be upon them; then certainly they thought the King's Court might proceed without doing ſo.

My Lord, I will mention no more upon this matter, but leave it to your Lordſhip's Conſideration: But as to the Form of the Plea, I do conceive, with Submiſſion, 'tis not a formal Plea.

We know here of no Form of pleading an Indictment, but what does ſet forth the Indictment particularly; the Precedents are ſo, 'tis ſo in *Vaulx*'s Caſe, and all the Precedents that I have ſeen: ſo is the Precedent in *Raſt.* Ent. where in an Appeal

the Defendant waged Battel, the Plaintiff replies he was formerly indicted, he ſets forth the Indictment particularly. All the Precedents are ſo, and the Law-Books reſolve it muſt be ſo; as *Wrott* and *Wigg*'s Caſe, where the Defendant in an Appeal of Murder by the Wife pleads, that he was indicted for Manſlaughter before the Coroner of the Verge, and Coroner of the County, for killing the Husband at *Shepperton* in the County of *Middleſex*, and had his Clergy with reference to the Record, and the uſual Averments; with this farther, that he averred that *Shepperton* at the time of the Indictment and Death was within the Verge. To which the Plaintiff demurred, and Judgment for the Plaintiff. Now two things are reſolved by this Judgment.

1. That 'tis neceſſary to ſet forth the whole Record of the Indictment, or otherwiſe they ought not to have given Judgment for the Plaintiff, by reaſon the Indictment was inſufficient, as 'twas pleaded, (in that it did not ſay that *Shepperton* was within the Verge, which was neceſſary to intitle the Coroner of the Verge to a Juriſdiction) becauſe being pleaded with reference to the Record upon *Nul tiel* Record pleaded, and the Record thereupon brought in, that Defect might have been cured.

2. That no Averment of Fact can ſupply that which ſhould appear upon Record, therefore the Averment that *Shepperton* was within the Verge, did not mend the matter, though confeſt by the Demurrer as much as it is in this Caſe, that 'tis the ſame Treaſon.

But they ſay there is a difference between this Caſe and thoſe which I have put; for that 'tis the Courſe of Parliament (of which your Lordſhips muſt take notice) to impeach general; ſo they could not have pleaded otherwiſe than they have done, unleſs they had pleaded it otherwiſe than the Caſes were: this Reaſon holds rather the other way; for if in any Caſe ſuch a general way of pleading with reference to the Record were to be admitted, it were in caſe of an Indictment, becauſe the Court knows there is no Indictment but what does particularly ſet forth the Felony, which when produced, is capable of being applied: but here if the Record be brought in, 'twill no more aſcertain the matter of the Impeachment, than the Plea does already. And whereas they ſay your Lordſhip is bound to take notice of the Courſe of Parliament, ſo your Lordſhip will take notice too, that 'tis not the Courſe of Parliaments to try any Man upon ſuch a general Impeachment. I never heard of any Man (I ſpeak it with ſubmiſſion to them that know better) that was brought to plead, Not Guilty, upon a general Impeachment of High-Treaſon; that is, upon the Commons bare ſaying, We do impeach ſuch an one of High-Treaſon. I know none that ever was brought to anſwer that general Accuſation.

And now, my Lord, as the Plea is nought for not ſetting out the Record, ſo is the Averment, with ſubmiſſion, inſufficient too. For though he does aver that the Treaſon in the Indictment, and the Treaſon for which he was impeached, are one and the ſame, and not divers Affirmatively and Negatively; yet as this Caſe is, he ought to have ſaid, that the Treaſon for which he is indicted, and the Treaſon mentioned in the Impeachment, is one and the ſame: For if he was impeached generally for High-Treaſon without mention of Particulars, it is impoſſible to be reduced to a Certainty: So 'tis an Averment of a Fact not capable to be tried.

Firſt, Becauſe, with ſubmiſſion to theſe Gentlemen that have ſaid it, the Debates of the Houſe of Commons are not to be given in Evidence, and made publick to a Jury: Nay, they are not always poſſible to be reduced to a Certainty, as the Circumſtances may be; for they do not always particularly reſolve upon what Particulars they will accuſe before they go up, but a general Allegation ſerves the turn: So that ſuch Averment is not triable *per Pais*, becauſe as the Caſe may be, it may not be capable of any Certainty from the Debates of the Houſe of Commons.

Another reaſon is, becauſe by this way of pleading, Proceedings may be ſtaid for Treaſon, though ſubſequent to the Impeachment, which no Man yet has pretended to ſay: For ſuppoſe now a general Impeachment lodg'd, and a Treaſon afterwards committed by the Party, I think no Man will ſay that the Houſe of Commons when they bring up their ſpecial Matters, cannot make even this ſubſequent Treaſon an Article upon that Impeachment; neither can it be ſaid that ſuch Averment as this is, upon ſuch Plea pleaded to an Indictment here below, would be repugnant, becauſe there is no time at all laid in the Impeachment as 'tis here pleaded, nor no time when the Impeachment was brought up, ſo that it cannot appear to the Court whether the Treaſon in the Indictment be ſubſequent or not: the Conſequence of which is, we muſt try whether the Houſe of Commons upon this general Impeachment did intend to proceed to try him for a Fact committed after the Impeachment carried up. My Lord, this would be to affirm, that a Man once impeached in Parliament ſhall never be tried for any Offence; it would be like that *Privilegium Clericale*, which they made uſe of to exempt themſelves from Puniſhment for all Offences.

But, my Lord, we do think upon the whole Matter, without entring upon the Debate, whether a particular Impeachment lodged in the Houſe of Lords does preclude the King from his Proceedings, we have a good Caſe upon this Plea; for that is not a Queſtion neceſſary to be reſolved, though it be not granted by the King neither. But the Queſtion is, Whether this be a formal Plea, and whether here be ſufficient Matter ſet forth upon Record to bring that other Matter into queſtion, and tie up the hands of the Court?

Mr. Serj. *Jefferies*. My Lord, there hath been already enough ſpoken in this Caſe. I ſhall deſire only to offer one word to that ſingle Point, (*viz.*) the Informality of the Plea; which I take to be the ſole Queſtion in this Caſe: for to argue whether becauſe there was no Bill paſs'd, or Decree made in the Houſe of Lords (though the Articles had been carried up) the Impeachment did not fall to the ground by the Diſſolution, I conceive altogether improper; for I think it does not affect the Queſtion: though I deſire to take notice that Sir *Fr. Winnington*, Mr. *Williams*, and Mr. *Wallop*, were all miſtaken; for there were no ſuch Conceſſions made by any of the King's Counſel the other day, as they alledge, becauſe we did not think it to be the Queſtion, and therefore made no Diſcourſes about it.

But, my Lord, I deſire firſt to take notice of a Caſe or two that hath been cited on the other ſide, and then I ſhall apply my ſelf to that which is the Queſtion before you at this time. They cite

cite the Case of the Lords in the *Tower* as a Judgment for them, which seems to be a Judgment against them; for by the Lords granting a *Certiorari* to remove the Judgments into Parliament, they seem to be of opinion, that notwithstanding they were impeached before the Lords, yet there might have been Proceedings below upon those Indictments, had not they been removed; and there they remain to this day. Nay further, to those Impeachments they have pleaded to Issue, which is ready for a Tryal: But in the Case at Bar, there only is an Accusation, without any further Proceedings thereupon.

And as to the Case of my Lord *Shaftesbury*, that makes strongly for us, as I conceive. Mr. Justice *Jones*'s Opinion was taken notice of by Sir *Fran. Winnington*, that they would not meddle by any means with Matters depending in Parliament: But I must remember, he then gave this Reason for his Opinion, because the Parliament was then in being. And I must humbly put your Lordship in mind, that the whole Court did then declare, That if the Parliament had been dissolved, they would have said something more to that Case. I do not say, that they would have given such or such a Judgment, but I attended at the Bar at that time, and I appeal to the Memory of the Court, if the Court did not then make such a Declaration.

But now to the Question: Without all peradventure, the Cases cited by Mr. *Pollexfen* are true. If I bring a general *Indebitatus assumpsit* for Wares sold and delivered, and after bring a particular *Indebitatus assumpsit* for such and such Wares, naming the Particulars, the Party may come and plead in Bar, and aver 'tis for the same thing; and 'tis a good Averment, because there is sufficient matter set forth in the Record to support such an Averment: For the doubt is only, whether the particular Goods mentioned in the second, be not the same that were intended under those general Words (Goods and Merchandizes) in the first.

But suppose there had been only an Account brought, and no Declaration put in, could then the Defendant have pleaded such a Plea with such an Averment, when there was not sufficient matter of Record set forth in their Pleading, whereby the Court might be able to give a Judgment, or put it into a way of Tryal whether it was for the same or not?

And is it not so in this Case? there being but a bare Accusation: For I still keep to the Informality of the Pleading, and I take it not to be such a dangerous Case, as these Gentlemen of the other side do pretend, for you to determine it. For I am sure it will be better for the Court to answer, if ever they shall be required, that they have performed their Duty and done Justice according to their Consciences and their Oaths, than ever to be afraid of any Threats or Bugbears from the Bar.

For would not they by this manner of Pleading, put upon your Lordships a difficulty to judge, without any thing contained in the Impeachment to guide your Judgment, whether the Prisoner be impeached for the same thing for which he is indicted? May not the Treason intended in this Impeachment be for clipping or coining of Money? for 'tis generally said to be only for High-Treason. How comes this then to be help'd, so as to be any way issuable, and be tried? Shall it be by that way which Mr. *Wallop* laid down, that if Mr. Attorney had taken Issue, the Jury must have tried the Question by having the Debates of the House of Commons given in Evidence? Certainly that cannot be, my Lord. If there were but one sort of Treason, there might be some Colour for this sort of Pleading; but there are divers kinds of Treasons, and how is it capable to be tried? Who can prove the Intentions of the House of Commons, before they are come to a Resolution? and therefore cannot be given in Evidence, or be regularly brought into Judgment.

Therefore we rely upon the Informality and Uncertainty of the Pleading only, and meddle not with the Question, Whether an Impeachment in the House of Lords supersedes an Indictment in the *King's-Bench*; for we say, they have not pleaded it so substantially, as to enable the Court to judge upon the Question: and therefore we pray your Lordship's Judgment, that the Plea may be over-ruled.

Sir *Fran. Withins.* My Lord, there has been so much of your time already taken up by those Gentlemen that have argued before me, that I shall be very short in what I have to say.

The Question is not at this time, how far forth the Commons in Parliament may impeach or not impeach a Commoner, before the Lords in Parliament, or where the Lords may admit or not admit of such Impeachments; that is not the Case here, as I humbly conceive, nor will I meddle with it: I shall only speak to the Validity of the Plea according to the Law. Now I say that this Plea of the Prisoner as thus pleaded, cannot be good to out this Court of Jurisdiction: For First, The Prisoner cannot be admitted to make the Averment in this Plea, that the Treason mentioned in the Impeachment in Parliament, and that contained in this Indictment, is the same; for if, as the Gentlemen that argued on the other side urg'd, that this Court must take notice of the Proceedings and Law of Parliament, then you will take notice that no Person is there tried upon a general Impeachment of Treason. Special Articles are always first exhibited: In this Case then either the House of Commons have carried up special Articles against the Prisoner to the Lords in Parliament, or not; if the House have done it, then the Plea might have been pleaded better by setting forth the Articles (which is part of what they say on the other side, that it could be pleaded no better) for then it would have appeared plainly whether the Treason were the same or not. If the Articles are not carried up, shall it lie in the Mouth of any particular Person to say what Articles the Commons in Parliament would have carried up? Shall any single Person be admitted to say what the House would have done, before the House it self says it? In Cases of Impeachments, it lies in the Discretion and Judgment of the Commons upon Debate to exhibit what Articles they in their Wisdoms shall think fit; and sure it shall never come, that any particular Person shall limit them to this or that particular Treason before-hand; no surely.

Now suppose in such a Case as this, after such a Plea pleaded, the Commons upon Deliberation should carry up Articles quite different; such a Plea then would appear to be a stark Lye, and the pleading and allowing of it, an apparent Delay of Justice. So that I conceive, my Lord, the Prisoner shall by no means be admitted (nor indeed can it be) to aver the Intention of the House of

Commons, (which cannot be tried) before they have declared it themſelves; and therefore I conceive the Plea to be naught for that Reaſon.

But, my Lord, I conceive that the Priſoner's Plea is ill for another Reaſon, becauſe the Court in this Caſe, by any thing expreſſed in this Plea, cannot diſcern nor take notice whether it be the ſame Treaſon or not.

Now the Reaſon why the Record, as this Caſe is, ought to be alledged ſpecially, is becauſe the Matter contained in it may plainly appear to the Court, and then by that means the Court might judge whether it be the ſame Treaſon or not. Now Treaſon generally alledged in the Impeachment, is the Genus, and the particular Treaſon mentioned in the Indictment is only a Species, and the Averment in the Plea is, that the Genus and the Species is the ſame; which is abſurd, and if allowed, tends to hoodwink and blind the Court, inſtead of making the Matter plain for their Judgment.

Pleas ought to be plain and certain, becauſe the Court upon them alledged, is to judge either of Mens Eſtates or Lives; and for that Reaſon the matter ought to come plainly and fairly before them, that wrong may be done to neither Party by reaſon of the Obſcureneſs or Doubtfulneſs of the Allegation: if therefore a Hoodwink be brought inſtead of a Plea, it ought not to be allowed. And therefore for theſe Reaſons (for what I have farther to ſay, has been already ſaid by others) I conceive it ought to be overruled. I humbly ſubmit it to the Court.

L. C. J. You have done your Arguments, Gentlemen, on all ſides?

Coun. Yes, my Lord.

L. C. J. Look you, Gentlemen, I'll tell you, y have taken up a great part of our time. We never intended, when we aſſigned four Counſel to Mr. *Fitz-Harris*, that they all ſhould make formal Arguments in one Day, 'tis the firſt time that ever it was done; but becauſe 'tis as you preſs it in a Caſe of Blood, we were willing to hear all you could ſay, that you might not afterwards ſay, but that you were fully heard on all ſides. But in truth, I muſt tell you, you have ſtarted a great many things that are not in the Caſe at all. We have nothing to do here, whether the Commons Houſe at this Day can impeach for Treaſon any Commoner in the Houſe of Lords; we have nothing to do with this, what the Lords Juriſdiction is, nor with this Point, whether an Impeachment in the Lords Houſe (when the Lords are poſſeſſed fully of the Impeachment) does bar the bringing any Suit, or hinder the Proceeding in an inferior Court: But here we have a Caſe that riſes upon the Pleadings; whether you have brought here before us a ſufficient Plea to take away the Juriſdiction of the Court, as you have pleaded it, that will be the ſole Point that is before us: And you have heard what Exceptions have been made to the Form, and to the Matter of your Pleading. We do ask you again, Whether you think you are able to mend your Pleading in any thing, for the Court will not catch you, if you have any thing wherein you can amend it, either in Matter or Form? If you will let us know it, we ſhall conſider of it; but if you have not, if you abide by this Plea, then we do think 'tis not reaſonable, nor will be expected of us in a matter of this Conſequence to give our Judgment concerning this Plea preſently. All the Caſes cited concerning Facts done in Parliament, and where they have endeavoured to have them examined here, are nothing to the purpoſe at all. For plainly, we do not aſſume to our ſelves a Juriſdiction to inquire of ſuch Matters: for Words ſpoken, or Facts done in the Commons-Houſe, or in the Lords, we call none to queſtion here, nor for any thing of that nature which takes off moſt of the Inſtances you have given; but our Queſtion is barely upon the Pleading before us, Whether we have a ſufficient Pleading of ſuch an Impeachment as can foreclose the hands of the Court? And as to that, we ſhall take ſome reaſonable time to conſider of it; we will not precipitate in ſuch a Caſe, but deliberate well upon it before we give our Judgment. Take back your Priſoner.

Mr. Att. Gen. Before he goes away, we hope you will ſet a reaſonable time, as ſhort as you can, to have him come again, for your Judgment.

L. C. J. Mr. Attorney, we can ſend for him when we pleaſe, to come hither by Rule; you ſee this buſineſs is come on in the buſy part of a Term, and 'tis impoſſible for the Court to attend nothing but this, we will take ſome reaſonable time.

[*Then* Fitz-Harris *was carried back to the* Tower.]

On Tueſday, *May* 10. Mr. Attorney moved the Court to appoint a Day for their Judgment on the Plea, and for *Fitz-Harris* to be brought up, which they appointed to be the next Morning.

And accordingly on Wedneſday Morning, *May* 11. he was brought from the *Tower* to *Weſtminſter-Hall.*

Mr. Att. Gen. My Lord, I pray that *Fitz-Harris* may be brought to the Bar.

L. C. J. Where is the Lieutenant of the *Tower?* bid him bring *Fitz-Harris* to the Bar, (which was done.)

Mr. Att. Gen. My Lord, I pray your Judgment on the Plea.

L. C. J. Why, Mr. *Fitz-Haris*, you have been arraigned here for High-Treaſon, and it is for endeavouring and compaſſing the King's Death, and other Treaſons, ſpecially mentioned in this Indictment; you have pleaded here to the Juriſdiction of this Court, that there was an Impeachment againſt you by the Commons of *England* in Parliament, before the Lords, for the Crime of High-Treaſon, and you do ſay, that that Impeachment is yet in force; and you do ſay by way of Averment, that this Treaſon whereof you are now indicted, and the Treaſon whereof you were impeached by the Commons of *England*, before the Lords, are one and the ſame Treaſon. And upon this the Attorney-General, for the King, hath demurred, and you have joined in Demurrer. And we have here the Arguments of your Counſel, whom we aſſigned to argue it for you; we have heard them at large, and have conſidered of your Caſe among our ſelves, and upon full Conſideration and Deliberation concerning your Caſe, and all that hath been ſaid by your Counſel, and upon Conference that we have had with ſome other of the Judges, we are three of us of Opinion that your Plea is not ſufficient to bar this Court of its Juriſdiction; my Brother *Jones*, my Brother *Raymond*, and my ſelf are of Opinion that your Plea is inſufficient, my Brother *Dolben* not being reſolved, but doubting concerning it. And therefore the Court does order and award,

award, that you ſhall anſwer over to this Treaſon.

Cl. of Crown. Edward Fitz-Harris, hold up thy Hand.

Mr. *Fitz-Harris*. My Lord, I deſire I may have liberty to adviſe with my Counſel before I plead.

L. C. J. Mr. *Fitz-Harris*, when you propoſed a difficulty you had in a Matter of Law, the Court were willing to aſſign you Counſel; becauſe 'tis known you cannot be a fitting Perſon to adviſe your ſelf concerning the Law. But as to this, we cannot aſſign you Counſel; 'tis only a Matter of Fact, whether you be guilty or not guilty. Therefore in this Caſe you can't have Counſel allowed to adviſe you.

Mr. *Fitz-Harris*. My Lord, I deſire before I plead, or do any thing of that nature, that I may make an end of my Confeſſion before your Lordſhip, and ſome of the Privy-Council.

L. C. J. Look you, Sir, for that you have trifled with us already; you pretended you had ſome Scruples of Conſcience, and that you were now become another Man, and would reveal and diſcover the whole of this Deſign and Plot, that you are ſaid to be guilty of here: but you have trifled ſeveral times concerning it, and we can ſay nothing concerning that now; we muſt now have your Plea: if afterwards you have a mind to confeſs and be ingenuous, you may do it; but now you muſt either plead, or not plead.

Mr. *Fitz-Harris*. My Lord, I have ſome Witneſſes a great way off, and I deſire time to have them ready for my Defence.

Cl. of Cr. Edward Fitz-Harris, hold up thy Hand; (which he did) thou haſt been indicted of High-Treaſon, upon that Indictment thou haſt been arraigned, and haſt pleaded to the Juriſdiction of this Court. To which Plea his Majeſty's Attorney-General hath demurred, and thou haſt joined therein: and upon the whole Matter, this Court, upon mature and conſiderate Deliberation, is of Opinion, that thou oughteſt to anſwer over. How ſaiſt thou, art thou Guilty of the High-Treaſon whereof thou haſt been indicted, and haſt been arraigned, or not Guilty?

Mr. *Fitz-Harris*. Not Guilty.

Cl. of Cr. Cul. Priſt. &c. how wilt thou be tried?

Mr. *Fitz-Harris*. By God and my Country.

Cl. of Cr. God ſend thee a good deliverance.

L. C. J. Now if you have any thing to move, do it. We could not hear your Motion till you had pleaded; for the Method of the Court muſt be obſerved.

Mr. *Fitz-Harris*. I have ſome Witneſſes at a diſtance, my Lord.

L. C. J. Where are your Witneſſes?

Mr. *Fitz-Harris*. I have one Witneſs in *Holland*, a very material one; that I am much concerned to have for my Life.

Mr. Juſt. *Jones*. What is his Name?

Mr. *Fitz-Harris*. His Name is *Steward*, my Lord.

L. C. J. Look you, Mr. *Fitz-Harris*, I'll tell you, reaſonable time is allowed to all Men to make their Defence in; but when a Man is in *Holland*, I know not what time you will take for that.

Mr. *Fitz-Harris*. What time your Lordſhip thinks fit for a Man to return from thence hither.

L. C. J. Look you, Mr. Attorney, why ſhould not we allow Mr. *Fitz-Harris* time for his Tryal till next Term?

Mr. Att. Gen. I think he hath not offered any thing to entitle him to it: he doth not tell us, and I would fain know what the Witneſſes will prove.

Mr Juſt. *Dolben*. It may be, Mr. Attorney, he will confeſs what 'tis that Witneſs can prove.

Mr. Att. Gen. For the whole Proof in a Caſe of Treaſon lies on our ſide.

L. C. J. Commonly, and *prima facie*, it does ſo; but there may be ſome things that the Priſoner may give in Evidence for himſelf, that may be material for him to urge for his Defence.

Mr. *Fitz-Harris*. My Lord, I know not whether it be ſafe for me to tell what he can ſay?

Mr. Juſt. *Jones*. Then you reſerve it wholly in your own Judgment, whether he be a material Witneſs or no?

Mr. *Fitz-Harris*. If my Lord Chief-Juſtice pleaſes, I will acquaint him in private with it.

Mr. Att. Gen. I never ſaw any good effect of theſe private Proceedings. If he have any thing to offer, he may do it publickly, in the face of Juſtice. And therefore I deſire he may be tried this Term; for he hath had a whole Term's notice, and time enough to conſider what Perſons are material as Witneſſes for him.

Mr. Juſt. *Jones*. Unleſs he do ſhew good Cauſe to the contrary, he muſt be tried this Term.

Mr. Att. Gen. And, my Lord, where 'tis in the ſame County where the Fact was committed, there is the leſs reaſon to ſtay; Criminals in High-Treaſon, the Fact muſt be plain and evident againſt them.

L. C. J. Look you, Mr. Attorney, peradventure he hath been made to depend upon his Plea, and hath been adviſed ſo to do.

Mr. *Fitz-Harris*. Yes, my Lord, and have been cloſe Priſoner, and not allowed to ſpeak with any body.

L. C. J. If ſo, then it may be a Surprize upon him.

Mr. *Fitz-Harris*. My Lord, I have been allowed nothing to prepare for my Defence.

Mr. Sol. Gen. My Lord, he ought to be provided for his Tryal this Term. I do not know, my Lord, what Witneſſes he can pretend to have; the Fact was done in *Middleſex* here, and the Proof of the Circumſtances of that Fact do ariſe here; and I do not know what Surprize he can complain of. As to the Witneſs he tells you of, that is in *Holland*, he doth not tell you to what purpoſe he is a Witneſs; ſo that you may know whether it be material or not. I know very well, my Lord, in the *Old-Baily*, when the Prieſts did urge it, that they had Witneſſes beyond the Sea in other Countries, they were not ſuffered to delay their Tryal upon ſuch a pretence. We muſt ſubmit it to your Lordſhip's Diſcretion: but we ſuppoſe it will not be a precipitous Proceeding, he having notice of his Tryal all this Term.

L. C. J. Mr. Attorney, truly, ſince he pretends he is ſurprized, and hath depended upon his Plea, and hath Witneſſes that require ſome time to fetch, we think it reaſonable that he ſhould have till the next Term; and we will defer it till then. We are all of that Opinion, (eſpecially it being ſuch a little Delay) to enable him to have what Witneſſes he doth pretend to have.

Mr. Att. Gen. My Lord, I never deſired in this Caſe, nor in any other, nor ever ſhall do, that Juſtice be precipitated. I know theſe open and fair Tryals proceed with ſuch equal ſteps to all Parties, that we need not be haſty, and therefore

fore if your Lordſhip be of that Opinion, I ſubmit to it, ſo it be the firſt Week of the next Term.

L. C. J. The firſt Week it cannot be.

Mr. Att. Gen. Within the firſt ſeven days, I mean.

L. C. J. The firſt Thurſday in the Term. And take notice, Mr. *Fitz-Harris*, that is the Day appointed for your Tryal.

Mr. *Fitz-Harris.* I deſire Liberty to ſee my Wife, and have a Sollicitor in the mean time.

L. C. J. I will tell you, for that, Mr. *Fitz-Harris*, the Court would never deny any thing of that nature to any one in your Condition and Circumſtances; but your Wife makes an ill uſe of the Liberty we granted her: and if ſhe do make an ill uſe of it, then the Court muſt reſtrain her, and hold their hands over her. If we were ſatisfied ſhe would uſe the Liberty lawfully, and not abuſe it——

Mr. *Fitz-Harris.* My Lord, I am ſure ſhe will uſe it lawfully hereafter, and make no ill uſe of it.

L. C. J. Look you, upon her good uſage of it, if ſhe will fairly demean her ſelf, and not abuſe it again, we are willing to take off the laſt Rule, and ſhe ſhall have the ſame Liberty ſhe had before that Rule.

Mr. Sol. Gen. With this, if your Lordſhip pleaſe, we deſire there may be ſome other Judge of her Prudence beſides her ſelf, and the Lieutenant of the *Tower* be by.

Mr. *Fitz-Harris.* My Lord, I deſire I may have a Sollicitor; for he was never allowed to come and ſpeak to me, tho I had a Rule for him.

L. C. J. Look you, as to your Counſel now, which was the main Reaſon why you prayed a Sollicitor, we cannot allow you them any more; for now we are come to a Matter of Fact only, and we cannot by the Rules of Law allow you Counſel. Therefore what need you have of a Sollicitor, I cannot tell; his buſineſs before, was to go from you to the Counſel, and from them to you, which is ceaſed now. But this, Mr. Attorney, if he have a deſire to ſee Papers, and would ſend for any Papers that concern his Defence, ſo as they contain no new Treaſonable Matters and Contrivances, he ought ſure to have them; and if he have Papers at his Houſe, or any where elſe, which he deſires to make uſe of in his own Defence, being inſpected by the Lieutenant, to ſee that there be no Matter of Evil contained in them, he may have one to do that for him without any Danger.

Mr. Sol. Gen. I do not oppoſe it, my Lord: but I deſire that all caution may be uſed that can be; for this Sollicitor of his is a Lawyer, and writes Tracts of Law: but any thing material for his Defence I am not againſt.

L. C. J. Mr. Attorney, you need not fear any harm will be that ways: for he is not to ſpeak with him alone.

Mrs. *Fitz-Harris.* I hope his Sollicitor may come to him to take Inſtructions how to ſend for his Witneſſes?

Mr. Juſt. *Jones.* You can tell how to do that ſurely without a Sollicitor.

L. C. J. Juſt as the laſt Rule was, let there be another Rule made. For he muſt have all juſt Advantages to enable him for his Defence.

Mr. *Fitz-Harris.* I hope I ſhall have a Rule of Court to make my Witneſſes appear.

Mr. Juſt. *Dolben.* That you may have without Motion.

L. C. J. We will give you any thing that will enable you to make a fair Defence.

Cl. of Cr. He ſhall have *Subpœnas* for his Witneſſes.

L. C. J. Then, Mr. *Fitz-Harris*, you muſt expect no other notice. You muſt take notice now, that upon the firſt Thurſday in the next Term, that you are to receive your Tryal here. Take the Priſoner back.

Mr. Att. Gen. In order to his Tryal, I deſire the Sheriff may bring in the Freeholders Book to the Clerk of the Crown, to ſtrike the Jury.

L. C. J. Mr. Attorney, we will conſider of that, how far we can do that, and the Courſe of the Court ſhall be obſerved. But I doubt how we can.

Mr. Att. Gen. That is the Practice in Tryals at the Bar.

L. C. J. In Civil Cauſes, but not in Criminal, that I know of.

Mr. Att. Gen. We have reaſon to deſire it; becauſe we are afraid of ſome Practice in this Cauſe, and fear there may be ſome odd Carriage in the Return of them.

Mr. *Fitz-Harris.* May I not ſee my Wife before I go hence?

L. C. J. With all our hearts; ſhe may go to you, and with you Sir, if you pleaſe: we will not hinder you of her Company, ſo ſhe carry her ſelf fairly.

Then the Lieutenant took back his Priſoner.

The Tryal of Edward Fitz-Harris *Eſq;* 33 Car. II. 1681.

Trinity-Term, 33 Car. II. Regis.

ON Thurſday 9 *June* 1681. *Edward Fitz-Harris* was brought to the Bar of the Court of *King's-Bench*; and the Court being ſate, proceeded thus:

Mr. *Thompſon.* My Lord, I moved you the other day, that before Mr. *Fitz-Harris*'s Tryal, he might give ſuch Evidence as he had to give againſt Sir *John Arundel*, and Sir *Richard Beiling*, concerning the Death of Sir *Edmondbury Godfrey*, before he be convicted of Treaſon; and we underſtood that it was the direction of the Court, that we might move it this Morning before Conviction, that he might declare upon Oath here in Court what he knows of that Matter againſt thoſe Gentlemen: for after he is convicted, I believe it will be too late for us to think of it.

Mr.

Mr. *Godfrey* hath a great deal of reaſon to deſire what I now move, that his Brother's Murderers may be proſecuted, and we hope all the favour that can be granted in ſuch a Caſe, will be granted unto us: for there has been a Deſign of late ſet on foot, to make it be believed that Sir *Edmondbury Godfrey* murdered himſelf, notwithſtanding that clear Evidence that hath been already given of this Matter, and notwithſtanding that ſeveral Perſons have been convicted and attainted upon that Evidence. So that theſe Gentlemen think themſelves obliged to proſecute this Matter as far as they can, and beg of your Lordſhip, that what can be done for them may. And particularly, that he may perfect his Diſcovery againſt the two named at his laſt Examination before the Grand-Jury; and that his Examination about them may now be taken by the Court.

L. C. J. Look you, Mr. *Thompſon*, that that you moved before, had ſome reaſon in it, that he might be examined, and give Evidence to a Grand-Jury, and we told you he ſhould; but if there be never a Grand-Jury ſworn, yet who can he give Evidence to? Would you have us take his Examination, and afterwards give it in Evidence to the Grand-Jury?

Mr. *Thomp.* My Lord, I only ſay, then 'tis our hard hap that he is not examined before a Grand-Jury.

L. C. J. But do you think it is fit for you to move this now?

Mr. *Thomp.* My Lord, I underſtood it was permitted me by the Court the other day to move again, and I move by the direction of my Client, and I ſubmit it to your Lordſhip.

L. C. J. You know it cannot be granted. Go on, and ſwear the Jury.

Fitz-Harris. My Lord, I beg that my Wife and Sollicitor may be by, to help and aſſiſt my Memory.

L. C. J. Let your Wife be by you, if ſhe pleaſe, and if you think 'tis any advantage to you, with all our hearts; if ſhe will, let her go down to you.

Cl. of Crown. Cryer, make an O yes: Whoever can inform, *&c.*

Mr. Att. Gen. My Lord, I know not what the effect of this may be; if his Wife be inſtructed to inſtruct him, that ought not to be permitted, with ſubmiſſion: ſuppoſe ſhe ſhould come to prompt him (and for certain ſhe is well documentized) that your Lordſhip won't ſuffer.

Mr. Serj. *Jeff.* My Lord, ſhe comes prepared with Papers in her Hand.

Mrs. *Fitz-Harris.* I won't ſhew them without my Lord's Permiſſion.

L. C. J. If ſhe brings any Papers that are drawn by Counſel, prepared for him, without doubt 'tis not to be allowed.

Mrs. *Fitz-Harris.* No, no, 'tis only my own little Memorandums.

L. C. J. Whatſoever is written by her Huſband, for help of his Memory, in Matter of Fact, let her do it.

Fitz-Harris. My Lord, I humbly beg my Sollicitor may be by me too.

L. C. J. We allow no Sollicitors in Caſes of High-Treaſon.

Cl. of Crown. Edward Fitz-Harris, hold up thy Hand, (which he did:) thoſe good Men which thou ſhalt hear called, and perſonally appear, *&c.*

Fitz-Harris. My Lord, I deſire they may be diſtinctly named as they are in the Pannel, that I may know how to make my Challenges.

Mr. Sol. Gen. My Lord, I muſt humbly offer it to your Lordſhip's Conſideration for the Precedent's ſake, Whether any Perſon can aſſiſt the Priſoner as to Matter of Fact?

L. C. J. Yes, and 'tis always done to take Notes for him, and to help his Memory.

Mr. Serj. *Jefferies.* But, my Lord, I would acquaint your Lordſhip what is the thing we find in this Caſe; here is a particular Note given into the Priſoner, of the Jury, pray be ſure to challenge ſuch and ſuch, and don't challenge the reſt. God forbid but his Memory ſhould be help'd in Matters of Fact, as is uſual in theſe Caſes; but no Inſtructions ought to be given him ſure. And, my Lord, the Example will go a great way; and therefore we are in your Lordſhip's directions about this matter.

Fitz-Harris. My Lord, I hope 'tis but juſt, for I have had all the diſadvantages in the World. I have been kept cloſe Priſoner, and have not been permitted to have any one come to me, to help me in my preparation for my Tryal.

Mr. Att. Gen. My Lord, I pray your Judgment in point of Law, I doubt not you will do the King right, as well as the Priſoner; I could not get a Copy of the Pannel, till laſt night about 4 a-clock: here is prepared a Copy with Croſſes and Marks who he ſhould challenge, and who not; and truly, my Lord, ſince I had the Pannel, upon looking over it, I do find the Sheriff hath returned three *Anabaptiſt* Preachers, and I know not how many Fanaticks: and ſince there are ſuch Practices as we find in this Caſe, we doubt there may be more, and therefore I pray ſhe may be removed.

Mrs. *Fitz-Harris.* I will not be removed.

Fitz-Harris. Is it fit or reaſonable for me, that I ſhould ſtand here without any help?

Mr. Att. Gen. In caſe you be guilty of this, you deſerve no great favour.

Mrs. *Fitz-Harris.* Surely the Court will never ſuffer the King's Counſel to take away a Man's Life at this rate.

L. C. J. Mrs. *Fitz-Harris*, you muſt give good Words: And if you will not be modeſt, and civil, I promiſe you we will remove you preſently.

Mrs. *Fitz-Harris.* If you do remove me, that is the worſt you can do to me: what ſhould I come here for, without I may help my Husband?

L. C. J. If ſhe do bring him Inſtructions to except againſt ſuch and ſuch Jury-men, ſhe does miſbehave herſelf, and muſt be removed.

Mr. Att. Gen. This Paper that we ſpeak of is a Copy of the Pannel, and there are particular Marks, a great many.

Mr. Sol. Gen. A Woman hath a very great Privilege to protect her Husband, but I never yet knew that ſhe had liberty to bring him Inſtructions ready drawn.

Mrs. *Fitz-Harris.* My Lord, the Lady Marchioneſs of *Wincheſter* did aſſiſt in the Caſe of my Lord *Stafford*, and took Notes, and gave him what Papers ſhe pleaſed.

L. C. J. Sure 'tis no ſuch huge matter to let a Man's Wife ſtand by him, if ſhe will demean her ſelf handſomely and fairly.

Mr. Att. Gen. It is not, if that were all; but when ſhe comes with Papers inſtructed, and with particular Directions, that is the aſſigning him Counſel in point of Fact.

L.

L. C. J. Let her ſtand by her Husband, if ſhe be quiet: But if ſhe be troubleſome, we ſhall ſoon remove her.

Fitz-Harris. 'Tis impoſſible I ſhould make my defence without her.

Mr. Serj. *Jefferies.* I ſee it is a perfect formal Brief.

Mrs. *Fitz-Harris.* Muſt he have nothing to help himſelf?

Fitz-Harris. In ſhort, the King's Counſel would take my Life away, without letting me make my Defence.

Mr. Att. Gen. I deſire not to take away any Papers from him, if they be ſuch as are permitted by Law.

Mr. Sol. Gen. My Lord, his Innocency muſt make his Defence, and nothing elſe.

Mr. Serj. *Jeff.* My Lord, we are in your Lordſhip's Judgment, whether you will allow theſe Papers.

L. C. J. Let us ſee the Paper.

Fitz-Harris. My Lord, I will deliver them to my Wife again.

L. C. J. Let it be ſo.

Cl. of Cr. Call Sir *Will. Roberts*, (who did not appear:) Sir *Michael Heneage.*

Sir *Michael Heneage.* My Lord, I am ſo ill, I cannot attend this Cauſe.

L. C. J. We cannot excuſe you, Sir *Michael*; if there be not enough beſides, 'tis not in our power to excuſe you.

Sir *Michael Heneage.* I muſt ſuffer all things rather than loſe my Health.

L. C. J. Well, ſtand by, 'till the reſt are called.

Cl. of Cr. Sir *Will. Gulſton*, *Nicholas Rainton*, *Charles Umphreville*, (they did not appear:) *John Wildman.*

Mr. Att. Gen. My Lord, I deſire he may be asked, before he be called to the Book, whether he be a Free-holder in *Middleſex.*

Major *Wildman.* I am a Proſecutor of this Perſon, for I was a Parliament-Man in the laſt Parliament, and I dare not appear, my Lord, for fear of being queſtioned for Breach of the Privileges of the Commons.

Mr. Att. Gen. My Lord, I pray he may anſwer that queſtion, whether he be a Free-holder in *Middleſex.*

Major *Wildman.* I pray to be excuſed, upon a very good reaſon; I was one of them that voted the Impeachment againſt this Man.

Mr. Att. Gen. Are you a Free-holder in *Middleſex*, upon your Oath?

L. C. J. Look you, Major *Wildman*, you are returned upon a Pannel here, you have appeared, and your Appearance is recorded; you muſt anſwer ſuch Queſtions as are put to you, 'tis not in your power to deny.

Maj. *Wildman.* I beg the Excuſe of the Court, I cannot ſerve upon this Jury.

L. C. J. If you be no Free-holder, the Law will excuſe you.

Maj. *Wild.* Perhaps there may be ſome Eſtates in my Name, that may be Free-holds; perhaps, I may be ſome Truſtee or the like.

Mr. Att. Gen. Have you any Free-hold in your own Right in *Middleſex?*

Maj. *Wild.* I don't know that I have; if it be in the Right of another or as Truſtee, I take not that to be a Free-hold.

Cl. of Cr. Call *Thomas Johnſon.*

Mrs. *Fitz-Harris.* Let him be ſworn, there is no Exception againſt him.

L. C. J. Hold your peace, or you go out of Court if you talk again.

Mrs. *Fitz-Harris.* I do not ſay any thing that is any harm, my Lord.

Cl. of Cr. Swear *Tho. Johnſon:* You ſhall well and truly try, *&c.*

Fitz-Harris. My Lord, I pray the Clerk may not skip over the Names as they are returned.

Cl. of Cr. Sir, I call every one as they are in the Pannel; and don't do me wrong.

L. C. J. It may be he does not call them as they are mentioned and ſet down in the Pannel, for all have not appeared; but calls thoſe only whoſe Appearance is recorded.

Cl. of Cr. I have called them as they are here ſet down.

L. C. J. Well, let them all be called for; may be they will appear now that did not appear before.

Cl. of Cr. Maximilian Beard.

Mr. *Beard.* My Lord, I deſire to be excuſed, I am very infirm and very antient, Threeſcore and Fifteen Years of Age at leaſt.

L. C. J. Why did the Sheriff return you, if you be of that Age, you ſhould be put out of the Free-holders Book? But ſtay, you are here impannel'd, and have appeared; if there be enough, we will excuſe you.

Mr. Juſt. *Jones.* He ought to have Witneſſes of his Age; and if he would not have appeared, he might have had a Writ of Privilege for his diſcharge in regard of his Age.

L. C. J. Well, we will ſet by him, if there be enough beſides, we will ſpare him.

Cl. of Cr. Iſaac Honywood, (he did not appear.) *Lucy Knightley*, (who was ſworn.) *Henry Baker.*

Mr. Att. Gen. My Lord, I challenge him for the King.

Fitz-Harris. My Lord, why ſhould he challenge him? I deſire to know the Law, whether the two Foremen ſhould not try the Challenge, and not the Court or the Counſel.

Mr. Serj. *Maynard.* If the King challenge, he hath time to ſhew cauſe till the Pannel be gone thro; the Law will have the *minus ſuſpecti*, but yet if there want any, the King muſt ſhew good Cauſe.

Cl. of Cr. Edward Probyn.

Mr. Att. Gen. I challenge him for the King.

Cl. of Cr. Edward Wilford (was ſworn.)

Fitz-Harris. My Lord, muſt not Mr. Attorney ſhew his Cauſe now?

L. C. J. Look you, Mr. *Fitz-Harris*, either ſide may take their exception to any Man; but the Cauſe need not be ſhewn till the Pannel is gone thro, or the reſt of the Jurors challenged.

Cl. of Cr. John Kent of *Stepney.*

Mr. *Kent.* My Lord, I am no Free-holder.

L. C. J. Then you cannot be ſworn here upon this Jury.

Cl. of Cl. John Willmore.

Mr. Att. Gen. We challenge him for the King.

Fitz-Harris. For what Cauſe?

Mr. Serj. *Jeff.* We will ſhew you Reaſons hereafter.

Cl. of Cr. Alexander Hoſey (was ſworn:) *Giles Shute.*

Mr. Att. Gen. Are you a Free-holder, Sir?

Mr. *Shute.* No.

Mr. Att. Gen. Mr. *Whitaker* is got near him, and he tells him what he is to do, My Lord.

Fitz-Harris. Here is the Lieutenant of the *Tower* between me and him.

Mr. Serj. *Jeff.* But the Bar is no fit place for Mr. *Whitaker*, he is not yet called to the Bar.

C. of Cr. Martin James.

Mr. Att. Gen. Are you a Free-holder, Sir?

Mr. *James.* Yes.

Mr. Att. Gen. Then ſwear him, (which was done.)

C. of Cr. Nathaniel Grantham.

Mr. Att. Gen. Are you a Free-holder, Sir?

Mr. *Grantham.* No.

C. of Cr. Henry Beiling.

Mr. Att. Gen. Are you a Free-holder, Sir?

Mr. *Beiling.* Yes.

Mr. *Fitz-Harris.* Then I challenge him.

C. of Cr. Benjamin Dennis.

Mr. Att. Gen. Is he a Free-holder?

Mr. *Dennis.* No.

Mr. Att. Gen. My Lord, you ſee what Practices here are, moſt of the Jury are no Free-holders.

C. of Cr. John Preſton: (did not appear.) *John Viner* of *White-Chappel.*

Mr. Att. Gen. He hath fetch'd them from all the Corners of the Town here, yet not all of them Free-holders neither.

C. of Cr. Swear Mr. *Viner*, (which was done.) *William Withers*, (was ſworn.) *William Cleave*, (ſworn.) *Thomas Goff*, (ſworn.) *Abraham Graves.*

Mr. Att. Gen. Ask him, is he a Free-holder?

Mr. *Graves.* No.

C. of Cr. Henry Jones.

Mr. Att. Gen. Is he a Free-holder?

Mr. *Jones.* No.

C. of Cr. Ralph Farr.

Mr. Att. Gen. Ask him the ſame Queſtion.

Cryer. Are you a Free-holder, Sir?

Mr. *Farr.* Yes.

C. of Cr. Then ſwear him, (which was done.) *Samuel Freebody.*

Mr. Att. Gen. Are you a Free-holder, Sir?

Freebody. Yes.

Mr. Att. Gen. Then ſwear him, (which was done.)

C. of Cr. Gilbert Urwin of *Covent-Garden*, (did not appear.) *Edward Watts* of *Weſtminſter.*

Mr. Att. Gen. Are you a Free-holder, Sir?

Watts. Yes.

Mr. Att. Gen. Then we challenge you for the King.

Mr. Att. Gen. John Bradſhaw of *Holborn*, (did not appear.) *Iſaac Heath* of *Wapping*, (no Free-holder.) *Edward Hutchins* of *Weſtminſter.*

Mr. Att. Gen. We challenge him for the King.

C. of Cr. John Lockier of *Weſtminſtre.*

Mr. Att. Gen. Are you a Free-holder?

Mr. *Lockier.* Yes.

Mr. Att. Gen. Then ſwear him.

C. of Cr. Count theſe. *Thomas Johnſon.*

Cryer. One, *&c.*

The Names of the twelve ſworn, are theſe:

Thomas Johnſon,	*William Withers*,
Lucy Knightly,	*William Cleave*,
Edward Wilford,	*Thomas Goffe*,
Alexander Hoſey,	*Ralph Farr*,
Martin James,	*Samuel Freebody*, and
John Viner,	*John Lockier.*

Cl. of Crown. Edward Fitz-Harris hold up thy Hand. Gentlemen, you that are ſworn, look upon the Priſoner, and hearken to his Charge.

Fitz-Harris. My Lord, I humbly beg Pen, Ink, and Paper.

L. C. J. Let him have Pen, Ink, and Paper.

Cl. of Crown. You ſhall have them preſently; (*Which were given him.*)

HE *ſtands indicted by the Name of* Edward Fitz-Harris, *late of the Pariſh of* St. Martin in the Fields, *in the County of* Middleſex, *Gent. for that he as a falſe Traitor againſt the moſt illuſtrious, and moſt excellent Prince, our Sovereign Lord* Charles *the Second, by the Grace of God King of* England, Scotland, France, *and* Ireland, *his natural Lord; not having the Fear of God in his Heart, nor weighing the Duty of his Allegiance, but being moved and ſeduced by the Inſtigation of the Devil; the Love, and true, due and natural Obedience, which a true and faithful Subject of our ſaid Sovereign Lord the King, towards him our ſaid Sovereign Lord the King, ſhould and of right ought to bear, wholly withdrawing; and with all his Might intending the Peace and common Tranquillity within this Kingdom of* England *to diſturb, and War and Rebellion againſt our ſaid Sovereign Lord the King to ſtir up and move; and the Government of our ſaid Sovereign Lord the King, within this Kingdom of* England, *to ſubvert; and our ſaid Sovereign Lord the King from the Title, Honour and Regal Name of the Imperial Crown of his Kingdom of* England *to depoſe and deprive; and our ſaid Sovereign Lord the King to Death and final Deſtruction to bring and put, the 22d Day of* February, *in the 33d Year of the Reign of our Sovereign Lord* Charles *the Second, now King of* England, *&c. and divers other Days and Times, as well before, as after, at the Pariſh of* St. Martins in the Fields, *in the County of* Middleſex, *traitorouſly did compaſs, imagine and intend the Killing, Death, and final Deſtruction of our ſaid Sovereign Lord the King, and the antient Government of this his Kingdom to change, and alter, and wholly to ſubvert, and him our ſaid Sovereign Lord the King, that now is, from the Title, Honour, and Regal Name of the Imperial Crown of his Kingdom of* England *to depoſe and deprive, and War and Rebellion againſt our ſaid Sovereign Lord the King, to ſtir up and levy within this Kingdom of* England. *And his ſaid wicked Treaſons and traitorous Compaſſings, Imaginations and Purpoſes aforeſaid to fulfil and perfect, he the ſaid* Edward Fitz-Harris, *as a falſe Traitor, together with one* Edmond Everard, *a Subject of our ſaid Sovereign Lord the King, did then and there traitorouſly aſſemble himſelf, meet and conſult, and the ſame his Treaſons and traitorous Compaſſings, Imaginations, and Purpoſes, then and there to the ſaid* Edmond Everard, *in the hearing of divers other Subjects of our ſaid Sovereign Lord the King, openly, maliciouſly, traitorouſly, and adviſedly ſpeaking, did publiſh and declare: And to perſuade and induce the ſaid* Edmond Everard *to be aiding and aſſiſting in his ſaid traitorous Compaſſings, Imaginations and Purpoſes, he the ſaid* Edward Fitz-Harris, *as a falſe Traitor, maliciouſly, adviſedly, and traitorouſly to the ſaid* Edmond Everard *a great Reward then and there did offer, and promiſe to procure. And for the further compleating of his Treaſons aforeſaid, and to incite the Subjects of our ſaid Sovereign Lord the King, as one Man, to riſe, and open Rebellion and Inſurrection within this Kingdom of* England *to raiſe, againſt our ſaid Sovereign Lord the King, and our ſaid Sovereign Lord the King from the Title, Honour, and Regal Name of the Imperial Crown of his Kingdom of* England *to caſt down and depoſe, he the ſaid* Edward Fitz-Harris, *as a falſe Traitor, a certain moſt wicked and traitorous Libel, the Title of which is in theſe* Engliſh *Words following,* The true *Engliſhman* ſpeaking plain *Engliſh, traitorouſly, maliciouſly, and adviſedly, in Writing to be made and expreſſed, did then and there cauſe, procure*

cure and publiſh; *in which ſaid Libel the ſaid moſt wicked Treaſons, and traitorous Compaſſings, Imaginations and Purpoſes aforeſaid, of him the ſaid* Edward Fitz-Harris, *to excite and perſuade the Subjects of our ſaid Sovereign Lord the King of this Kingdom of* England, *againſt our ſaid Sovereign Lord the King to riſe and rebel*; *and our ſaid Sovereign Lord the King from the Stile, Honour, and regal Name of the Imperial Crown of this his Kingdom of* England *to deprive and depoſe, in writing are expreſſed and declared amongſt other things as followeth:* If *James* (*meaning* James *Duke of* York, *the Brother of our ſaid Sovereign Lord the King*) be conſcious and guilty, Chs (*meaning* Charles *II. now King of* England) is ſo too, believe me (*meaning himſelf the ſaid* Edward Fitz-Harris) both theſe (*meaning our ſaid Sovereign Lord the King, and the ſaid* James *Duke of* York) are Brethren in Iniquity, they (*meaning our ſaid Sovereign Lord the King and* James *Duke of* York) are in Confederacy with Pope and *French* to introduce Popery and Arbitrary Government, as their Actions (*meaning the Actions of our ſaid Sovereign Lord the King, and* James *Duke of* York) demonſtrate. The Parliament's *Magna Charta* and Liberty of the Subject are as heavy Yokes they'd as willingly caſt off, for to make themſelves (*meaning our ſaid Sovereign Lord the King and the ſaid Duke of* York) as abſolute as their Brother of *France*. And if this can be proved to be their Aim (*meaning our ſaid Sovereign Lord the King, and the aforeſaid Duke of* York) and main Endeavour, why ſhould not every true *Briton* be a Quaker thus far, and let the *Engliſh* Spirit be up and move us (*meaning the Subjects of our ſaid Sovereign Lord the King of this Kingdom of* England) all as one Man to Self-Defence? nay, and if need be, to open Action, and fling off theſe intolerable Riders? (*meaning our ſaid Sovereign Lord the King, and the ſaid Duke of* York.) *And in another place in the ſaid moſt wicked traitorous Libel were contained, amongſt other things, theſe falſe, ſeditious, and traitorous Sentences in theſe* Engliſh *words following.* *J.* and *C.* (*meaning the ſaid* Charles *our Sovereign Lord the King, and his ſaid Brother* James *Duke of* York) both Brethren in Iniquity, corrupt both in Root and Branch, as you (*meaning the Subjects of our ſaid Sovereign Lord the King*) have ſeen they (*meaning our ſaid Sovereign Lord the King, and the ſaid Duke of* York) ſtudy but to enſlave you (*meaning the Subjects of our ſaid Sovereign Lord the King*) to a Romiſh and *French*-like Yoke. Is it not plain? Have you (*meaning the Subjects of our ſaid Sovereign Lord the King*) not Eyes, Senſe or Feeling? Where is that old *Engliſh* Noble Spirit? Are you (*meaning the Subjects of our ſaid Sovereign Lord the King*) become *French* Aſſes, to ſuffer any Load to be laid upon you? And if you (*meaning the Subjects of our ſaid Sovereign Lord the King*) can get no Remedy from this next Parliament, as certainly you (*meaning again the Subjects of our ſaid Sovereign Lord the King*) will not; and that the K. (*meaning our ſaid Sovereign Lord the King that now is*) repents not, complies not with their Advice, then up all (*meaning the Subjects of our Sovereign Lord the King*) as one Man. O brave *Engliſhmen!* Look to your own Defence e'er it be too late, rouze up your Spirits. *And in another place in the ſaid moſt wicked and traitorous Libel are contained, amongſt other things, theſe falſe, ſeditious, and traitorous Sentences in theſe* Engliſh *words following*; *to wit,* I (*meaning himſelf the ſaid* Edward Fitz-Harris) will only add, that as it is the undoubted Right of Parliaments to make a Law againſt a Popiſh Succeſſor, who would prove deſtructive to our Laws and Liberties; ſo it is their undoubted Right to dethrone any Poſſeſſor that follows evil Counſellors, to the Deſtruction of our Government, (*meaning the Government of this Kingdom of* England.) *And in another place in the ſaid traitorous Libel are contained theſe* Engliſh *words following:* Then let all (*meaning the Subjects of our ſaid Sovereign Lord the King that now is*) be ready, then let the City of *London* ſtand by the Parliament with Offers of any Money for the maintaining of their Liberties and Religion in any extreme way, if Parliamentary Courſes be not complied with by the King; (*meaning our ſaid Sovereign Lord the King*) *againſt the Duty of his Allegiance, and againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity,* &c. *and againſt the Form of the Statute in this Caſe made and provided upon this Indictment.*

Upon this Indictment he hath been arraigned, and thereunto hath pleaded, Not Guilty; and for his Tryal hath put himſelf upon God and his Country, which Country you are, *&c.*

Cryer. Make Proclamation. O yes, if any one will give Evidence, *&c.*

Mr. *Heath.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, this is an Indictment of High-Treaſon againſt *Edward Fitz-Harris*, the Priſoner at the Bar; and the Indictment ſets forth, that the 21ſt of *February*, in the 33d Year of the King, at *St. Martins in the Fields*, he did compaſs and imagine the Death of the King, and to raiſe War and Rebellion within the Kingdom. And the Indictment does ſet forth, that for the Accompliſhment of this, he did meet and aſſemble with one *Edmond Everard*, and ſeveral others, and did diſcover this his traitorous Purpoſe to the ſaid *Everard*, and did perſuade him to aid and aſſiſt therein; and offered him great Rewards if he would ſo do. It further ſets forth, That for the further perfecting of this treaſonable Imagination of the ſaid *Edward Fitz-Harris*, he did frame and make a treaſonable Libel, and the Title of the Libel is, *The true* Engliſhman *ſpeaking plain* Engliſh; and in that treaſonable Libel, are theſe treaſonable words contained, *If* James *be guilty* (meaning the Duke of *York*) *Charles* (meaning the King) *is ſo too*, &c. And the ſeveral words, that have been read to you in this Indictment, are contained in the ſaid Libel, which I ſhall not repeat. To this Indictment he hath pleaded, Not Guilty; if we prove it upon him, you are to find him Guilty.

Mr. Serj. *Maynard.* May it pleaſe your Lordſhip, truly 'tis a ſad thing to conſider how many have been found guilty of Plotting againſt the King, but none have gone ſo far as the Priſoner at the Bar; for they deſigned only his Death, but this Perſon would have carried on his Treaſons by a means to ſlander him while he was alive, and thereby to excite the People to ſuch a Rebellion as you have heard. I ſhall add no further words, the thing is not aggravatable, 'tis ſo great an Offence in it ſelf; but we will call our Witneſſes, and go to our Proof.

Mr. Attor. Gen. My Lord, yeſterday you had here the Primate of *Ireland*, who was found guilty for a notable High-Treaſon in *Ireland*: you have now this day before you one of his Emiſſaries, who is come over into *England*, and who has here committed one of the moſt execrable Treaſons that ever was brought into a Court of Juſtice; I muſt needs ſay, that it will appear to all

all the Auditors this Day, that here is the highest Improvement of the Popish Plot, and aggravated with such Circumstances as shew they have out-done themselves in it. Hitherto those Cases that have been brought into Judgment before you, have been the Attempts upon the Life of the King, in Instances either of Shooting, Stabbing or Poisoning: I say, hitherto they have gone no further than to practise these things, and that by Popish Hands, they have kept the Plot amongst themselves; but now they have gone one step further, that is, by attempting to poison all the Protestants of *England* as much as in them lies, that they should by their own Hands destroy one another, and their lawful Prince, that is the Treason now before you, and I take it with Submission, they can go no further. For 'tis impossible to arise to a higher piece of Malice and Villany than to set the Peoples Hearts against their Prince, and to set them together by the ears one against another. This we shall prove, in the Course of our Evidence, to be the Design of the Prisoner at the Bar. The general Design hath been opened to you out of the Indictment, to kill and destroy the King, and to depose him from his Government; and we shall charge him with all those several Overt-Acts, which I shall open to you: First, Several Meetings to consult about this Matter at *Grays-Inn* and several other places; which, my Lord, I think there is no question to be made, but is an Overt-Act to make High-Treason. We shall go further, and shew that these Designs he had to depose the King, and raise his People against him, he does declare openly to Mr. *Everard*; which is another Overt-Act within the new Statute. We shall, my Lord, go further yet, and prove the great Rewards he hath offered to Mr. *Everard* for joining with him, and being assisting to him in this Affair, part in ready Mony, and part in annual Pension. And there your Lordship will find where the Spring is, from whence all these Mischiefs arise, some foreign Power; but the Papists, the Priests are at the bottom of it, they are the Persons that set him on, and these must draw in a great Person beyond Sea, who must reward this Gentleman for being a Partner in this Plot. And we shall prove some Mony paid in Hand. But then, my Lord, that which was the Effect of this Consult, is the framing this pernicious Libel; for so give me leave to call it.

My Lord, the Indictment is modest, but when you come to hear the Libel it self read, you will find it so; and it was not Prudence, that so vile a thing should appear upon Record. And truly, I believe in a Protestant Kingdom 'tis the first Attempt of this nature that ever was: For, my Lord, it is to defame the whole Royal Family, 'tis to stain their Blood, and to make them vile in the sight of the whole Kingdom, and of all Posterity. My Lord, this Libel in its Particulars chargeth that most excellent and innocent Person, our late and never to be forgotten Sovereign King *Charles* I. to be the Author of the *Irish* Rebellion; it charges our present Prince with the Exercise of Arbitrary Government, to be a Papist, to be a Person that deprives his Subjects of all manner of Liberty, and Property; in express Terms it charges him with this, than which nothing can be more false: for there is none of his Subjects, I think, but must say that our most Gracious Prince, for the time he hath reigned may vie with the best 20 Years of any of his Predecessors, for the preserving the Liberty and Property of the People, for giving us Peace and Plenty all our Time, for the permitting and securing to them the free Current of the Law, and for securing their Civil and Religious Rights.

My Lord, when we have gone through the Evidence about the Contexture, and this Libel is read and produced, we shall prove the Design of it, and how it was framed, and the Eyes of the World will be opened, and you will see that this was no Intention, no Engine framed to trapan, or ensnare any private Person, or as it was secretly bruited abroad, to be put in such Mens Pockets; but a piece of the greatest *Machiavillian Policy* that ever was invented, and prepared for a publick Press, as a Catholick Poison to infect all the King's Subjects, and excite them one against another.

And we shall prove that this Person in the several Methods that I have open'd, hath proceeded to accomplish his traitorous Designs of dethroning the King: nay, he hath said, 'tis resolved among them now that nothing else will do it, but the poisoning the Hearts of the People with Hatred to their King, and Malice against one another. And when we have proved the matter fully, through all the Parts, we must leave it to the Jury, who I question not will do themselves, and all other Protestants Right, as well as their Prince. We shall now go to our Evidence, and first we will call Mr. *Everard*; but, my Lord, I would only first observe to you, that this Gentleman, Mr. *Fitz-Harris*, and Mr. *Everard*, were both imployed in the *French* King's Service, and there acquainted together. Mr. *Everard* came early off, and became a Protestant, leaving the *French* King's Service, because he found their several Plots and Designs upon *England*. Then comes Mr. *Fitz-Harris* to him, and because he looked upon Mr. *Everard* not to be rewarded according to his Merits, invites him over, with telling him those things that the Witness himself will tell you, back again to the *French* Interest.

Then Mr. Everard *was sworn.*

Fitz-Harris. Look me in the Face, Mr. *Everard.*

Mr. *Everard.* I will, Sir.

Mr. Attor. Gen. Will you acquaint my Lord, and the Jury, how you came first acquainted with the Prisoner, and then tell the several Passages between you.

Mr. Sol. Gen. Tell your whole knowledge of this Matter.

Mr. *Everard.* My Lord, I came acquainted with Mr. *Fitz-Harris* beyond Seas, when we both were in the *French* King's Service; and upon Conference with him of late, especially about the beginning of *February* last, he renewed his Acquaintance, though at several times before we had several Discourses, whereof I did not take much notice: but in those Meetings in *February* last, and in those Visits he paid me then, we had several Discourses tending to represent the Disadvantages and Sufferings I sustained, for adhereing to the Protestant and *English* Interest; and besides comparing in the other Ballance, what Advantages I might expect if I would re-ingratiate my self into their Interest.

L. C. J. What Interest?

Mr. *Everard.* The *French*, and the Popish Interest. And there was an opportunity in my hands, wherein I might be serviceable to my self and others;

others; and he told me there were ſeveral Perſons, amongſt whom were ſome Parliament-Men, that did adhere to the *French* Intereſt, and gave an account to the *French* Ambaſſador of every day's Proceedings: and as I was looked upon to be the Author of a kind of Pamphlet, that was called, *An Anſwer to the King's Declaration, concerning the Duke of* Monmouth; therefore I ſhould be fit to ſerve them, eſpecially to make ſuch another Pamphlet to reflect upon the King, and alienate him from his People, and his People from him. Whereupon I told him I would do any thing that was for my true Intereſt, but I did conceive with my ſelf, that that was none of it. He appointed a time when we ſhould meet again, but I ſent him a Note, I could not meet poſſibly that Day, which was Monday, as I remember the 21*ſt* of *February:* However he was impatient, and came to me, and told me he would give me Heads and Inſtructions tending to that Pamphlet I was to write, to ſcandalize the King, and raiſe a Rebellion, and alienate the Hearts of the Kingdom, and ſet the People together by the ears. Upon this he gave me ſome Heads by word of Mouth: as ſoon as I parted from him, I met with one Mr. *Savile* of *Lincolns-Inn*, and as ſoon as I met with him I acquainted him with what was paſſed, and told him I wiſhed rather than ten Pound I had met him ſooner, half an Hour before. Why, what is the occaſion, ſays he? Why, ſaid I, there is a Perſon that hath had ſuch and ſuch Diſcourſe with me, and one of his main Errands amongſt others, is for me to write a ſcandalous Libel reflecting upon his Majeſty and the Government. And upon this I ſaid, Mr. *Savile*, I ſhall not confer with him any further, [unleſs I have ſomebody by to witneſs what he ſays, he ſpeaks moſt commonly *French*, and ſometimes *Engliſh*; and therefore it muſt be one who underſtands both the Tongues well. So we went into the City together that Afternoon to one Mr. *Crow*'s, who is a Silkman in *Queenſtreet*; ſaid we, Sir, you are a moderate impartial Man, and underſtand *French*, we deſire you will be preſent to over-hear ſome Propoſals that are made to me tending to ſet our Country together by the ears, and he comes from a Popiſh Party. Mr. *Crow* ſaid, He would be willing to undertake any thing to ſerve the Proteſtant *Engliſh* Intereſt, but he would not undertake to ſpeak *French* ſo well as to be able to underſtand all nice Paſſages, and Words that might be propoſed. And then Mr. *Savile* and I went to Mr. *Smith*, a *Durham* Gentleman, and made him the ſame Propoſal I had made to Mr. *Crow*, deſiring him that he would come and over-hear our Diſcourſe, and I would place him in a fit place. Mr. *Smith* aſſented to the Propoſitions, and ſaid he would. Mr. *Smith* asked me what Day and Time we were to meet; I told him, to-morrow at ſix or ſeven a-clock at Night at my Chamber in *Grays-Inn:* but further he ſaid we muſt have other Witneſſes, for one Witneſs would not be ſufficient; ſo we went to the *Exchange* Coffee-houſe, and there me met with Sir *William Waller*, to whom we made the ſame Propoſal, that ſince we muſt have ſome that underſtood *French* and keep the thing ſecret, till it were time to have it come out, he would pleaſe to undertake it. Sir *William Waller* promiſed to come, but failed that firſt Meeting, which was to be on the Tueſday; then we went to another *French* Merchant, who was propoſed by Mr. *Savile*, but he was not within: ſo then we muſt rely upon one Witneſs for that Meeting. Mr. *Fitz-Harris* was to meet me about Two a-clock at my Chamber in *Grays-Inn*, where Mr. *Smith* and Mr. *Savile* were to meet likewiſe, and they came firſt to the Tavern juſt at the Corner of *Fuller*'s-*Rents*, which hath a proſpect into the Court: And from thence I ſaw Mr. *Fitz-Harris* in the Court pointing to another Gentleman that was with him, up to my Chamber, and he was walking ſuſpiciouſly up and down. Then I went out of the Tavern, and came up to my Chamber, and after a little while Captain *Fitz-Harris* came up to my Room; I placed him in another Room, where my Wife was, and ſhut the Door to, whilſt I ſent word to Mr. *Smith* to come into the outer Room, and ſhut himſelf into my Cloſet. There was Mr. *Smith* in the Cloſet, and there was an hole or two for the purpoſe made through both the Planks of the Boards and Hangings, but the Hangings hung over the Hole that it might not be diſcerned by Mr. *Fitz-Harris:* and he could raiſe it, and then ſee who was in the Room, and hear their Words; for I placed my Chair towards the Cloſet which had an Angle outwards, and now and then I did ſtand againſt the Hole, and now and then ſat, to give Mr. *Smith* Advantage, and to give Mr. *Fitz-Harris* no Suſpicion. When we were ſo placed, Mr. *Fitz-Harris* asked me what I had done as to the thing propoſed, this Libel that I was to draw up; I ſaid I was buſy, and had not been able to finiſh it, but here are ſome Heads of it, ſaid I, and ſhewed him half a dozen Lines drawn up together; and when I had read them, Sir, ſaid I, is this your Mind? yes, ſaid he, but I muſt add much more than this is to it. Then Mr. *Fitz-Harris* proceeded to give me further Inſtructions; and ſo repeated what Inſtructions he had given me before, that the King and all the Royal Family muſt be traduced to be Popiſhly and Arbitrarily inclined from the beginning, that King *Charles* I. eſpecially had an hand in the *Iriſh* Rebellion, and that likewiſe King *Charles* II. that now is, did countenance the ſame, as did appear by his promoting thoſe very Officers that were in the *Iriſh* Rebellion, *Fitz-Gerald*, *Fitz-Patrick*, and *Mont-Garrat*, which ſhould be named in the Libel. Beſides that, the Act made at the King's coming in, forbidding any to call the King Papiſt, was merely to ſtop Peoples Mouths that they ſhould not call him a Papiſt, when he ſhould incline to further Popery, and did intend by his Actions ſo to do. And beſides his adhering ſo cloſely to the Duke of *York*'s Intereſt, was to be another Argument of it, his hindering the Duke of *York* from coming to his Tryal, and to be proceeded againſt by the Parliament, and hindering the Officers that were put in by the Duke of *York* from being caſt out. Another Argument was becauſe thoſe Privy Counſellors and Juſtices of the Peace, that did adhere to the Proteſtant Intereſt, were turned out of all Places of Truſt; and beſides he ſaid it did appear to the People conſequently, that the King was conſcious to himſelf, that he was as guilty as his Brother, and was as much a Papiſt as his Brother, and it was in the Peoples power as well to depoſe a preſent Popiſh Poſſeſſor, as a Popiſh Succeſſor; and that the People muſt be ſtirred up againſt him, and incouraged to blow the Trumpet, and eſpecially that the City and Common Council muſt be incouraged to ſtand by the Parliament: and ſeeing the King was ſuch, that no hopes was to be had of the Parliament at *Oxon*, they were bound to provide for themſelves, and to advance ſome hundreds or thouſands of Pounds to the Parliament

ment to ſettle the Proteſtant Religion without the King, if Parliamentary Ways would not ſucceed. Theſe were ſome of the Inſtructions.

Mr. Att. Gen. Did he ſay any thing that Day about a Reward you ſhould have?

Mr. *Everard.* He ſpake in the general about a Reward, but he ſpoke more fully to that the Day after; he did not then come ſo much to Particulars: then ſome part of thoſe Inſtructions I writ in my Table-Book, which is to be produced here, and others of them in another Scroll of Paper. He then deſired to know of me when the Scheme of this thing would be ready; ſaid I, you may come to-morrow; I will, ſays he, come about ſix or ſeven a-clock in the Evening. In the mean time I writ a Letter to Sir *William Waller* in *French*, which I ſent by a Porter, and therein I ſaid, Sir, you have miſſed a great opportunity of rendring a great Service to the King, by not coming to ſee me when you were expected; for the Perſon, the *French* Emiſſary whom I ſpoke of to you, hath propoſed very ſcandalous ſeditious things to be written, and therefore I deſire you not to fail, as you tender the King's Intereſt, to come to my Chamber at ſix a-clock at Night. Sir *William Waller* received my Letter, and came thither accordingly; I placed Sir *William Waller* in another Room, and I placed my own Chair at a narrow Table near the place where Sir *William Waller* was, and there through the Wainſcot and Hangings we made a ſlit, whereby Sir *William Waller* might ſee into the next Room where Mr. *Fitz-Harris* and I ſat: but before I placed him there, I ſhewed Sir *William Waller* two Copies of the Inſtructions for the Libel drawn up. Said I, Sir, here are two Copies which are both the ſame, and I deſire you to counter-mark them, that you may know them again, and thereby ſee what Alteration will be made; for here are no Blots now, and by that you will find the Alteration. Sir *William Waller*, while my back was turned, counter-marked thoſe Copies. I went into the next Room, and I had not been long there, but Mr. *Fitz-Harris* came in; I placed the Table near the Alcove, where Sir *William Waller* was within his hearing and ſeeing. Mr. *Fitz-Harris* asked me what I had done in the buſineſs: Sir, ſaid I, here are two Copies of it, pray will you ſee how you like it? So he took one, and I took the other.

Mr. Serj. *Jeff.* My Lord, I muſt interrupt this Gentleman, for I ſee they continue to give the Priſoner Papers.

Fitz-Harris. 'Tis only a Paper of the Names of my Witneſſes.

L. C. J. Go on, Sir.

Mr. *Everard.* My Lord, Captain *Fitz-Harris* did read one Copy of this Pamphlet, and did amend it; he did add ſome things, and ſtruck out other things: then ſaid I, Is this, Sir, according to your liking? Yes, ſays he, but I muſt add ſomething, for it is not yet full enough; but ſays he, this muſt be fair copyed out; for 'tis not fit for the *French* Embaſſador's Confeſſor to read, who ſhould preſent it to the Embaſſador. Upon this I told him it ſhould be done againſt the next Day, but in the mean time I told him, Sir, theſe are very treaſonable Things, and this a very treaſonable Project. Oh, ſaid he, the more treaſonable the better, and that will do the effect better. What is that, Sir, ſaid I? That is, ſays he, to ſet theſe People together by the ears, and keep them claſhing, and whilſt they are ſo in claſhing, and miſtruſting one another, the *French* ſhall gain *Flanders*, and then ſaid he, we ſhall make no Bones to gain *England* too. But, Sir, ſaid I, you ſpoke of ſome Recompence for me, what ſhall I have for venturing this? Why, ſays he, after this Libel is delivered up, and that hath gotten you their Confidence that you are truſty, then I will gain the *French* Confeſſor, who is very ſhy, and may ſo well be, becauſe one of the Confeſſors of an Embaſſador hath been already trapann'd upon ſuch an occaſion. Therefore he is very wary, but he muſt have an aſſurance under your hand, which he ſhall have by this Libel; and then in a few Days you ſhall have forty Guineas, and a monthly Penſion, which ſhall be ſome thouſand of Crowns, for my Maſter the *French* King is not a Niggard as to theſe Things. The *Spaniſh* Embaſſador is ſo very niggardly and penurious a Man, that he cannot keep a Table; but ſaid he, you ſhall be well rewarded by the *French* King, and be not diſcouraged by the danger, for I am in as great danger as you. After ſome ſuch Inſtructions, and Incouragements, that Mr. *Fitz-Harris* gave to go on in the Work, he departed; and I cannot well call any thing to mind of more Particulars, but upon Queſtions asked me, perhaps I may. But then that time, or the next time, Captain *Fitz-Harris* gave me half a Sheet of Paper, for I told him I may chance to forget part of your Inſtructions, therefore pray write what is in your own Mind; and in that Paper he writ down that it was in the Peoples power to depoſe a Popiſh Poſſeſſor, as it was to oppoſe a Popiſh Succeſſor, and certain other treaſonable Heads: the half Sheet of Paper is to be produced in Court, under his own Hand, which he hath confeſſed, beſides other treaſonable Inſtructions, that he gave me by word of Mouth. But he at that time departed, and came the next Day to have a Copy of the treaſonable Libel writ out fair, and promiſed me to meet me at the *Boarded-Houſe*, where we uſually met in *Holborn* at Mr. *Faſhion*'s; and I did there come and deliver him a Copy of this treaſonable Libel, and he ſaid I ſhould hear in a few Days from him, and ſhould have a Recompence, and this ſhould be but as an Entrance-buſineſs; for I ſhould be brought into the Cabal, where ſeveral Proteſtants, and Parliament-Men, came to give an account to the Embaſſador, how things were tranſacted: but to-morrow, ſaid he I cannot go to receive the Libel back again, for I am to go to *Knights bridge*.

Fitz-Harris. Where there?

Mr. *Everard.* To my Lord *Howard*'s; for, ſaid he, you have ſeen his Son often with me, my Lord *Howard* is very civil to me, he was my Father's Lawyer.

Mr. Att. Gen. Will you ask him any Queſtions, Mr. *Fitz-Harris*?

Fitz-Harris. Did you write this Libel?

Mr. *Everard.* Yes, by your Inſtructions I did.

Fitz-Harris. Do you believe I had any traitorous Intention in it?

Mr. *Everard.* Yes.

Mr. Serj *Jefferies.* You ſaid the more Treaſon the better, Mr. *Fitz-Harris*.

Fitz-Harris. Were you put upon this to trapan others?

Mr. Att. Gen. 'Tis no Trapanning to ask them to come, and hear you give him thoſe Inſtructions, ſure.

Fitz-Harris. But I ask him this Queſtion, Mr. Attorney; Was he put upon it to trapan others?

Mr.

Mr. *Everard.* Can you mention any Perſon that I was to trapan?

Fitz-Harris. Were you put upon it to trapan the Proteſtant Lords, and the Houſe of Commons?

Mr. *Everard.* No, I was not.

Fitz-Harris. Is this the ſame Libel that was read in the Houſe of Commons, upon which I was impeached?

Mr. *Everard.* Yes, I believe, Mr. *Fitz-Harris*, it was.

Mr. Att. Gen. Mr. *Everard*, becauſe he puts you upon it, and to ſatisfy all the World, I ask you upon your Oath, Did any Perſon whatſoever put you upon this to trapan other Perſons, or to put it into their Pockets, as 'tis reported?

Mr. *Everard.* I was put upon it by none but Mr. *Fitz-Harris*, of whom I asked, what will be the uſe of this? ſaid he, we ſhall diſperſe them, we know how.

Mr. Att. Gen. Did he tell you in what manner?

Mr. *Everard.* No, he did not tell how.

Mr. Att. Gen. To whom was it to be delivered?

Mr. *Everard.* I was to deliver it to *Fitz-Harris*, who was to deliver it to the *French* Confeſſor, and it was to be drawn in the name of the *Non-Conformiſts*, and put upon them.

Mr. Serj. *Jefferies.* What Religion is Mr. *Fitz-Harris* of?

Mr. *Everard.* He was always looked upon to be a Papiſt.

Fitz-Harris. When did you ſee me at Maſs?

Mr. Att. Gen. Hath he not owned himſelf ſo?

Mr. *Everard.* He hath owned himſelf at ſeveral times to be a Papiſt.

Mr. Sol. Gen. What did he ſay to you about your being a Proteſtant, and what Cauſe you had to turn to the Popiſh Religion?

Mr. *Everard.* He ſaid I was under great diſadvantages, and had much loſs by leaving them, I had better have adhered to their Intereſt ſtill. He had this Diſcourſe with me at ſeveral Meetings, and gave me ſeveral Viſits, ſome at my Chamber, ſome at *Grays-Inn* Walks, ſometimes at the Houſe with Black Poſts in where we talked of ſeveral things.

Mrs. *Fitz-Harris.* I am ſorry he kept ſuch a Rogue as you are Company.

L. C. J. Officer, take her away, if ſhe can't hold her Tongue, and give better Language.

Fitz-Harris. She will ſpeak no more, my Lord.

L. C. J. Stand ſtill then, and be quiet.

Mr. Att. Gen. What was your Diſcourſe at the Ale-houſe?

Mr. *Everard.* To give Inſtructions to ſet the People together by the ears; and one moſt effectual means was by ſcandalizing and libelling the Government, and eſpecially the King.

Mr. *Jones.* Did any body elſe aſſiſt you in drawing the Libel?

Mr. *Everard.* There is at the latter end of the Libel a Paragraph that was taken out of another Book, there was a ſcandalous Libel that was brought by the Woman that carries Paper-Books about, and out of that to make ſhort Work, and out of *The Character of a Popiſh Succeſſor*, in which he ſaid were many things material; he would have ſome of the Expreſſions of this Libel taken: ſo I copied ſome of the Queries out of that Paper which was ſaid to be a Letter intercepted to *Roger L'Eſtrange*, and that day that I was under examination before Mr. Secretary *Jenkins*, that Libel lay before him upon his Table. He asked me if I had ſeen that, I told him yes, for I had copied in that Paper that was the Libel, thoſe Queries; and then ſaid he, here is a Warrant to be given out againſt *Curtis* for it.

Mr. Serj. *Jefferies.* After ſuch time that you had carried him the Copy that Sir *William* had marked, and he amended it, did you ſhew it Sir *William Waller* preſently?

Mr. *Everard.* Yes, immediately; and I asked him, Sir, ſays I, is there any Alteration? Yes, ſaid he, I ſee Alterations, and ſhew'd them one. Do you know the difference of Hands, ſaid I? Yes, ſaid he, I do, and ſuppoſe will give you an account of it.

Mr. *Johnſon.* My Lord, I humbly beg Mr. *Everard* may be asked who thoſe Parliament-Men were, that were to concur with the *French* Embaſſador in this Deſign?

L. C. J. Did he name any Parliament-Men?

Mr. *Everard.* No he did not, he ſaid, I ſhould know them hereafter.

L. C. J. Then he did not name any?

Mr. *Everard.* No, he did not.

Mr. Att. Gen. Then ſwear Mr. *Smith*; (which was done.) Pray, Sir, will you look about, and give an Account what you know.

Mr. *Smith.* Will you have an Account how it came firſt to my Knowledge?

Mr. Att. Gen. Yes, the whole, from the bottom to the top, from the beginning to the end.

Mr. *Smith.* I remember about the 22d or the 21ſt of *Feb.* either one or the other, Mr. *Everard* and one Mr. *Savile* came to my Chamber, and told me the ſame Deſign that Mr. *Everard* hath repeated before, and that there was an *Iriſh* Gent. an Officer of the *French* King's Army, that was to manage the thing; he was one that could ſpeak *French* very well, and they deſired me to be concerned in it, becauſe I underſtood *French.* Upon this I told him I would willingly undertake ſuch a buſineſs, if I thought there were any convenient place in the Room where I might hear, and ſee, undiſcovered. After he had told me, as he has before told your Lordſhips, that it was to make a difference between the King and his People, and to miſrepreſent the King, as I ſhall inform you by and by. I went to his Chamber after we had ſpoke to Mr. *Crow*, who would not undertake to ſpeak *French* ſo well as to be capable of underſtanding all; but at laſt we met Sir *William Waller*, who undertook the Matter. I walked immediately after Dinner to the Chamber, and ſaw the Conveniences, and the next Night we expected Sir *W. Waller*; but he not coming that Night, I went into the Cloſet my ſelf till *Fitz-Harris* came according to the appointment. When *Fitz-Harris* came, there were two Chairs ſet, one Chair next the Cloſet where I ſtood, and another oppoſite againſt me; that oppoſite againſt me, was that where Mr. *Fitz-Harris* ſat, and Mr. *Everard* was next cloſe to me, and I looked out thro the hole, and I heard there were ſome little Diſcourſes about the buſineſs in hand. At laſt Mr. *Everard* ſtands up, and goes to the Side-board, and brings a piece of Paper, about half a Sheet, as I think, with him; and he read it, which was a ſeditious kind of Paper, which I ſhall tell you of by and by: and he asked him in *French*, whether this were agreeable or no; to which the Gent. anſwered, it was well, but ſomething muſt be added to it. Upon this, Mr. *Everard* took out his Note-book, and read ſomething therein,

therein, and then Mr. *Everard* desired him to instance what Heads he would have more than were there: to which *Fitz-Harris* replied, that he would have him to represent the King as a Papist, which might be demonstrated by several Reasons; first his adhering to the Duke of *York*, and peremptorily resolving to espouse that Interest. The second Reason was the preferring such as were the Duke's Creatures both at Sea and Land, and keeping in Office those that were preferred by the Duke, known Papists; and this was also another Reason to prove that Head of the Instructions, that the King after his Restoration procured an Act to be made, that it should be Treason for any to call him Papist; and this was only that he might the better, and with the more ease, introduce Popery into *England*. He charged likewise King *Charles* I. to be a Promoter of the *Irish* Rebellion, and that *Charles* II. furthered and approved it; that is another Instance. That the Parliament at *Oxford* was only a Sham to delude the People, and that such a King was not to be trusted with such a People, neither as to their Lives, Liberties, or Religion; but that the People must provide for themselves in time, and blow the Trumpet boldly. Another Instance was, as it was the undoubted Right of the People to make Laws against, and to oppose a Popish Successor, so they might depose a Popish Possessor. To this effect was the Substance of what was said.

Mr. Att. Gen. Did he name a Reward that Mr. *Everard* was to have?

Mr. *Smith.* There was a Reward mentioned, but I don't remember any Particulars.

Mr. Att. Gen. Did he tell who set him on work?

Mr. *Smith.* He said, if they did but set *England* together by the ears, the *French* would get *Flanders*, and at length prevail here, and Mr. *Everard* should get an Interest in the Common-Council, and make it his business that they should make a kind of an Address to the Parliament, and promise to stand by them with their Lives and Fortunes in opposing Popery, and Arbitrary Government, and if Parliament-ways failed, to assist in another way; and if the King hindred the Duke of *York* to come to a legal Tryal, that then they should take other Courses.

Mr. Att. Gen. What did he desire from Mr. *Everard*, when he seemed to boggle at his Instructions?

Mr. *Smith.* Mr. *Everard* said, he would do these things, yet he was in great danger; why, says Mr. *Fitz-Harris*, so am I, and a great many more. What other Conference was between them, I know not, for I never saw them together after.

Mr. Ser. *Jefferies.* Look you, Sir, is this the same Person?

Mr. *Smith.* Yes, I did know him to be the same Person that Night he was taken.

L. C. J. You could see him where you were?

Mr. *Smith.* My Lord, I saw clear enough, there was three Candles lighted, and I was as near to him, as I am to your Lordship.

L. C. J. You were not in the Room?

Mr. *Smith.* I was in a little Closet close by.

Mr. Att. Gen. You know nothing of the Paper of Instructions?

Mr. *Smith.* I remember he told me of such an one, but I was not there the second Night.

Sir *Fran. Withins.* Mr. *Everard* said, they were Treasonable things, what then said *Fitz-Harris?*

Mr. *Smith.* He said the more Treason was in them, the better.

Mr. Ser. *Jefferies.* And the Particulars were to set the People together by the ears, and to bring in the *French* King.

Mr. *Smith.* It is all one in Terms.

Mr. Ser. *Jefferies.* How was it?

Mr. *Smith.* That the King and the People should be set at variance, then the *French* King would fall upon *Flanders* and *Holland*, and afterwards would take *England* in his way, and make no bones of it.

Mr. Ser. *Jefferies.* Will you ask him any Questions, Mr. *Fitz-Harris*?

Fitz-Harris. Do you believe that I did it with a Treasonable Intention?

Mr. *Smith.* Sir, I am not to judge of that, I am not of your Jury, nor to answer any such thing.

Fitz-Harris. What do you think, Sir, pray?

Mr. *Smith.* You could have no good Design to bring about by any such matter (I think) as this Paper is.

Fitz-Harris. Is this the same Paper that was read in the House of Commons?

Mr. *Smith.* Sir, I was not of the House of Commons, I don't know what was read there.

Mr. *Johnson.* Mr. *Everard* did seem to hint at a Design among some Protestant Lords, and Parliament-Men, and others, Dissenters from the Church of *England*; I desire to know whether Mr. *Smith* heard those Words?

L. C. J. That was not the first Night.

Mr. *Smith.* I did not hear it.

L. C. J. Look you, Mr. *Johnson*, Mr. *Smith* was not present at the second Meeting, then Sir *Will. Waller* was there, it was only the first Night Mr. *Smith* was there, and he speaks to that. Therefore as to the Alteration of the Copy, and some other things, he tells you that was done the second Night, and then was the Discourse concerning the *French* Confessor, and those other things which you mention.

Mr. Att. Gen. I believe the Jury misapprehend Mr. *Everard* in that too.

L. C. J. it was only what *Fitz-Harris* told him.

Mr. Att. Gen. But I see the thing stick with the Jury, therefore I would fain ask Mr. *Everard* this Question, Did you declare any such thing, or was it Mr. *Fitz-Harris* that told you?

Mr. *Everard.* Mr. *Fitz-Harris* told me, that several Parliament-Men were joined with the *French* Ambassador to give him an account of things, but he told me besides, this must be drawn up as it were in the Name of the *Non-Conformists*, to father it upon them; yet when there was one word in it thou, as if it were in the *Quakers* Name, no, says he, it must not be so, but it must be under the name of all the *Non-Conformists*, that it may be common to all the discontented Party.

L. C. J. So you must take the Sense of this right, Gent. It is not, Mr. *Everard* tells you, some Parliament-Men and Lords were engaged in this business, but Mr. *Fitz-Harris*'s Design was to engage *Everard*, and he urged what he could to encourage him to it. So that the Arguments he used were, that some Lords and Parliament-Men were engaged in this, to encourage him to go on.

Mr. *Johnson.* 'Tis true, my Lord, so that here does appear there was some other Interest than the *French* Interest in this matter, if what Mr. *Fitz-Harris* said was true.

Mr.

Mr. Att. Gen. Fitz-Harris ſaid ſo, to engage him.

L. C. J. Look you, Mr. *Johnſon*, we do all verily believe and hope, there was no ſuch thing as that any Lord, or any of the Commons of *England* were ſo engaged; it was his Intereſt, as Mr. *Fitz-Harris* took it, to mention it ſo, to engage this Gentleman.

Mr. *Everard.* I did not ſay Lords.

L. C. J. What did you ſay then?

Mr. *Everard.* Parliament-Men in general.

Mr. Att. Gen. Then ſwear Sir *Will. Waller*, (which was done.)

Sir *Fran. Withins.* Pray, Sir *William*, will you give an account of what you know of this matter?

Sir *Will. Waller.* My Lord, the laſt time I was here in this Court, being ſummoned to give in my Evidence, I did make ſome difficulty of it, upon the account that this Perſon was impeached by the Commons of *England* in Parliament; but Mr. Juſtice *Jones* having declared the Law required me in ſuch a Caſe to give in my Evidence, I am now ready to give it in, and ſhall do it as briefly as I can.

L. C. J. Well, Sir, pray go on.

Sir *Will. Waller.* My Lord, upon the 22d or 23d of *Feb.* laſt, Mr. *Everard* met me in the City, and told me, he had a buſineſs of very great concernment to diſcover to me; whereupon, my Lord, we went into a place where we might conveniently diſcourſe together; and he told me, in ſhort, that Mr. *Edw. Fitz-Harris*, that unfortunate Gent. at the Bar, had been with him ſeveral times, and endeavoured to engage him in a buſineſs, which would in effect turn all into Confuſion in *England*, and render the King very odious in the ſight of his Subjects. Many things he did there tell me, and earneſtly preſſed me to join in this Deſign, to endeavour the Diſcovery of it. I was indeed at the firſt ſhy of meddling with it, being no way in the Commiſſion of the Peace, and ſo not liable to engage in a buſineſs of that nature; but I was afraid to diſcourage Mr. *Smith*, who voluntarily and ingenuouſly offered himſelf for the Service of his King and Country: but I did not go that Afternoon, being willing to hear whether the buſineſs went on, and was likely to come to any thing. The next Morning Mr. *Everard* writ to me this Letter, (*plucking out a Paper.*)

Mr. Juſt. *Dolben.* Read it, Sir.

Sir *Will. Waller.* My Lord, in effect it was this, to let me know Mr. *Smith* had been with him the Night before, and that according as they had laid their Buſineſs, Mr. *Fitz-Harris* did indeed come, and had ſome diſcourſe in the hearing of Mr. *Smith*, ſeveral things beyond what they had acquainted me with, things of the higheſt nature imaginable; and therefore he earneſtly preſſed me, as I tendred the Welfare of my King and Country, that I would not fail to come that Afternoon to be an Ear-witneſs of the treaſonable Practices that were in hand. I looked upon my ſelf then obliged to go, and did, according to the Directions he gave me, go about three of the clock in the Afternoon to a Tavern at the lower end of *Fuller's-Rents* near *Grays-Inn*, and there we were to diſcourſe further of the buſineſs. I had not been there long, but I looked out of a back Window, and ſpied Mr. *Fitz-Harris* with another Gent. in a brown-coloured Suit, walking juſt before *Grays-Inn* Door. I don't know the name of the Court, but there I ſaw them walking, but in their going, he frequently looked up at Mr. *Everard's* Chamber, and pointed at it. When he was gone, I told him it may be Mr. *Fitz-Harris* may come ſooner than the Hour appointed, therefore I think it will not be amiſs to go without further delay to your Chamber, and ſee what Conveniency there may be to lie ſecret, where I may be both an Eye and an Ear-witneſs. I went to his Chamber, and when I came into the Room, there was a little Cloſet, which I thought not ſo convenient for me, and I rather choſe to look about if I could find another place more convenient. In ſhort, in the next Room I found by my Cane there was a Door, and Hangings over it. I turned up the Hangings there, and in the Door there was a Crevice, which I opened a little with my Knife, and ripped a hole in the Hangings which looked into the Room where the Gent. was to be. And before Mr. *Fitz-Harris* came, Mr. *Everard* had given me a large account much after the ſame manner that he hath given in his Teſtimony here, and he ſhewed me two Papers. I took the two Papers, and gave them a private Mark that I might know them again; and withal we placed a Table, and a Chair ready againſt Mr. *Fitz-Harris's* coming in, and agreed that he ſhould be placed ſo, as that thro the hole I might have a full ſight of him: but leſt by an accident he ſhould be removed from thence, I deſired Mr. *Everard* to ask him three Queſtions. The 1ſt was, Whether he had not married a Daughter of one Captain *Finch's*, whoſe Father was killed in his Majeſty's Service. The 2d was, Whether, as he read over the Paper, it was drawn up according to his Inſtructions. And the 3d was, Who was the Perſon that ſhould recompenſe Mr. *Everard* for running ſo great an hazard. According to theſe Inſtructions the Table being placed, and every thing in Order, about ſeven a clock, or between ſix and ſeven, Mr. *Fitz-Harris* came in, and being ſat down, he began to ask ſome Queſtions; amongſt others——

[*Then ſome Complaint was made by the King's Counſel of Papers given to Mr.* Fitz-Harris.]

Fitz-Harris. Pray, my Lord, I beg that Paper may be given to my Wife again.

Mr. Att. Gen. I pray it may be given to the Court.

Mr. Serj. *Maynard.* I pray it may be read.

Mr. Sol. Gen. 'Tis not the duty of a Sollicitor to bring Papers, he was only appointed by the Court to run of Errands; he is not to adviſe, or furniſh with matter of Defence.

Mr. Serj. *Jefferies.* My Lord, this is an offence committed in the face of the Court, therefore we pray the Perſon that hath done it may be committed.

Mr. Juſt. *Dolben.* It is nothing but the Reſolutions of the Houſe of Commons; give it him again.

L. C. J. If Mr. *Whitaker* lies there to trouble the Court, we ſhall find another place for him.

Mr. Sol. Gen. My Lord, Mr. *Whitaker* hath done his Duty now, and what Service your Lordſhip appointed him; for I think he may be ſent away, for here is no more buſineſs for him.

Sir *Will. Waller.* Mr. *Fitz-Harris* came in, I think it was between ſix and ſeven a clock, and coming there, he ſat himſelf down in the Chair prepared for him, and Mr. *Everard*, according to the Inſtructions I had given him, did ask him ſeveral Queſtions; but Mr. *Fitz-Harris* did ask him, firſt, whether he had finiſhed the Paper according to

ſome

ſome Inſtructions he had given him. Mr. *Everard* produced two Papers, the one was the Copy of the other, as I counted. Mr. *Fitz-Harris* had one given into his Hand, and the other Mr. *Everard* had. Mr. *Everard*, after he had read a little in it, did ask whether this was drawn up according to the Inſtructions Mr. *Fitz-Harris* had given: he anſwered, it was exactly according to the Inſtructions he had given him. After he had read a little further, ſays Mr. *Everard* to him, This is a buſineſs of very dangerous Conſequence, what Reward ſhall I have for running ſo great an hazard? He told him again thus: Sir, ſays he, I think I run an equal hazard with you; for you have a Paper under my Hand, which will render me liable to danger. And then he went on and read further; and if Mr. Attorney will pleaſe to let me ſee the Paper, there is one particular Clauſe in it that I took ſpecial notice of.

Mr. Att. Gen. Would you have the Libel, or the Paper, Sir *William?*

Sir *Will. Waller.* The Libel, Sir; (which was given him.) There was one Paſſage in it which I remember, and it was this (ſpeaking of the King's preferring Perſons that were engaged in the late *Iriſh* Rebellion) the Paper was firſt (prefers) but ſays Mr. *Fitz-Harris* in *French* it muſt be (has promoted:) ſeveral Paſſages of this nature I heard him alter, and I ſaw him alter with his Pen. For after ſuch time as Mr. *Fitz-Harris* was gone out of the Room, I went immediately into the Room where Mr. *Everard* was, and took notice of the Paper, and the Ink upon the Paper was hardly dry.

Mr. Att. Gen. Look upon that, that is the Original, and the other the Counterpart.

Sir *Will. Waller.* Here is the Mark, (then pointing to the bottom of the Paper.) Theſe two Papers I marked both together, and this is the Paper, Sir, was mended. I do remember it more particularly, for this Paper I had in my own Cuſtody, and ſigned it afterwards.

L. C. J. Well, Sir, go on.

Sir *Will. Waller.* He was asking him, Pray Sir, ſaid he, what Reward ſhall I have? Why, ſays Mr. *Fitz-Harris*, you ſhall be very well paid, you ſhall not need to fear, you ſhall have all manner of incouragement. This buſineſs will bring a conſiderable Advantage to you, and you ſhall be otherwiſe preferred than when you were in the *French* King's Service. Says he, you cannot but know how you have been ſlighted and neglected, notwithſtanding the Service you have done, and the *French* Ambaſſador is the Perſon that is to recompenſe you for your Pains; and he ſpoke of forty, but truly I did not hear whether it were Guineas, or what it was, that he ſhould have for preſent Payment; and I heard him ſpeak ſomething of a Penſion, he named three thouſand Crowns, but whether annually, or how, I cannot tell. Pray, Sir, ſaid he, what ſhall I do in this Caſe, for I do not know, I am but in a low Condition, and have occaſion for Money? Why, ſays he, the *French* Ambaſſador will ſupply you, and you ſhall certainly as ſoon as the Paper is perfected have your Reward; and, ſays he, there are a great many more that we have employ'd in buſineſſes of this nature, to create miſunderſtanding between the King and his People, by which means the *French* will eaſily over-run *Flanders* and the *Low-Countries*, and then *England* will become an eaſy Morſel. And this is the ſubſtance of what I remember.

Fitz-Harris. Do you believe I had any ſuch Deſign as Treaſon in it?

Sir *Will. Waller.* I cannot ſay any thing to that, I only ſpeak as to the Matter of Fact.

Mr. Att. Gen. Did he declare he had many more employ'd in the Service?

Sir *Will. Waller.* Yes, he did ſay ſo. And ſaid he, there are two Parliament-Men that frequent my Lord *Shaftesbury*'s, who my Lord does not ſuſpect, that do come and ſound him, and then go and acquaint the *French* Ambaſſador with all they can diſcover.

Fitz-Harris. Is this the ſame Paper by the Oath you have taken, for which I was impeached by the Commons in Parliament?

Sir *Will. Waller.* Yes, 'tis a Copy of the ſame Paper, and that Paper I did read in the Houſe.

Mr. Att. Gen. 'Tis the Original.

Mr. *Johnſon.* My Lord, I deſire to ask Sir *W. Waller* one Queſtion: Sir, you have heard the Indictment read, then pray tell us whether this very Libel be expreſſed in the Indictment according to what was delivered in the Houſe of Commons?

Mr. Att. Gen. You ſhall hear that by and by your ſelves. For you ſhall hear the Paper read to you with the Indictment.

Sir *Will. Waller.* This is a Copy of that Paper.

Mr. *Johnſon.* Does Mr. *Fitz-Harris* ſtand impeached by the Houſe of Commons upon the ſame Treaſons mentioned in the Indictment?

Sir *Will. Waller.* Yes, Sir.

Mr. Att. Gen. Upon the ſame Treaſons?

Sir *Will. Waller.* Upon this treaſonable Paper he does. For as ſoon as ever I had communicated this Paper to the Houſe, and I had made my Report of the treaſonable Tranſactions of Mr. *Fitz-Harris*, the Houſe immediately proceeded to the Impeachment.

Mr. Sol. Gen. Does the Impeachment mention that Paper? Or what particular Treaſon he was impeached upon?

Sir *Will. Waller.* I know nothing of that. But upon this Paper that Impeachment was grounded, that is all I can ſay.

Mr. Sol. Gen. That this Libel was ſpoken of in the Houſe of Commons, is true; but it does not appear upon the Impeachment that he was impeached for that Libel.

L. C. J. Have you any more Witneſſes?

Mr. Att. Gen. Yes, we have to other Matters. But we deſire to let them alone till the Libel be read.

Mr. *Johnſon.* My Lord, we beg we may have the Compariſon of the Libel with the Indictment.

Fitz-Harris. I would ask Sir *W. Waller* one Queſtion more upon his Oath, Whether he had any deſign of trapanning me, or any body elſe in this thing?

Mr. Sol. Gen. Had you any deſign to trapan the Priſoner, or any body?

Sir *Will. Waller.* No, Mr. *Fitz-Harris*, indeed not I.

Fitz-Harris. I looked upon you always as a Perſon that was my Enemy.

Mr. Att. Gen. What, becauſe you were a Papiſt?

Fitz-Harris. No, it was upon another account, I appeal to Mr. Juſt. *Dolben.*

Mr. Juſt. *Dolben.* What do you appeal to me for?

Mr. Serj. *Jefferies.* Have you known Mr. *Fitz-Harris* before, Sir *William?*

Sir *Will. Waller.* Yes, many Years.

Mr. Serj. *Jefferies.* What Religion was he reputed to be of?

Sir *Will. Waller.* A Roman Catholick.

Fitz-Harris. I am not bound to continue ſo always.

Mr. *Jones.* Then ſhew your Converſion.

Mr. Att. Gen. Pray let the Libel be read.

[*Then the Paper was produced.*]

Mr. Att. Gen. Sir *W. Waller*, and Mr. *Everard*, is that the Paper?

Mr. *Everard.* This is the Paper.

Mr. Att. Gen. Is it interlined with his own Hand?

Mr. *Everard.* Yes, for there is the Words (*have promoted*) that I ſaid before, he altered.

L. C. J. Gentlemen, pray mark this now, you will hear the Clauſes contained in the Indictment read, and you ſhall hear this Paper read, and then yourſelves ſhall be Judges whether it does contain them, yea, or no.

Mr. *Johnſon.* We deſire to ſee it at the Bar.

Mr. Att. Gen. Here is a Copy of theſe Clauſes, you may examine it by that.

Mr. *Serj. Maynard.* 'Tis not the whole Libel, but only ſome Clauſes of it he is indicted for.

L. C. J. Yes, Brother: But what they deſire is only to ſee whether ſo much as is contained in the Indictment, is alſo in the Libel.

Mr. Att. Gen. Pray ſwear Mr. *Aſtrey* then; (which was done.)

L. C. J. Look you, Gentlemen, this is one that is intruſted with the Affairs of the Crown; he is now ſworn, and I ask him this Queſtion for your Satisfaction: Mr. *Aſtrey*, are the *Engliſh* Sentences that are in the Indictment alſo comprized in the Libel?

Mr. *Aſtrey.* My Lord, I did examine this Indictment with the Libel at Mr. Attorney General's Chamber as well as I could, and they are *in terminis* the ſame; the Words in the Indictment, and the Words in the Libel.

Mr. *Johnſon.* My Lord, if all be not in the Indictment that is in the Libel, then perhaps there may be ſome Connexion with what is antecedent, ſomething to explain thoſe Clauſes the Indictment mentions, ſo that they may bear another Conſtruction. Therefore we would have all read.

Mr. Serj. *Maynard.* It muſt be all read to them.

L. C. J. Yes, Brother, it ſhall be wholly read to them, tho it need not be expreſſed *de verbo in verbum* in the Indictment, yet for their Satisfaction it ſhall be wholly read to them.

Mr. Sol. Gen. Theſe Gentlemen are very cautious I percieve.

L. C. J. Look you Gentlemen, if you will attend the Court, we will give you what Satisfaction we can; pray Mr. Sollicitor give them leave to ſpeak to the Court: What you deſire, Gentlemen, is reaſonable enough, that you may hear the Libel to ſee whether theſe are not Clauſes taken out of a Paper, which may have another Import in the Paper than they have when they are taken out; that is your Meaning.

Mr. *Johnſon.* Yes, my Lord.

L. C. J. To that intent you ſhall hear the Libel read diſtinctly; you ſhall have the very Clauſes of the Indictment by you, that you may look upon them.

Mr. Att. Gen. The other part of the Libel will do it.

L. C. J. Pray Mr. Attorney don't direct me, they ſhall have the Indictment whilſt Mr. *Aſtrey* reads the Libel, that they may ſee the Import of the Words. And you do not apprehend it aright: Mr. *Johnſon* does not deſire to ſee whether Mr. *Aſtrey* read right, but whether thoſe Clauſes in the Indictment are of the ſame Import in the Indictment that they are of in the Libel; therefore they muſt have a Copy of the Indictment whilſt Mr. *Aſtrey* reads the Libel: and Mr. *Aſtrey*, pray mark thoſe Clauſes when you come to them, for you will find they are diſperſed up and down the Libel.

Mr. *Aſtrey.* I do not ſwear to that very Paper, but I believe you will find they are rightly taken out of the Libel in the Indictment.

Mr. Att. Gen. This is the Copy of the Indictment-Clauſes.

Cl. of Cr. reads. *Friend, I thank thee for the* Character of the Popiſh Succeſſor——

[*Then one of the Jury having the Copy in his Hand, and not finding it exact, deſired a true Copy.*]

Sir *Will. Waller.* Here is a true Copy of it, I took myſelf and read in the Houſe.

[*Then the Libel was read thro, and the Clauſes particularly obſerved.*]

L. C. J. Gentlemen, now you have heard it read; and you may obſerve there is nothing in this Paper can extenuate or mitigate the Clauſes, but abundance to make them more horrid and exceedingly aggravated.

Mr. At. Gen. Then call Mr. *Savile*, who was the Perſon Mr. *Everard* did meet with, and acquaint with this Buſineſs; (but he did not appear.) Then call Sir *Philip Lloyd* and Mr. *Bridgeman*. My Lord, the next Piece of Evidence we ſhall give, is this; Sir *William Waller* and Mr. *Everard* do both ſay, that he gave part of his Inſtructions under his own hand, we ſhall produce the Paper, and prove he acknowledged it to be his own Hand.

[*Then the Paper was produced.*]

Mr. Att. Gen. Who writ that, Sir?

Mr. *Everard.* Mr. *Fitz-Harris.*

Mr. Att. Gen. Are thoſe the Inſtructions he gave you to frame this Libel?

Mr. *Everard.* Theſe are part of the Inſtructions, my Lord; the other part I took in my Table-Book before Mr. *Smith.*

Mr. Att. Gen. We will prove it by other Witneſſes, Sir *Philip Lloyd*, and Mr. *Bridgman.*

Mr. Bridgman *ſworn.*

Mr. Att. Gen. Did the Priſoner acknowledge that to be all his own Hand-writing?

Mr. *Bridgman.* Yes, my Lord, Mr. *Fitz-Harris* did acknowledge it to be all writ with his own Hand.

Sir Philip Lloyd *ſworn.*

Sir *Fran. Withins.* Look upon that Paper, Sir; (which he did.) Did Mr. *Fitz-Harris* acknowledge it was his Hand-writing?

Sir

Sir *Philip Lloyd.* Yes he did; and that I might bear teſtimony of it the better, I writ with my own Hand on the back of it, that he did ſo.

Mr. Att. Gen. Read it.

Cl. of Cr. reads. *After this ſham Meeting of the Parliament at* Oxon, *which no body expects any Good of, it will be neceſſary,* &c.

Mr. Sol. Gen. Theſe Words are likewiſe in the Indictment.

L. C. J. When was that given to you, Mr. *Everard*? for——Mr. *Fitz-Harris* it ſeems owned it before the Lords in the Council, but Mr. *Everard* ſwears the Delivery of it; what time was it?

Mr. *Everard.* It was either Monday, or Tueſday.

L. C. J. In *February*, was it not?

Mr. *Everard.* Yes, and I asked Captain *Fitz-Harris*, according to Sir *Will. Waller*'s Queries, whether he had given Inſtructions according to what he would have contained in the thing? Yes, ſaid he; but have you not enough under my own Hand to do it by?

Mr. Serj. *Maynard.* My Lord, we have done our Evidence, we will leave it now to hear what the Priſoner will ſay for his Defence.

L. C. J. Mr. *Fitz-Harris*, if you have any thing to ſay for your Defence, this is your time to do it.

Fitz-Harris. Yes, my Lord, Dr. *Oates* I deſire may be called.

Mr. Att. Gen. If you have any Witneſſes, name them.

Mrs. *Fitz-Harris.* Yes, yes, Dr. *Oates*; and ask him what he heard Mr. *Everard* ſay.

L. C. J. What ſay you to Dr. *Oates*, here he is?

Fitz-Harris. Pray, Doctor, what have you heard Mr. *Everard* ſay about this Libel ſince I was taken?

Dr. *Oates.* My Lord, after this Buſineſs was talked of abroad, having heard that Sir *William Waller* and *Everard* had made the Diſcovery, I did diſcourſe Mr. *Everard* about the Buſineſs, and about the Libel. He told me he wrote the Libel, and when I would not believe it, the Man was a little angry that I would not believe it. And then I told him he was a Man very unfortunate in ſpeaking; for he ſpoke but badly. He ſaid tho he was unfortunate in his Tongue, yet he was as fortunate in his Pen, and that he took a great deal out of the intercepted Letter to *Roger L'Eſtrange:* and I then asked him what the Deſign of it was, he told me it was to be printed, and to be ſent about by the Penny-Poſt to the proteſting Lords, and the leading Men in the Houſe of Commons, and they were to be taken up as ſoon as they had it, and to be ſearched, and to have it found about them. I then asked him if there were any other Perſons concerned in it, beſides thoſe publickly talked of; he told me the Court had a hand in it, and the King had given *Fitz-Harris* Money already, and would give him more if it had ſucceſs. This he told me at *Oxford*, and before he went thither, and after.

Fitz-Harris. Mr. Sheriff *Corniſh*, I do beg you what his Majeſty told you, when you came to him from me, when I was at *Newgate.*

Mr. Sheriff. I do not know what you call me for, Mr. *Fitz-Harris.*

Fitz-Harris. I deſire you to acquaint the Court what the King ſaid to you when you came to him from *Newgate* from me.

Mr. Sheriff. My Lord, I ſhall deſire your Lordſhip's Opinion in this Matter, whether it be ſeemly or decent for a Subject to declare what Diſcourſe his Prince is pleaſed to have with him.

L. C. J. Look you, Sir, if you give any Evidence, give it. We are not to direct any Witneſs whether they ſhall give their Evidence, or not.

Mr. Att. Gen. Mr. Sheriff, you ought to do it openly if you give any, therefore pray let us hear you.

Mr. Sheriff. My Lord, I cannot remember what was ſaid relating to this particular Matter. There was a great deal his Majeſty was pleaſed to diſcourſe with me concerning things of ſeveral kinds and natures; my Memory may fail me, but if Mr. *Fitz-Harris* pleaſe to ask as to any particular Matter.

Fitz-Harris. What the King ſaid when you came from *Newgate* to him, to acquaint him that I would make a diſcovery: Did he ſay I was employ'd by him, and received any Money, and what for?

Mr. Sheriff. My Lord, I do remember ſomething of that kind. When I was giving his Majeſty an account that I found the Priſoner at the Bar in a diſpoſition to make a Diſcovery, his Majeſty was pleaſed to tell me he had often had him before him and his Secretaries upon Examination, and could make nothing at all of what he did ſay or diſcover to them; and his Majeſty was pleaſed likewiſe to ſay, that he had for near three Months before acquainted him, that he was in purſuit of a Plot, a Matter that related much to his Majeſty's Perſon and Government: And the King did ſay, in as much as he made great Proteſtations of his Zeal for his Service, he did countenance and give him ſome Money. I know nothing more.

Mr. Att. Gen. Did the King ever declare that he ſaw *Fitz-Harris* in his Life, or that he ever was in his Preſence?

Mr. Sheriff. Yes.

Mr. Att. Gen. Ay, but before his appearing at the Council-Table, did the King ever ſay he ſaw him, or before he was arreſted for this Fact?

Mr. Sheriff. Yes, his Majeſty was pleaſed to ſay about three Months before, he came to him, and pretended he would diſcover a great Plot to him.

L. C. J. Have you any other Queſtions to ask Mr. Sheriff?

Fitz-Harris. No. Where is Colonel *Manſel?*

Dr. *Oates.* My Lord, I deſire that if the Priſoner have any more Queſtions to ask me, he may do it, becauſe the Croud is great, and I would go out.

Fitz-Harris. Sir, I have many more Queſtions to ask you, I deſire you would pleaſe to ſtay.

L. C. J. You muſt ſtay if he have any more Queſtions to ask you. Here is Col. *Manſel*, what ſay you to him?

Fitz-Harris. Colonel, what did you hear Sir *William Waller* ſay, after this Diſcovery was made?

Col. *Manſel.* That which I heard Sir *William Walser* ſay, was this: I had occaſion to ſpeak with Sir *James Hayes*, and enquiring for him, I found he was at the *Dog-Tavern*; ſo I went up, and found in the Company Sir *William Waller*, and another Gentleman, one Mr. *Hunt*, and ſome more. After the reſt of the Company were gone, and only Sir *James Hayes*, Mr. *Hunt*, myſelf, and Sir *William Waller* left, Sir *William* was giving an account of this Buſineſs, and ſaid, The King, when I had acquainted him with it, told me I had done him the greateſt Piece of Service that ever I had done him

in my Life, and gave me a great many Thanks; but I was no ſooner gone from thence, but two worthy Gentlemen gave me an account that the King ſaid, I had broken all his Meaſures, and he would have me taken off one way or another.

Fitz-Harris. Did he ſay any thing, that it was a Deſign to put the Libel upon the Proteſtant Lords, and the Houſe of Commons?

Col. *Manſel.* There was that ſaid.

L. C. J. What was ſaid? Don't come with your imperfect Diſcourſes here, but if you give Evidence, tell what was ſaid.

Col. *Manſel.* Sir *William Waller* ſaid, that the Deſign was againſt the Proteſtant Lords, and the Proteſtant Party.

Mr. Serj. *Maynard.* I do not doubt that it was againſt the Proteſtant Party.

Mr. Att. Gen. Recollect your ſelf: Was it againſt the Proteſtant Lords, or the Proteſtant Party?

Col. *Manſel.* He ſaid, the Proteſtant Party.

Mr. Att. Gen. So ſay we.

Fitz-Harris. Did he not ſay it was another ſham Plot, Sir, againſt the Fanaticks, and the Houſe of Commons? Where is Mr. *Hunt?*

[*Mr.* Hunt *appeared.*]

Mr. *Hunt.* What would you have with me, Mr. *Fitz-Harris?* I never had any Converſation with you in my Life.

Fitz-Harris. No, Sir; but what have you heard Sir *William Waller* ſay concerning my Buſineſs?

Mr. *Hunt.* My Lord, I would rather I had loſt my Hearing for that time, than have heard it to repeat it. Sir *William Waller* did tell me, at the *Dog-Tavern*, where was Sir *James Hayes*, and Colonel *Manſel* by, after he had read over the Libel to us, there was a great deal of Company more, but he only gave us the Curioſity to ſee what the Libel was: And when he had read it, he did tell us, that the King gave him particular Thanks for that good ſervice he had done him in detecting *Fitz-Harris*; but he ſaid he was told by two Gentlemen that had heard the King ſpeak it, who were of undoubted Credit, that the King was in an extreme Paſſion, beſtow'd many hard Names on him, and ſaid, he would give any thing in the World to take him out of the World; that he was an inſufferable Vexation to him, and that he had broken all his Meaſures. And he ſaid the ſame things again, in the Preſence of Sir *Philip Harcourt*, and my Lord *Radnor*'s Son Mr. *Roberts*, at Capt. *Hall*'s Chamber, in *Pembroke*-College in *Oxon.*

Mr. Att. Gen. What did he ſay about the Priſoner?

Mr. *Hunt.* This was about the Libel of *Fitz-Harris*, that the King gave him particular Thanks about that Buſineſs; and afterwards the King did expreſs great Paſſion, in ſome ſhort time after he was gone: and he did ſay he was informed by two Witneſſes that heard the King ſay it, He knew not what to do with him, be broke all his Meaſures.

Fitz-Harris. Did he not ſay this was a Deſign againſt the Proteſtants?

Mr. *Hunt.* He did ſay it was a Deſign to contrive theſe Papers into the Hands of People, to make them Evidences of Rebellion; and that was his Apprehenſion of the Thing. And he ſaid further, (for I am a Witneſs here, and muſt ſpeak all my Knowledge) that he had another Plot which he had traced near to a full Diſcovery, a more horrid Plot than this or *Dangerfield*'s; for he ſaid this was the Counterpart of *Dangerfield*'s Plot. I hope he will not deny it, if he be asked, here he is, and upon his Oath; I am not, and I deſire not to take Credit unſworn, but am willing to give my Teſtimony on Oath.

Fitz-Harris. Where is Dr. *Cary?*

Mr. Sh. *Corniſh.* Dr. *Cary* is not well, my Lord, and can't come.

Fitz-Harris. Then Mr. Sheriff *Bethell.*

Dr. *Oates.* My Lord, I pray I may be diſcharged.

L. C. J. Doctor, we have nothing to ſay to you, but the Priſoner hath more Queſtions to ask you. 'Tis not we that detain you, but you ſtay upon the Priſoner's account.

Fitz-Harris. Mr. Sheriff *Bethell* I deſire to know what you can ſay concerning Mr. *Everard.*

Mr. Sher. *Bethell*, My Lord, I know nothing of Mr. *Everard* as to this Buſineſs, ſave that he told me he writ the Libel himſelf. And I confeſs, my Lord, further, that before ever he knew my Face, or before ever he heard me ſpeak a word in his days, he put in an Information of Treaſon againſt me, at the Inſtigation of one that is known to be my mortal Enemy: and it was ſo groundleſs, that tho it was three Years ago given in, yet I never heard a word of it till Friday laſt. I can bring Witneſſes of this, Perſons that ſent the notice of it to me.

Fitz-Harris. Pray call Mrs. *Wall*; *(who came down from her Seat.)*

Fitz-Harris. Mrs. *Wall*, pray will you tell the Court, have not I conveyed ſome Libels and treaſonable Papers to the King by your means, and received Money upon that account?

Mrs. *Wall.* Not as I know of.

Fitz-Harris. Did not you receive ſome of them from me to give to the King?

Mrs. *Wall.* No indeed not I.

Fitz-Harris. Is the Footman here that was by, when you paid me the Money?

Mrs. *Wall.* Yes, and the Porter too, tho you have not ſubpœna'd them.

Fitz-Harris. How long ago is that?

Mrs. *Wall.* Two Years ago.

Fitz-Harris. Was it not about *Chriſtmas* laſt was Twelve-month I gave you the Libel about the King and your Lady; and the King thank'd me extremely, and I had 250 *l.* given me? Come, Mrs. *Wall*, don't think to trick me out of my Life in the Caſe, for I will not be tricked ſo. Pray tell the Court, Can you deny that I had the 250 *l?* ſpeak, Mrs. *Wall*, had I 250 *l?*

Mrs. *Wall.* That was not the Queſtion you asked me at firſt.

Fitz-Harris. But ſpeak, had I it?

Mrs. *Wall.* There was 250 *l.* I think it was 200 or 150, or 250 *l.*

Fitz-Harris. What uſe was it for? and upon what account?

Mrs. *Wall.* You do know it was not for any Libel.

Fitz-Harris. If you have any mind, tell it.

Mrs. *Wall.* There it is: (*Delivering in a Paper to be read.*)

C. of Cr. The humble Petition of *Edward Fitz-Harris*——

Mrs. *Wall.* I really took him for as honeſt a Man as ever I knew in my Life, and had it been in my power to have done him a kindneſs, I ſhould not have failed to have done it.

Mr.

Mr. Att. Gen. Was he your Countryman, Madam?

Mrs. *Wall.* Yes, he is, and my Relation too. I knew you to be the Son of a very ſuffering loyal Family; and while his Mother was in Town, he came often to our Houſe; and when ſhe went away, he left viſiting the Houſe a great while. And you, Mr. *Fitz-Harris*, did once tell me, you could bring in People to the King's Intereſt, that were very conſiderable. So I ſpoke to the Secretary of State about you, that there was one that had been with me, and told me, that he could bring in thoſe to the King and Duke's Intereſt that were very conſiderable. The Secretary of State deſired me to know who they were; and then he named to me one *Thomas Merrey*, and another Perſon who I deſire to be excuſed from naming. The other Party he did name, was thought conſiderable, both for Quality and Underſtanding; and the Secretary deſired me to get him in if I could.

Mr. Att. Gen. Pray, Madam, who was it?

Mrs. *Wall.* I deſire Mr. *Fitz-Harris* may tell, you.

Fitz-Harris. No, Mrs. *Wall*, pray do you tell it, ſince you have ſpoke of it.

Mrs. *Wall.* I ſay nothing but what I will take my Oath of.

Fitz-Harris. Then you will never ſwear that which is true. Pray, Mrs. *Wall*, ſpeak, who was it?

Mrs. *Wall.* I deſire I may not name him, but he may.

Mr. Att. Gen. He will not.

Mrs. *Wall.* Truly, I do not think it convenient for me to name ſuch Perſons as thoſe are, upon ſuch accounts.

Fitz-Harris. Pray, Mrs. *Wall*, name the Perſon that I would have brought into the King's Service.

Mrs. *Wall.* If the Court commands me, I will; otherwiſe I will not.

Fitz-Harris. Did you ever, upon any ſuch account as this, receive any Money for me, ſpeak the Truth?

Mrs. *Wall.* God forbid your Blood ſhould lie at my Door; I aſſure you I ſhould be ſorry for it. He told me, theſe Perſons were conſiderable for the King's Intereſt, and could do him extraordinary good Service. So, as I ſaid, I ſpoke to the Secretary of State; and he would know who they were. And when he was told who they were, as for one of them, *Thomas Merrey*, he was not thought worth the looking after, for he was thought an inconſiderable Raſcal; but as for the other Gentleman, he was thought a Man of Worth, and a Perſon, that if he would, could really ſerve the King. Upon this, when you firſt came, I was never at reſt for you; and therefore, after a while, before you came again, I gave the Porter order to tell you, I was not at home; and I deſire the Porter may be asked the Queſtion. But when I next ſaw the Secretary, I deſired that he would give them a poſitive Anſwer, one way or the other; and the next time I ſaw you, this was your Buſineſs, and I told the Secretary of State of it. You gave me this Paper, and deſired me to ſollicit for your Quit-Rent in *Ireland*, for you were in great Miſery, and had been a great Sufferer. So I ſpoke to the Dutcheſs of *Portſmouth*, and ſhe ſpoke to the Secretary of State; that if this Man be ſo conſiderable a Sufferer, 'tis convenient to give him ſomething for his Encouragement: and if you will give him ſomething, ſaid I, give it him quickly. I was four, if not ſix Months, a getting this Money.

Fitz-Harris. But will you ſay it was upon that account? When was that Money paid?

Mrs. *Wall.* I never thought I ſhould be brought in for a Witneſs; or that you would have abuſed me thus for my kindneſs.

Fitz-Harris. When were thoſe Papers given you that you produced?

Mrs. *Wall.* I wiſh I may never ſee the Face of God, if I know any more than what I give Evidence; there are the Papers, they will tell you the time.

Fitz-Harris. Did I give them you?

Mrs. *Wall.* You or your Wife did; and I ſuppoſe your Wife's Condition was yours.

Fitz-Harris. Was not the Money received before ever thoſe Papers were given you?

Mrs. *Wall.* Nay, Mr. *Fitz-Harris*, I will tell you more; ſend to Mr. *Henry Guy*, and let him tell you when he paid it you.

Fitz-Harris. Call the Porter, and the Footman if he be here.

L. C. J. If you would ask any more Queſtions of Mrs. *Wall*, do.

Fitz-Harris. Did not I come to you the Wedneſday before I was taken, and told you, I deſired to ſpeak with the King, and that I had a Libel to preſent to him?

Mrs. *Wall.* No, ſo far from that, that it was the Thurſday before you were taken, you came about nine a-clock at Night to our Lodgings, and ſent up to my Chamber; and I ſent word that Mr. *Cowling* was there, for I did not care to ſee you: but you ſent word up, you had ſomething of conſequence to tell me. So I came down, and you deſired me to bring you to the Speech of the King; which was a thing you did never deſire before: And you ſaid thus, If you did but ſee the King, you believed you could ſay ſomething to him that might do him Service.

Fitz-Harris. Did not I ſay here is the Libel that I come to deliver to the King now?

Mrs. *Wall.* No, as I have a Soul to be ſaved.

Fitz-Harris. Mrs. *Wall*, I did, and this was what you ſaid at the ſame time; That ſince my Lord *Sunderland* was gone, you could have no ſecret Service. I did deſire to ſpeak with the King privately, thoſe were my words; and you told me, you could not ſo eaſily do buſineſs with the King, ſince my Lord *Sunderland*'s time.

L. C. J. We muſt not let you hold a Dialogue between your ſelves, you muſt ſpeak that the Court may hear.

Mr. Att. Gen. Was not he a Roman Catholick?

Mrs. *Wall.* Yes, we looked upon him ſo, and upon that account we ſaid it was dangerous for him to go near the King.

Mr. Att. Gen. Did you know that ever he was admitted to the King?

Mrs. *Wall.* Never; but he hath been talking with me in a Room as the King paſſed by.

Mr. Att. Gen. Did the King ever take any notice of him, ſpeak to him?

Mrs. *Wall.* The King never took notice of him, nor ſpoke with him by my means, nor gave him Money, other than what I ſpeak of, nor the Dutcheſs of *Portſmouth*.

L. C. J. Look you, Mrs. *Wall*, I think you do ſay that there was ſome Money paid to Mr. *Fitz-Harris*, pray ſpeak plain, upon what account was it paid?

Mrs.

Mrs. *Wall.* My Lord, it was for the bringing in of my Lord *Howard* of *Eſcrick*, who is there; ſince you preſs me to it, I muſt tell, I think my Lord will not deny it.

Ld *Howard.* I will never deny the Truth.

Fitz-Harris. Where was my Lord *Howard* of *Eſcrick?*

Mrs. *Wall.* He was not ſo much for the King's Intereſt, or that which they call the King's Intereſt.

Fitz-Harris. How long is this ſince?

Mrs. *Wall.* Two Years ago ſince he came firſt to me; but whether it be a Year and an half ſince my Lord met with the King, I cannot tell.

Fitz-Harris. When my Lord was admitted in to the King, I did wait on him to that purpoſe, to bring in my Lord *Howard.*

Mrs. *Wall.* I deſire that my Lord *Howard* may be asked, whether he don't remember, when the King was coming, Mr. *Fitz-Harris* was put out of the Room firſt.

Fitz-Harris. You ſay, I never ſhewed any Libel to the King.

Mrs. *Wall.* I tell you what I ſaid ſince to this Gentleman that is here; I wiſh you had ſhewn the Libel unto me, that I might have been in a capacity of ſaving your Life.

Fitz-Harris. You ſaid, that I had the 250 *l.* for bringing in my Lord *Howard.*

Mrs. *Wall.* I ſay, it was upon Promiſe to bring in Perſons that would be uſeful and ſerviceable to the King.

L. C. J. She is your own Witneſs, and ſhe tells you, two Perſons you did undertake to bring in, and for that you had this Money.

Mrs. *Wall.* It was his Poverty, and this together.

Mr. Serj. *Jefferies.* Mrs. *Wall*, I conceive he never diſcovered this Libel unto you; but pray, did he ever diſcourſe with you about *Everard?* and what Character did he give him?

Mrs. *Wall.* Once he did, and he ſaid he was an honeſt Man; and asked me if I would be acquainted with him? I told him, No, for he had a knaviſh Reputation: he was an Informer, and I cared for no Informers.

Fitz-Harris. Mrs. *Wall*, to let the World ſee how you ſhuffle about me, When did the King ſee my Lord *Howard* firſt, when I brought him?

Mrs. *Wall.* I don't know, ask my Lord *Howard.*

Fitz-Harris. Did not I ſpeak to the King in the outer Room? And did not you get me to make a ſtand there?

Mrs. *Wall.* Mr. *Fitz-Harris*, don't make me tell that thing.

Fitz-Harris. Pray ſpeak the Truth, Mrs. *Wall.*

Mrs. *Wall.* I defy you, and all Mankind, to ſay I do otherwiſe. You did deſire me to tell the Duke, that you would firſt bring my Lord to him, and then to the King; and I ſpoke to the Duke, and he ſaid you were a Raſcal, and he would not meddle with you: this you know.

Fitz-Harris. Did not my Lady *Portſmouth* tell me, the Duke was angry, *&c?*

Mrs. *Wall.* Mr. *Fitz-Harris*, when you came to me upon ſuch an Errand, was it reaſonable that I ſhould bring you, upon every trifle, to the Speech of the King, and I ſhould not bring you then? 'tis without Senſe and Reaſon.

L. C. J. You muſt not ask Queſtions, but anſwer. And, Mr. *Fitz-Harris*, do you deſign to detect Mrs. *Wall* of Falſhood? She is your own Witneſs, you conſider not you can get nothing by that.

Fitz-Harris. My Lord, when you ſee the Papers produced, you will find it is upon another account.

Mrs. *Wall.* Is this your Hand, Mr. *Fitz-Harris?* (*Shewing him a Paper.*)

Fitz-Harris. But is not this upon the account of a Penſion granted in *Ireland?* Pray let the Gentlemen of the Jury ſee, this is of another different nature; I appeal to my Lord *Howard* of *Eſcrick*, whether he did not ſpeak to my Lady about it.

Ld *Howard.* I did ſo.

Mrs. *Wall.* My Lord did ſecond my Lady to get you ſome Charity.

Fitz-Harris. So that the Money received here, was plainly upon another account.

L. C. J. Look you, if you will have any Papers read, they ſhall be read. But the Gentlemen of the Jury muſt not ſee any Papers but what are read.

Then the Petition of Mrs. Fitz-Harris, *and the King's Letter to the Duke of* Ormond, *was read, about a Penſion in* Ireland.

Fitz-Harris. My Lord, if you pleaſe, I have ſomething further to ſay to Mrs. *Wall.* But I deſire to ask Mr. *Cowling* a Queſtion, and that is, Sir, What Mrs. *Wall* ſaid to you about my Buſineſs?

Mr. *Cowling.* My Lord, I think, the Day after this Man was examined in the Council, I came to Mrs. *Wall*, and ſhe told me, That the ſecond or third Night before he was taken, he came to her to bring him to the King; but ſhe ſent down Stairs, that ſhe would not let him come up. But asked him, why he did not go to one of the Secretaries of State? No, ſaid he, I can't go thither without being taken notice of; but I'll tell you my Buſineſs. No, ſaid ſhe, if you will write down your Buſineſs, and give it me in a Paper, I will carry it to the King; and if the King have a mind to ſpeak with you, you ſhall be ſent for. No, ſaid he, I will not do that. Then, ſaid ſhe, I muſt beg your pardon if I don't bring you to the King. And Mrs. *Wall* ſaid further to me, truly her Blood did chill when ſhe ſaid ſo, for ſhe was afraid he was come to do the King a miſchief.

Mr. Att. Gen. This was three or four Nights before he was taken.

Fitz-Harris. Is Sir *Robert Thomas* here? (*He did not appear*) Then I deſire my Lord *Howard* to ſtand up.

Ld *Howard.* Have you any thing to ſay to me, Mr. *Fitz-Harris?*

Fitz-Harris. Yes, my Lord, if you pleaſe. My Lord, I deſire your Lordſhip will pleaſe to tell, what my Lady *Portſmouth* did expreſs to you concerning me, at your coming thither; and whether I did not introduce your Lordſhip; and how civil ſhe was to me upon that account; and how ſhe undertook to get my Quit-Rent for me.

Ld *Howard.* Sir, I ſhall anſwer as particularly as I can all your Queſtions; but it will be neceſſary to introduce my Evidence with the Relation of the whole Tranſaction. You know, about *October* laſt, about the beginning of the Month; for it was, as I take it, ten Days, or a Fortnight, before the ſitting down of the Parliament; you did make Applications to me, in the Name of the King, whether with or without his privity, I cannot ſay; but you did make ſeveral Invitations to me, of putting my ſelf into the Poſſeſſion of an Honour I was altogether unworthy of, of waiting upon the King. I gave you my Reaſons why I

 thought

thought my ſelf unfit for that Honour, becauſe I was not in any capacity of doing the King any Service: And I looked upon the King as a Perſon too Sacred, and whoſe Time was too precious to be trifled away upon one that had nothing to offer to him, and therefore I refuſed it. But notwithſtanding, this was reinforced by you: and when I ſtill perſiſted in the denial of that which was an Honour I ought rather to have ſought, but only becauſe I thought my ſelf uncapable of deſerving it; after ſeveral Applications, I did at laſt tell you, beſides the Impertinency of it, I did alſo apprehend it might be the occaſion of ſome Indecency; for perhaps I might thereby put my ſelf upon declaring my ſelf in ſome of my Sentiments, very much differing from thoſe of his Majeſty. And for me to ſeek an opportunity to expreſs my Contrariety to his Majeſty's Thoughts, would be both Rudeneſs and Imprudence; and therefore I did then ultimately anſwer you, I would by no means be prevailed with. Then you did lower it, and ſaid, It ſhould ſuffice, if I would wait upon the Dutcheſs of *Portſmouth*. Truly, I told you, as to that too, you did me a great Honour, and greater than I could expect, for I had nothing (I was afraid) worthy her trouble; and therefore I deſired to know what it might mean. In ſhort, you did reſolve it into this, That you did find the King under great Apprehenſion, that there was ſomething deep in the Hearts of ſome, that ſtood at a diſtance from his Majeſty, and oppoſite to his Intereſt; and that the Parliament ſtood at an irreconcilable difference with the King. Truly, ſaid I, I am a Perſon not fit to ſpeak in the Name of a Parliament, for in a little time they will ſpeak for themſelves; but if I were to ſpeak, or ſhould preſume to ſpeak in the Name of the Parliament, or the whole Nation, I ſhould ſay, I believed the King would find his Parliament meeting him with as great Affection, Duty, and Loyalty, as any Parliament ever met any King of *England*. You ſaid, Then you were confident, and you cited her Grace the Dutcheſs of *Portſmouth* for it, that the King came to meet them with Inclinations to gratify them in any thing they could deſire. Then, ſaid I, to what end need I come there, for the Parliament will ſpeak its own Senſe ſpeedily? Pray do me that kindneſs, as to go and ſatisfy the Dutcheſs of *Portſmouth*, and to let her know ſhe may now have an opportunity of declaring how willing ſhe is to be a good Inſtrument between the King and his People. Said you, I can aſſure you, that ſhe is altogether for the ſame Intereſt that you look towards; for you are very much miſtaken if you think ſhe is a Friend to the Duke of *York*. My Lord, in ſhort, after much intreaty, I did give my ſelf that Honour, which I have no Cauſe to repent or be aſhamed of, to go to *White-Hall*, humbly to kiſs my Lady Dutcheſs's Hand, and receive her Commands. But when I came there, I was ſurprized with a greater Honour of finding the King there, and I think it was an opportunity, wherein my time was not ill ſpent as to my ſelf, but I am afraid this 250 *l.* if it were given for the bringing me thither, his Majeſty doth not think he hath deſerved it at this time.

Fitz-Harris. Your Lordſhip came there in *October* laſt.

Ld *Howard.* Becauſe I will do you all the right I can, it was, as I take it, the beginning of *October*, and about the 10th, becauſe the Parliament ſat down the 23d, and as I remember, it was a Fortnight before. This was the firſt time that I owe you Thanks for the Honour of ſeeing the King. After that, a matter of ten Days, I had a ſecond opportunity, and by your means alſo. This was the laſt time I had the honour to ſee the King, but in publick. After this, I muſt confeſs, when the Parliament was ended, I did then, willingly enough, invite my ſelf to the honour of waiting upon the Dutcheſs, and give her Thanks, and tell her, I was ſenſible ſhe had endeavoured, as much as in her lay, to perſuade the King into a good Opinion of the Parliament, and to give them time of Sitting, and thereby to give them opportunity of explaining their Intentions for his Service and Advantage. This was alſo the laſt time I had the honour of ſeeing her. At laſt, parting from her, I did make it my humble requeſt to her, that ſhe would be pleaſed to repreſent your Condition to the King, ſince by your means I had the honour to be ſhewed the way to her Grace's Lodgings.

Fitz-Harris. My Lord, did not I come to you with a Meſſage, the Night before my Lord *Stafford* was condemned?

Ld *Howard.* You ſay right, and it was in my Thoughts, and yet I thought it too tender a thing to ſpeak of; and therefore I thought it ſo, becauſe, I muſt confeſs, at that time (you muſt excuſe me) I did believe you did not come with that Authority you pretended to make uſe of. After the time that unfortunate Lord had had his Tryal, and the Houſe were preparing their Thoughts for the Sentence, I was indiſpoſed, and came not to the Houſe that Day, which provoked the Houſe ſo much, that they were near committing me to the *Tower*; but truly, I was ſo ill in Body, and had ſo little a mind to have my Vote mixed with his Blood, that perhaps I ſhould have run the hazard of going to the *Tower* about it, if that had been all. But the Night before you came to me, and told me as a great Secret, That you did bring it as the Deſire of the King, and as that which he would take as a great inſtance of my Reſignation to his Will and Pleaſure, and that for which I might promiſe my ſelf all the greateſt Kindneſſes poſſible for a Prince to ſhew to his Subjects, if I would go the next Day and give my Vote for my Lord *Stafford*. Sir, ſaid I, I have all the Obligations of Nature and Blood to diſpoſe me, as much as can be, to favour my Lord *Stafford*, as far as can conſiſt with the Integrity and Sincerity of a Judge: but though I was wavering in my own Thoughts the Day before, now by the Grace of God I will go, though I be carried on Men's backs to the Houſe; now I ſee there is ſo great an account put upon it, for I ſee 'tis the Concerns, not only of my Lord *Stafford*, but the Proteſtant Cauſe; and then, ſaid I, If all the Relations I have were melted down into my Lord *Stafford*, if I had but breath enough to pronounce his Doom, he ſhall die.

Mr. Att. Gen. My Lord ſays, he did not think you came from the King, when you came with that Meſſage.

Ld *Howard.* Sir, can I do you any more Service? I ſhall be willing to do it if I can. I cannot deny but I had, by your means, the honour of waiting upon the King and the Dutcheſs; but I have ſo lit-

tle

tle Reaſon to value my own Worth, that I cannot imagine how it ſhould turn to the King's Service.

Dr. *Oates*. My Lord, I deſire to have Liberty of going away, the Croud is ſo great I cannot ſtand, and the Priſoner hath nothing to ſay to me.

Mr. Att. Gen. My Lord, that may be part of the Popiſh Plot, to keep Dr. *Oates* here, to kill him in the Croud.

Fitz-Harris. Have not you ſomething more to ſay, Doctor? Truly I forget, my Memory is ſo diſtracted.

Dr. *Oates*. I know not, if you have any Queſtions to ask me, I will ſpeak Truth. (*But he had none, ſo the Doctor went away.*)

Mrs. *Fitz-Harris*. Call Mr. *Fanſhaw*; (*who did not appear.*)

Fitz-Harris. My Lady Dutcheſs of *Portſmouth*.

Mrs. *Wall*. She is not come, becauſe the Court is very full; but if the Court will ſend for her, ſhe will come preſently.

Fitz-Harris. My Lord, I beg that my Lady Dutcheſs of *Portſmouth* may be ſent for.

Mrs. *Wall*. She gave me a Commiſſion to ſay, If the Court would have her to come, ſhe would ſo do.

L. C. J. We cannot ſend for her, if ſhe pleaſe to come, ſo; we have no occaſion to ſend for her.

Mrs. *Wall*. I preſume he can't ask her no Queſtions, but what I can anſwer.

L. C. J. We will not prejudice the Priſoner in his Queſtions, nor ſend for her, unleſs ſhe will come.

Fitz-Harris. Will you ſend one of your Footmen, Mrs. *Wall?* I am a Priſoner, and have no body to ſend. In the mean time, where is the Porter?

Mrs. *Wall*. Here he is.

Fitz-Harris. How long is it ſince you paid the Money to me, from my Lady *Portſmouth?*

Porter. I cannot tell indeed, 'tis ſo long ſince.

Fitz-Harris. Let him have his Oath.

L. C. J. No, that he can't have.

Fitz-Harris. Was it not *Chriſtmas* laſt was Twelve-month?

Porter. I can't indeed tell what time it was.

Fitz-Harris. You dare not ſpeak the Truth.

Mr. Juſt. *Dolben*. You diſparage your own Witneſſes.

Mr. Serj. *Jefferies*. He hath no Witneſſes can ſay any thing for him, and therefore he muſt find fault with what they ſay.

L. C. J. Have you any other Witneſſes, Mr. *Fitz-Harris?*

Fitz-Harris. Yes, my Lord, my Lord of *Arran*.

L. C. J. What ſay you to my Lord?

Fitz-Harris. Did not my Wife ſhew you this Libel the Sunday that I was taken?

E. of *Arran*. I do not remember I ever heard it, till I heard it read in the Houſe.

Fitz-Harris. Did you not read it, my Lord?

E. of *Arran*. No, not that I remember.

Fitz-Harris. Did not I tell you, I was carrying it to the King?

E. of *Arran*. Not that I know of.

Fitz-Harris. Was it not a diſpute, whether this was Treaſon, or not?

E. of *Arran*. You did ſhew me a Libel, but whether this or no, I cannot ſay, perhaps it was this: I took him for an honeſt Man, my Lord; I have known him five Years, and knew his Family to be a good Family; I happened to be at Dinner with him the Day he was taken. After Dinner there were ſome Papers he pulled out, and I threw them away. I told you, you would do your ſelf a Miſchief, ſome time or other, in meddling with ſuch Papers. There we drank a Bottle or two of Wine together, and then we parted. As ſoon as I came home, I heard this Gentleman was ſeized on, and taken, which ſurprized me much. And this is all the Account I can give of the Matter.

Fitz-Harris. Then your Lordſhip did not read the Paper?

E. of *Arran*. No indeed not I.

Fitz-Harris. Did not I tell you, I had a Promiſe of a Quit-Rent for Secret-Service?

E. of *Arran*. I do not know particularly what he told me of the Quit-Rent; but I was willing to do him all the good I could, about a Reverſion of a Penſion that he had in the Right of his Wife; that was part of my Buſineſs that Day, and thinking he very well deſerved it. I am very ſorry to ſee that his Father's Son, as the Phraſe is in *Ireland*, ſhould be accuſed of ſuch a Crime.

Mr. Att. Gen. My Lord, before you go, I deſire to ask you one Queſtion: Did you obſerve ever that he was employed by the *French* King, or the *French* Ambaſſador's Confeſſor?

E. of *Arran*. No, my Lord, never as I heard of. He uſed to ſpeak as honeſtly as any Man; I thought him of the beſt and loyaleſt Principles of any of his Religion.

Mr. Serj. *Jefferies*. What Religion did you take him to be of?

E. of *Arran*. He always owned himſelf a Papiſt, and he and I have had ſome Diſputes about it.

Fitz-Harris. Mr. Secretary *Jenkins*, I deſire to know of your Honour, what the King ſaid of me?

Mr. Sec. *Jenkins*. I remember the King did conjure him, to declare who the Author of the Libel was.

Fitz-Harris. You are a Man of Honour, Sir; Did not the King own he had employed me?

Mr. Sec. *Jenkins*. I never remember the King did own he had made uſe of him, by Mrs. *Wall*'s means, or otherwiſe.

Fitz-Harris. My Lord *Conway*, don't you remember it?

E. of *Conway*. No, not upon my Honour. But I have heard him ſay, he did formerly imploy you in ſome trifling Things.

Fitz-Harris. Did not the King declare in Council, that I had gotten Money of him?

E. of *Conway*. That was for my Lord *Howard* of *Eſcrick*'s Buſineſs.

Mr. Serj. *Jefferies*. Now your Lordſhip is here, I would ask you; Did you ever hear the King declare when he firſt ſpoke with the King?

E. of *Conway*. The King never ſpoke with him till after he was taken; he was taken the 27th of *February*, and the King never ſpoke with him till the 28th, the Day after.

Fitz-Harris. Did not you tell me, if the King did put himſelf upon the Parliament, they would uſe him as his Father was uſed?

Mrs. *Wall*. I never told you any ſuch thing. You promiſed me to bring in my Lord *Howard* of *Eſcrick*; but they found themſelves mightily miſtaken in what was promiſed he would do when he came in.

L. C. J. Why, Mr. *Fitz-Harris*, you caſt any thing upon any body to make a noiſe.

Fitz-Harris. Where is Mr. *Peacock?*

Mrs. *Fitz-Harris.* I would know of her what Mr. *Bulſtrode* ſaid.

L. C. J. That every body may ſee you are fairly dealt with, you ſhall have all the Liberty that can be given. You muſt not ask what another ſaid, but call them themſelves to ſay what they know. Here is Mr. *Bulſtrode* himſelf.

Fitz-Harris. Mr. *Bulſtrode*, then, What Meſſage did you bring from the King to my Wife?

Mr. *Bulſtrode.* No Meſſage at all, but I'll tell you what I know. Mrs. *Fitz-Harris*, ſoon after her Husband came to be cloſe confined, delivered a Petition to the King in the Park; and the King was pleaſed to give it to me, as he frequently does. Mrs. *Fitz-Harris* came to me, to tell her what the King ſaid to it. Said I, the King hath given me no Commands at all in it, but this, Carry it to the Secretary of State, for I cannot ſay any thing to it. For the King generally tells me what he will have done with ſuch a Petition. But ſhe was ſo very importunate, I asked the King again; Sir, ſaid I, Mrs. *Fitz-Harris* is very importunate, what is your Majeſty's Pleaſure in it? Said the King, If ſhe have a mind to petition the Council, ſhe may, I will neither meddle nor make with it. Afterwards I met her ſeveral times, and ſhe ſaid, her Husband was very ſeverely and hardly uſed, and ſhe was denied the Liberty of coming to him. Said I, I hear he is guilty of a very foul Thing, and there is no way to help him, but by diſcovering the Author of that villanous Libel. For ſhe asked me, what I thought of her Husband; and ſhe told me, ſhe intended to try what ſhe could do for him. I ſaid there was no way to do any good, but to make a full diſcovery of the Author. Then, ſaid ſhe, if the King would but let me ſpeak with him, I am ſure I could do him Service, and prevail with him to diſcover the Author. So I told the King of it; and the King ſaid, If ſhe will come and be examined, with all my heart. And as ſoon as ever I heard ſhe was come to Town, I told her what the King ſaid: And ſhe told me ſhe would willingly come; and if the King would give her leave to ſpeak with her Husband, ſhe did not doubt to prevail with him. That Night, about Midnight, after I was in Bed, and had been in Bed two Hours, ſhe came to my Door and knocked me up. So I roſe, and put on my Night-Gown, and went down, and I heard a Voice which I thought was hers. So ſhe came out of the Coach to me, and told me, ſaid ſhe, I am come to you to beg of you, that you would be ſecret, and not to let the Court know that I was to come to have any Conference with you; for if you do, I am undone and ruined, for there are ſome Perſons, my Friends, that will not look upon me if they hear any ſuch thing. The next Morning I went to her, and told her, the King had directed ſhe ſhould be examined in the Afternoon, and ſhe ſhould come down to be examined: Which ſhe did; and as ſoon as the Council was up, I told his Majeſty ſhe was below. So he ordered ſome to examine her; but when I told her of it, ſaid ſhe, If the King will not ſpeak alone with me, I will not ſpeak a word, nor be examined. This is the Truth of it, I aſſure you, my Lord, upon my Salvation.

Fitz-Harris. Where is Mr. *Peacock?*

Mrs. *Fitz-Harris.* What did Mr. *Bulſtrode* ſay to me?

L. C. J. Look you, Mrs. *Fitz-Harris*, and you Gentlewoman, you muſt not be heard to talk of Diſcourſes amongſt your ſelves, and to examine what Diſcourſe paſſed between Perſon and Perſon, up and down; that is not to be permitted in a Court, the Witneſs is here, ask him himſelf. What hath been ſaid to her, will be no Evidence.

Mrs. *Fitz-Harris.* What Offer did you make me?

Mr. *Bulſtrode.* None; I told you this would be the way to ruin your Husband.

Fitz-Harris. My Lord, I beg of you, may not I ask what he did ſay?

L. C. J. No, 'tis no Evidence.

Fitz-Harris. Then call Mr. *Henry Killigrew.* (*But he not appearing, the Priſoner would have asked what he had been heard to ſay, but it was not permitted.*)

Mrs. *Wall.* Here is the Footman, *Richard Perrot.*

Fitz-Harris. How long ago is it ſince you brought the Money to me from my Lady *Portſmouth?*

Perrot. I never brought any.

Fitz-Harris. Was it not he brought the Money?

Mrs. *Wall.* Ask him.

Fitz-Harris. Was my Lord *Howard* ever at your Houſe before *October* laſt?

Perrot. I do not know.

L. C. J. What uſe do you make of that?

Fitz-Harris. Pray, my Lord, when did you go to my Lady Dutcheſs's? Was it before *October* laſt?

Ld *Howard.* I think not, I take it as near as I can, it was juſt before the Seſſion of Parliament.

Fitz-Harris. It was ten Days before the Seſſion.

Then my Lady Dutcheſs of Portſmouth *appeared, and a Chair was ſet for her.*

Fitz-Harris. I am ſorry to ſee your Grace come here upon any ſuch account, but I hope your Grace will excuſe me, 'tis for my Life. I deſire to know of your Grace, Whether I was not employed to bring ſeveral Papers to the King, and among the reſt, the Impeachment againſt your Grace: And thereupon your Grace was pleaſed to tell me, That it was a great piece of Service to bring thoſe ſort of Papers; and if I could find out Men ſerviceable for that purpoſe, I ſhould do the King good Service. I told your Grace, I knew one Mr. *Everard*, who knew all the Intrigues, and all the Clubs in the City, and could tell all the Deſigns of my Lord of *Shaftesbury*, and all that Party. And your Grace did encourage me to go on, and I did, by your Grace's Direction, and by your means I came to ſpeak with the King about it.

Lady Dutcheſs. When muſt I ſpeak?

Sir *George Jefferies.* Now, Madam; and will your Grace now be pleaſed to ſtand up?

Lady Dutcheſs. I have nothing at all to ſay to Mr. *Fitz-Harris*, nor was concerned in any ſort of buſineſs with him. All I have to ſay, is, He deſired me to give a Petition to the King to get his Eſtate in *Ireland*; and I did three or four times ſpeak to the King about it. But I have not any thing elſe to ſay to him; I never ſpoke to him about any thing elſe.

Fitz-Harris. Does not your Grace remember what Directions I received about my Lord *Howard?*

Lady Dutcheſs. I know nothing of that, I ſent you not to my Lord *Howard.*

L. C. J. If you will ask any Queſtions of my Lady, do; but do not make any long Diſcourſes.

Fitz-Harris. My Lord, my Lady may forget. Madam, does not your Grace remember you undertook, upon the account of thoſe Papers I conveyed, that you would procure me my Quit-Rent?

Lady Dutcheſs. I never had any Papers.

Fitz-Harris. Not that Paper of the Impeachment againſt your Grace?

Lady Dutcheſs. No.

Fitz-Harris. Upon what account then had I the Money I received?

Lady Dutcheſs. For Charity.

Fitz-Harris. I am ſorry your Grace is ſo much under Mrs. *Wall*'s influence.

Lady Dutcheſs. I come not here to wrangle with you, Mr. *Fitz-Harris*; I am come here to ſay what I know, and will not ſay one bit more.

Fitz-Harris. Have I had any Money of your Grace ſince you knew my Lord *Howard?*

Lady Dutcheſs. You never had, but that for Charity.

Fitz-Harris. When did your Grace ask it for me?

Lady Dutcheſs. I do not remember the Time. Mr. *Fitz-Harris*, if I had any thing in the World to do you good, I would do it; but I have it not, and ſo can't ſee that I am any ways more uſeful here. (*Then her Grace went away.*)

L. C. J. Mr. *Fitz-Harris*, have you any more Witneſſes that you would have called?

Fitz-Harris. No, my Lord.

Mr. Serj. *Maynard.* Will you apply them you have called?

L. C. J. Well, have you any thing further to ſay?

Fitz-Harris. Yes, my Lord, I have ſomething further to offer for my ſelf: I will tell you what I know, ſince my Witneſſes will not do me juſtice. Gentlemen of the Jury, you are my Judges in point of Law as well as Fact, and my Blood will be required at your hands, if you do not do me right. My Lord, I cannot forbear complaining to the Court of the hard Uſage I received in Priſon, contrary to the Statute of the 31ſt of his Majeſty's Reign; greater Oppreſſion hath been done to me than to any before. My Lord *Stafford*, Sir *Thomas Gaſcoign*, and others, had all the Liberty they could deſire to enable them to make their Defence againſt their Tryal; which I have had denied me. But my Defence conſiſts of two Heads, and I ſhall rely upon the Conſciences of the Jury for the Iſſue: Tho my Lady *Portſmouth*, and Mrs. *Wall*, and the reſt, are pleaſed to ſay, that I was not employ'd, nor received Money for ſecret Services; yet 'tis very well known I did ſo. As to Mr. *Everard*, when I met with him, tho now he hath made it a *French* Story; yet if he would tell the truth, he knows that it was otherwiſe. He told me he was well acquainted with my Lord of *Shaftesbury* and my Lord *Howard*, and in ſeveral Clubs of the City he knew all their Intrigues; and that Speech that went by the name of my Lord *Shaftesbury*'s, my Lord gave it him before it was printed, and he ſeveral other things of that kind. So then I told him, it was a buſineſs of the greateſt Conſequence that could be, if he would continue thoſe Diſcoveries. And whereas he ſays, I would betray the People to the *French* Intereſt, it is very well known I was always an Enemy to the *French* Intereſt; but I humoured him in his Diſcourſe, and diſcourſed him to reduce the Paper that he accuſes me of under ſome Heads; and that Paper I no ſooner had, but I came to *White-Hall* with it: And tho he ſaid, he was to have forty Guineas, and ſo ſaid Sir *Will. Waller* too, yet it was only forty Shillings that he deſired, for his Poverty, I would lend him. And as to what he talks of three thouſand Crowns Penſion, it is a very unlikely buſineſs. When I came to *White-Hall*, I was adviſed to go to my Lord *Clarendon*, or Mr. *Hyde*. Accordingly I did ſhew it to a Gentleman who was to give it to my Lord *Clarendon*, but before he could get to him, I was taken. Now, my Lord, I hope what I did was with a deſign to ſerve the King, in diſcovering what was deſigned againſt him, according as I was employed, tho both the Secretaries are ſo unkind as not to declare it: when I know I am in the right, I am not aſhamed to ſpeak it, tho my Life be loſed upon it; and I refer it to the Gentlemen of the Jury. I was taken before I could come to the Speech of my Lord *Clarendon*. Next, I hope, Gentlemen of the Jury, you will conſider theſe are great Perſons that I have to do with; and where great State-matters are at the bottom, it is hard to make them tell any thing but what is for their Advantage: and ſo I am left in a ſad Condition. But, my Lord, in the next place, I think, 'tis impoſſible for any Jury to find me guilty, without prejudging of thoſe Laws which are not to be judged by any Jury or Inferior Court: for if they judge me and bring me in guilty, 'tis Murder in them; and let the Bench tell them what they will, 'tis of that dangerous Conſequence, that it overthrows the Government. My Lord, here is the Impeachment of the Houſe of Commons, and here is a Copy of the Votes of the Commons thereupon; and tho they be not Laws, yet they are ſuch Declarations of the Parliament, as that afterwards no other Court ought to meddle with that Matter; and the inferior Courts do not uſe to meddle with Parliament-matters: and ſo, Gentlemen, you will lay at your own Doors what would lie at theirs, if you meddled not. For tho the Court have over-ruled my Plea, yet the Matter is plain before you now who are my Judges, and my Blood will lie at your doors, and you muſt anſwer it if you do me not Juſtice. And there is no Inſufficiency of a Plea, as to Matter of Law, will excuſe you in point of Fact; and you are obliged, as you will anſwer the contrary to God and your Conſciences, to do me right. And I hope your Lordſhip and the Jury will take particular notice of this. I have been a cloſe Priſoner, and had no manner of help, nothing at all allowed me to refreſh my Memory; which if I had had means to do as I ought, I could ſay a great deal more. But this I inſiſt upon, if the Gentlemen of the Jury do bring me in guilty and convict me, they do ſhed my Blood, and overthrow the Law and Courſe of Parliaments. Whereas, if they bring me in not guilty, my Impeachment ſtands good ſtill, and I am liable to anſwer that Impeachment before the Parliament: and I hope you will conſider the Perſons I have had to deal with; and that it cannot be made ſo plain, as in Matters wherein we deal with common Perſons. I ſubmit to what you ſhall think fit.

L. C. J. You have done, Mr. *Fitz-Harris?*

Fitz-Harris. My Lord, I have done; only I would examine one Gentleman, if he were here, but he does not appear. But here's a Copy of the

the Impeachment and Votes of the House of Commons, I desire I may deliver them to the Jury.

L. C. J. No, no; that can't be.

Fitz-Harris. Sir *William Waller* does declare upon Oath, that for this very thing I was impeached by the House of Commons, and that I desire them to take notice of.

Mr. Serj. *Jefferies.* Therefore you are not guilty: Is that the Consequence?

Mr. Sol. Gen. May it please your Lordship, and you Gentlemen of the Jury, you have heard our Evidence, and what the Prisoner hath said. The Crime for which he is accused, that is High-Treason, and 'tis Treason in conspiring the Death of the King, in endeavouring to raise Rebellion here; and that in order to destroy the King and the Liberty of all the People, and bring them under the Slavery of the King of *France*. This is the Treason he was indicted for; and the Proof of this Treason is very full: it is proved to you by three positive Witnesses, and all Men of Credit, of whom you cannot have the least Suspicion. They prove to you, that Mr. *Fitz-Harris* is the Man guilty of this Treason; he was the Contriver of it, he was the Mover of it first to Mr. *Everard*, and he gave him those Instructions to pursue those purposes of raising a Rebellion here, in order to destroy the King, by contriving a seditious Pamphlet to set the People together by the ears; and he came to him in order to perfect this Libel. This is proved by *Everard*, who upon the first motion of it to him, did acquaint Mr. *Smith* immediately, and Sir *William Waller*, that such a design was on foot, and desired them to come and be Witnesses of it. They both came, and heard the Communication between the Prisoner and Mr. *Everard* to contrive such a Libel as hath been opened to you, and they swear it positively. Now what Defence does the Prisoner make to it? Truly I cannot say, whether it have more of Folly or Impudence in it; for 'tis a Defence of a strange nature; for it is inconsistent with it self, and shews what a make he is of: and the latter part is a pursuing the same Treason he stands indicted for, which is the rendring the King odious to his People, by those Insinuations, that he did this by the King's Order. The first part of his Defence is, I am not guilty, for Mr. *Everard* is the Man that did contrive it, and he is the Author, and it moves from him. Now pray consider the parts of your Evidence, and see if there be any possibility for you to be induced to believe any thing like it. 'Tis proved by Mr. *Everard* positively, that he came to him first; and when you consider this Objection that is made by Mr. *Fitz-Harris*, and consider on the other side who were the Witnesses, and who is the Man that makes the Objection, you will then see no cause in the World for you to give any Credit to it. The Prisoner says he was trepan'd into it: for that, pray consider he is an *Irish* Papist, one that hath all along made it his Business to defame the Proceedings about the Popish Plot, to ridicule it, to deny that there was ever any such thing, and to laugh at the Justice that was executed upon the Popish Offenders who died for the Plot. The Witnesses that prove it against him have been zealous Prosecutors of the Plot, Men that have discovered many of those who were guilty of it, and brought them to Justice; Men that have been material Evidences upon the Discovery. Mr. *Smith* is a Man that spoke materially in the Tryal of my Lord *Stafford*, and for which Service, I believe, the Papists, and Mr. *Fitz-Harris* himself, owe him little thanks. As for Sir *William Waller*, all Men know how busy and active he hath been to bring in Men that were guilty of the Plot, and he hath suffered for it. Now if you can believe that Mr. *Smith* and Sir *William Waller* should be guilty of a Trepan that was to be put upon *Fitz-Harris*, a Man of that Persuasion you hear of, (and you must believe that, or you cannot believe the Defence the Prisoner makes) I leave it to you. Mr. *Everard* could do nothing alone, why then Sir *William Waller* must be guilty of this Contrivance, and of setting *Fitz-Harris* on work and *Everard* too. But this is so unlikely a Story, that if there were any to assert any such thing, you could not possibly give any credit to it. But when you consider what hath been proved, and what hath been shewed you under the hand of *Fitz-Harris* himself, then there is no room I am sure to doubt. They do positively swear, both *Smith* and Sir *William Waller*, they heard him own that he had given Instructions to *Everard*. They prove to you that he mended this Libel in several places, they not coming up to the Instructions he had before given. They prove part of the Libel written with his own hand, and that is Treason enough: for that is certainly Treason, that 'tis the undoubted Right of the People to dethrone the King. I never heard of that Doctrine any where but among the Papists, and 'tis a Papist that preaches that Doctrine to you now. As this is an Evidence in a matter beyond any contradiction in the World, his own Hand-writing of part, and his owning the giving the Instructions; so there is no room in the World for you to believe that ever he was drawn into this by *Everard*; or that he was the Man that was the original Contriver of it, and trepan'd him into it. But it appears plainly upon the Proof, that it moved originally from *Fitz-Harris*; that it was the Malice of his Heart that promoted it; and that the Contrivance was how to raise a Rebellion here. For when he had read part of the Libel, and *Everard* told him that it was Treason, why, said he, I meant it so; and the more Treason, the better; the more odious you make the King to be, the more likely 'tis to raise the People into a Rebellion; and the sooner you raise the People into a Rebellion, the more like you are to accomplish the Design of bringing the People into Slavery to the *French* King, and so at once to destroy all Liberty and Property, and all that is sacred. No body can believe but Mr. *Fitz-Harris* is guilty of this Libel and Contrivance to dethrone the King, and raise a Rebellion here, as the Witnesses have sworn. Now as you cannot possibly doubt but this moves from Mr. *Fitz-Harris*, so then consider the inconsistency of the second part of his Defence, and the Impudency of it too. For as before he pretended he was drawn into it by Mr. *Everard*, so now he would make you believe he did not do it out of a traitorous Design, for that he was employ'd about these Affairs; and this comes under the Title of secret Service: and he would fain have it that you should believe the King should hire him to raise a Rebellion against himself, to defame himself, and to incense the Minds of the People against him. And this must be the Service that he is put upon; he had no traitorous Intent in himself, but he was to trepan all the Lords that stood zealously up for the Protestant Religion and Property, and that by Direction from whom? From the King, whom *Fitz-Harris* would have all People to believe to be

a Papiſt; and he would have People believe that he is an innocent Man, that he was only employed upon ſuch a ſpecial piece of Service; that the King ſhould be at great pains to employ Mr. *Fitz-Harris* to deſtroy himſelf and the whole Nation, and to ſtain his whole Family: and upon what reaſons would he have you to believe it? As firſt, you obſerved how inconſiſtent it is with the former part of his Defence, that he was trepan'd into it; now he did not do it from Mr. *Everard*, nor with a treaſonable Intention. But certainly this is a Treaſon that nothing can be ſaid to palliate or excuſe, and I am ſure he hath ſaid nothing will do it. Yet all the Defence he hath made has tended that way. For tho he have not arrived to the confidence to ſay ſuch a thing is, yet he hath inſinuated by the Method of his Proceedings, that he would fain have ſuch a thing believed; and that the Man had no traitorous Deſign in it. Now what Evidence hath he produced for it? He hath produced to you Evidence that he hath had Money from the King, and hath been ſometimes at the Dutcheſs of *Portſmouth*'s. That he had Money from the King is true, but it little became him to mention it; for it was Charity to relieve a Man in Neceſſity that was ready to ſtarve, and was forced to go all the ways to work he could to move Compaſſion; he urged the Sufferings of his Wife's Father; you heard the Petition read as a ground for Supply; and he hath ſo far prevailed upon the King's Charity (which he hath abuſed) as to have a Sum of Money given him, and he hath had the benefit of it: but he hath made a very ill return for it; for the thanks he hath given to the King for this his Charity, is to fly in the Face of him, his Family, and the Government. He hath endeavoured to raiſe a Rebellion; and when he is brought to his Tryal, he continues to defame the King, which is an aggravation of his Treaſon, if poſſible. And now having no proof in the World for theſe malicious Inſinuations; and all the Witneſſes that he hath called to make out what he would fain have believed, and dares not mention, (not proving any ſuch thing) you will have little reaſon, Gentlemen, to believe any thing that comes from him, eſpecially if you conſider the nature of the Libel it ſelf, it is impoſſible this Man ſhould ever be ſet on work to contrive ſuch a thing as this, to defame the King and all his Family, to raiſe a Rebellion, to overthrow all Religion, Liberty, and the King himſelf; it is impoſſible to be believed. But I fear I preſs too much upon you, as if I did ſuſpect there could be Men in this Kingdom ſo bad as to believe ſuch a malicious Inſinuation. Gentlemen, I leave it to you; you hear what our Evidence is, three Witneſſes that poſitively ſwear this Treaſon againſt the Priſoner. Now as you have this poſitive Evidence on the one ſide, ſo you have no colour of Evidence to the contrary; and 'tis impoſſible for you not to find him guilty. It is to deny the Light of the Day; and 'tis a thing of that conſequence, that all Ages, when they hear of it, will ſay that there is no Juſtice to be had, if an *Engliſh* Jury do not find a Verdict according to their Evidence: For what Security hath a Man for his Life and Eſtate, if twelve ſubſtantial Men of a Jury ſhall dare to go againſt plain and full Evidence? 'Tis all the Security an *Engliſhman* has for all he enjoys, that he is to paſs thro the hands of twelve honeſt Men of his own Country. And if it be poſſible for a Jury to go againſt Evidence ſo plain as this is, I ſay, no Man is ſafe in his Life or Eſtate.

Mr. Serj. *Jefferies*. Gentlemen, I deſire to take notice of what Mr. *Fitz-Harris* was pleaſed to conclude withal. He ſays his Blood is to be required at your hands, and therefore he would fain by that means inſinuate you out of your Conſciences. But I think if you conſider the Circumſtances that have been given, and all the Evidence, it will be impoſſible for Men that have any reſpect to their Credit and their Conſciences, to acquit this Gentleman. In the firſt place, it is known, and it hath been given in proof to induce the Probability of the Matter evidenced againſt the Priſoner at the Bar, that he is a known Roman Catholick; they are all Proteſtants, and good Proteſtants, and you are all Proteſtants too. And then the Caſe goes thus far further: You that are Proteſtants muſt take it upon your Oaths, that theſe Gentlemen have ſworn falſe, and convict them of wilful Perjury; and if you do convict them, it muſt be upon the bare Allegation of a Papiſt: and I hope never to live to ſee the Day that Men that are of good Credit, and Proteſtants, ſhall by an Allegation (tho never ſo confidently affirmed at the Bar) be preſumed to be guilty of Perjury. So that I ſay, my Lord, beſides the Baſeneſs and Venom of this impudent Libel, which certainly no honeſt Man in the World will give the leaſt countenance to, here is Evidence enough from himſelf. And you cannot believe it proceeds from any Direction from the Crown, (as this Man would inſinuate) and therefore he hath given us the greateſt Evidence by his libelling at the Bar. And he hath not only libelled the Crown, but he hath called up ſome Witneſſes on purpoſe to libel the reſt of his own. And then I hope you will take notice how he did inſinuate with Mr. *Everard* at the beginning: When you were in the *French* King's Service, ſaid he, and have been neglected ever ſince you left it; if you will come and join with me, without peradventure you may get Encouragement fitter than that poor and mean way that you are reduced to by embracing the Proteſtant Intereſt. He gives him a Method likewiſe to walk by: He thought him the Perſon that had writ ſome Pamphlets before, and therefore was fit for his purpoſe, and ought to be encouraged. And he does tell you the Words not only againſt the preſent Government, but that which every good Proteſtant muſt needs abhor and tremble at; he bids him take care to libel the whole Family. He tells him withal, You muſt be ſure to ſay that the late King, of bleſſed Memory, was concern'd even in the *Iriſh* Rebellion; and that this King hath promoted thoſe Perſons that his Father had countenanced for that Action: and he tells him the Names of thoſe Perſons that were ſo promoted. After this is done, what does Mr. *Everard* do? he goes and makes a Diſcovery; he tells the Circumſtances and the Perſons, to whom, and when: and the Perſons he made that Diſcovery to, do in every Circumſtance agree with Time, Place, and all. The firſt Night this Appointment was, I hope you will remember, that when Mr. *Everard* had ſo placed that Gentleman, againſt whom there is not the leaſt Word ſaid or imagined to find fault with him, he takes notice of the Inſtructions; owns that he had given him Inſtructions; and takes particular notice of one Paſſage, that when Mr. *Everard* ſaid, But there may be danger in them, is not this Treaſon? the Priſoner

ner made anſwer, The more Treaſon the better. Ay, but then this is dangerous, how ſhall I venture upon ſuch Matters? Why have you not my Hand in it? I am as guilty as you, and in as much danger. What then was the Reward? there was to be at preſent forty Guineas, and an annual Penſion. But to whom was Mr. *Fitz-Harris* to diſcover this? not to the King, but to the *French* Embaſſador, and the Confeſſor was to be the Man that was to give the Reward. *Flanders* was firſt to be ſubdued, and the Parts beyond the Seas, and then *England* would be but a Morſel for them, they could take that in the way. All this was done, which is plainly ſworn by a Witneſs that had a Place made on purpoſe for him to over-hear all that paſſed. And, my Lord, for the next Witneſs there is Sir *William Waller*; there is this, beſides what is ſworn agreeing in Circumſtance: He tells you both, to their very Money, that it was forty ſomewhat, but he cannot ſay Guineas; and he tells you ſomething of the Penſion, a great many thouſand Crowns: and he tells you particularly of that Circumſtance of the *French* Confeſſor, and the *French* Embaſſador. Beſides all this, does not Sir *William Waller* tell you this very thing, That he eſpy'd him with a Pen and Ink, that he gave a Note of the Libel it ſelf, and he heard him give the Directions? and when he came into the Room, he ſaw the Ink freſh upon the Paper; and when he heard him give Directions for the Alteration of particular Words, he ſaid, You have not worded it according to my Mind in ſuch and ſuch particular Places. But, my Lord, there is this Venom in it further to be taken notice of, that he gave his Inſtructions to draw it ſo, as that it might beſt take effect according to his Intention: for when Mr. *Everard* thought it might do well to make it with *thou* and *thee*, as though it ſhould be the Deſign of the Quakers, he ſaid, No, by no means; but put it in changing the Phraſe, as if it was the Deſign of all the Proteſtant Diſſenters, and ſo by that means would draw the *Odium* upon them, and bring them in danger as well as others. And this is confirmed too by Sir *William Waller*; ſo that in every Circumſtance he hath ſhewed the Venom of his Deſign. But in the laſt place, which ſurely the Gentlemen of the Jury will not forget what Sir *William Waller* ſaid, that *Fitz-Harris* did ſay, I have taken care already to diſperſe abundance of Libels amongſt our Party. And when *Everard* told him of a Libel that was ſome while before, he ſaid he had ſeen that a great while ago, and there might be ſomewhat in it to the purpoſe. And for the Anſwer that hath been given to it, my Lord, I think it does not bear any ſort of Relation to the Charge that is upon him; for whatſoever Diſcourſe, or whatſoever he hath urged, is not much to his purpoſe. He hath brought here a Nobleman; but after all, I would put him in mind of one thing that Nobleman ſaid, He did believe he came to him in the Name of one that ſent him not: and ſo will every body ſay that hath heard the Evidence; for all his Witneſſes do poſitively deny that they ever knew of any ſuch Matters as he ſpeaks of. And now, my Lord, I could be very glad if this Gentleman (inſtead of ſaying as he hath ſaid) would have come as ſoon as he had this Libel from *Everard*, and diſcover'd it immediately to ſome body himſelf before he had carried it on, as *Everard* did before the thing was perfected. And ſo, Gentlemen, we do think upon this Evidence, we have left you without all manner of Excuſe: it being impoſſible, upon ſuch a Proof as this is, and conſidering the Nature and Venom of the Libel it ſelf, the baſe, venomous, malicious Inſtigations he made uſe of to effect it, and the Ends for which it was done, to bring in the *French* to ſet us together by the ears, to render the King odious to his People; and the Perſon 'tis acted by, a known *Iriſh* Papiſt; I cannot doubt of the Iſſue. And I do hope when I ſee ſo many honeſt Gentlemen and Proteſtants at the Bar, they will be loth to forfeit their own Souls to eternal Damnation, to ſave a Man that is guilty of ſuch a Treaſon as this.

L. C. J. Have you done, Gentlemen?

Sir *George Jefferies.* Yes.

L. C. J. Then look you, Gentlemen of the Jury, here is Mr. *Fitz-Harris* indicted for Treaſon againſt the King, and 'tis for endeavouring to take away his Life, to make him odious to his Subjects, to incite them to a Rebellion, and to raiſe Arms here in this Kingdom againſt our King, our Sovereign. And by the Indictment it is ſaid that he hath declared theſe Endeavours and theſe Intentions, by cauſing a ſcandalous and evil Pamphlet or Libel to be written, with an Intent to be diſperſed thro the Kingdom. The Words of the Libel you have heard particularly read; ſome of them are taken out and mentioned in this Indictment. Mr. *Fitz-Harris* hath been arraigned, and hath pleaded Not Guilty; and you are to try the ſingle Matter before you, whether Mr. *Fitz-Harris* be guilty of this Treaſon. That this is Treaſon, and contains a treaſonable Matter, Gentlemen, is ſo plain, as no body living can doubt it: but it is a Treaſon of as high a nature as peradventure ever was in the Kingdom of *England*, and tends as much to that which would be the Deſtruction both of the King and Kingdom. The King's Life, all our Lives, all we have that is dear to us, or of any Advantage or Avail in the World, are concerned in this: For what does it tend to? It tends to a popular Inſurrection, to raiſe the People up in Arms, that like a Deluge would overrun and ſweep away all. It is to undo the Government and all Order in the Kingdom, and to deſtroy the Life and Being of all that is good amongſt us. A more virulent and villanous Book certainly was never written; nor any thing that tended more to Sedition, or to incite the People to a Rebellion: ſuch a Book as peradventure no well govern'd Kingdom ever heard of the like. It tends to defame the King and all his Anceſtors, and to blaſt all that ſhall come after him, to raiſe us into a Tumult. And what is all this to do? to ſettle the Roman Catholick Religion amongſt us. And this is ſuch a Piece of the Art of the Jeſuits, which peradventure hath out-gone all they have done before. It ſeems to be their hand directly, and we are all concerned as *Engliſhmen* to take care of ſuch Villanies. This is the Nature of the Treaſon that is compriſed in this Book. Whether Mr. *Fitz-Harris* was the Author, or Director, or Contriver of this Book, is the Queſtion before you. (For plainly, without any Suppoſe, the Book contains in it as high a Treaſon as ever was.) And as to that, Gentlemen, you muſt conſider that this appears evidently to be a Deſign of the Roman Catholick Party; 'tis a Jeſuitical Deſign: for this is that they aim at, to confound all things, that they may fiſh in troubled Waters. And you ſee they have found out an apt Inſtrument, an *Iriſh* Papiſt, one that hath been all-along continually

nually concerned with them, and intermeddled in ſeveral of theſe Plots and Papers. Gentlemen, the Evidence that is given here againſt him is by three Perſons, and there is great Evidence from the matter that is produced, beſides thoſe Perſons. There is Mr. *Everard* does declare to you the whole of this, and Mr. *Fitz-Harris*'s Application to him to write this Book. He tells you the Intention of it, and he gives you the very Grounds upon which this was to be written; that is, to raiſe Sedition, that was the firſt Inſtruction; to raiſe a Sedition in the Kingdom, and this was to buſy us at home, that the *French* King might get *Flanders* and the *Low-Countries*, while we are confounded at home: and then the Catholicks have their Game to play, and carry all before them. Look you, Gentlemen, Mr. *Everard* is ſo cautious, that he walks not alone in the Caſe, but with a great deal of Prudence declares it to others, that they may be Witneſſes in the Caſe for him. Mr. *Smith* does agree in all things for the firſt Night that Mr. *Everard* hath declared, how that he heard the Directions owned as given by Mr. *Fitz-Harris*, for the writing this Book, and he heard the Deſign of it, he heard there was a Reward promiſed to him for the doing of it, and he tells you ſome of the Inſtructions. The next Night Sir *William Waller* was preſent; and he tells you all the Inſtructions of that Night, and that *Fitz-Harris* owned them, that he gave thoſe Inſtructions in the private Conſult. But that that is not to be anſwered, Gentlemen, is his own Inſtructions in Writing; what can be ſaid to that? If you were doubtful of the Credit of theſe Gentlemen, yet Mr. *Fitz-Harris*'s own Inſtructions in Writing under his Hand, are an Evidence beyond all Controul in the World that he gave thoſe Directions; and theſe are Treaſon, that is plain. And therefore it does ſeem to be as ſtrong an Evidence againſt Mr. *Fitz-Harris* of this Treaſon, as peradventure ever was given againſt a Traytor. There is not any one Witneſs that ſtands ſingle, but there are two to each Night; and his own Inſtructions written by himſelf do not ſtand upon the Evidence of a ſingle Witneſs, for he owned it in the preſence of three Witneſſes: So then a ſtronger Evidence cannot be given that he was the Author and Director of this Book.

Then, Gentlemen, you muſt conſider what he ſays for himſelf in excuſe of this horrid Treaſon that theſe Witneſſes ſeem ſo fully to fix upon him. The firſt Witneſs he brings, is Dr. *Oates*; and he does tell you, That having ſome Diſcourſe with *Everard*, *Everard* ſhould ſay, this was a Deſign of the Court, and was to be put into ſome Lords, and I think into ſome Parliament-Men's Pockets; and then they were to be apprehended. I think this is Dr. *Oates*'s Teſtimony. Mr. *Everard* is here upon his Oath, and he teſtifies no ſuch thing in the World: 'Tis eaſy for one to come and ſay, I heard a Man ſay ſo; perhaps he ſaid it by way of Conjecture; but that is no Anſwer to direct Proof. Mr. Sheriff *Corniſh* is the next Witneſs, and he ſays, He had ſome Diſcourſe with the King, and the King ſhould ſay, He thought Mr. *Fitz-Harris* had been an honeſt Man, and had given him ſome Money.

Mr. Sh. *Corniſh*. No, my Lord, the King ſaid he took him to be an ill Man.

L. C. J. Then it ſeems I was miſtaken; his Majeſty did not tell him he took *Fitz-Harris* to be an honeſt Man, but an ill Man. But that he had formerly ſome Money of the King upon pretence of doing him ſome Service, now that brings it out what the King's meaning was: For it ſeems there had been begg'd ſome Money for him, and the King at my Lady *Portſmouth*'s deſire, by way of Charity, gave him ſome little matter of Money; he boaſting and telling the King he could do him ſome Service. You ſee what manner of Service it is he would have done for Him and the Kingdom. Then as to all the reſt of his Evidence, there is Mrs. *Wall*, and my Lady Dutcheſs of *Portſmouth*; and he hath examined them concerning the Money he hath received, and they both declare upon what ground that Money was given: It was given, they tell you, for a Gratuity from the King to him; and upon his boaſting, ſays Mrs. *Wall*, that he could do the King Service, and bring over Perſons to his Intereſt. I think there is no other Witneſs very material: For as for Mr. *Bulſtrode*'s Evidence, it ſignifies nothing at all; it is not material for him or againſt him in the Caſe: A Diſcourſe about delivering a Petition to the King from his Wife. Now, Gentlemen, you muſt conſider what ill uſe this Gentleman deſigns to make of the King's Charity and Favour to him; he gave him ſome Money to relieve his Wants, and now would he interpret this, and inſinuate this to be given for ill Purpoſes, for to make him trepan his Subjects: which is another piece of Virulency that theſe Papiſts always exerciſe againſt the King; they always make an ill uſe of his beſt Actions, and an ill Interpretation of them. For, Gentlemen, can it be believed that the King would ever deſign ſuch a thing as this is, to blacken his Family for ever, to ſtir up all his Subjects againſt him, to endanger his Crown and Kingdom, and all that he has in the World? And all this to what purpoſe? No colourable Deſign can be made of it. This is ſuch a thing to excuſe ſuch a Villany, as never was heard of, by wreſting the King's Charity and Generoſity to ſuch ill Purpoſes; but that ſome Men have the Confidence to do any Thing. I muſt leave it to you. Here are three witneſs his own Hand to theſe Inſtructions, and his making a Declaration that it was not treaſonable enough, nor virulent enough. All theſe things are ſtrong Evidences in the Caſe. And if you believe theſe Witneſſes and his own Handwriting, 'tis a plain Caſe you muſt find him Guilty.

Fitz-Harris. May I have Liberty to ſpeak one Word?

L. C. J. Gentlemen, I had forgot one thing. For fear it make an Impreſſion in you, becauſe I ſee he hath inculcated it often and often, and that is, the Impeachment that was by the Commons Houſe of Treaſon againſt Mr. *Fitz-Harris* in the Lord's Houſe: I muſt tell you, Gentlemen, that is not before you at all; the matter of that was by way of abatement pleaded to the Juriſdiction of this Court, and that is now over. You muſt have no Conſideration, nor can have any Conſideration of that now. Your queſtion is not whether we have Authority to try this Cauſe, but you are impannell'd and ſworn to one Point, and that is, whether *Fitz-Harris* be guilty of this Treaſon or not. Whether the Court have Authority to do it, is another Queſtion proper for our

our Determination, and we have determined it; but there is nothing of that lies before you in this Case. Therefore you must not be misled with any thing that he talks so fondly of concerning the Impeachment, or concerning his Blood lying at your doors, that surely will signify nothing to Men of Understanding at all.

Mr. *Johnson.* My Lord, 'tis our unhappiness to come before you under these Circumstances. We have understood there is a Vote of the Commons of *England* in Parliament, that says this Man shall not be tried in an inferior Court; now we take our selves to be the Judges of this Man in part under your Lordship's Directions.

Mr. Serj. *Maynard.* You are not Judges of it, you are only to try the Fact.

Mr. *Johnson.* I only offer my Sense, and if the other Gentlemen think otherwise, they will speak it. I think the Office of a Juror is such, that it is within his power to acquit or condemn according to the Evidence, as it lies within his own Conscience. Now if we should acquit this Man, (we have no assurance we shall acquit him, only suppose it) then there is nothing against him but what lies in a Parliamentary way, and we shall forejudge their Cause. Therefore, I say, I do not know how far by Law we are compellable to give a Verdict in this Case upon him.

L. C. J. Look you, Gentlemen, we would consult your Satisfaction as much as we can in all Things; and 'tis reasonable that if you have any Doubts you should propose them to us, and to that purpose we are to give you Satisfaction, and will in all things. I must tell you, as to the Jurisdiction of the Court, that is not at all before you; and as to the Vote of the House of Commons alledged by him, if any such there be, that cannot alter the Laws of the Land, nor justify any of us in departing from our Duties, no more than if a Letter or Mandate should be gained from the Prince or Chief Magistrate of this Kingdom, to any of us in derogation of Justice, (as it's possible by surprize to be) we are to take notice of the one, no more than the other. We are upon our Oaths to do Justice according to the Laws of the Land: You likewise are upon your Oaths, and sworn to do Justice in your Sphere; and your Oath is, That you shall enquire truly whether he be guilty or not; and if he be guilty in your Judgments, you can no more spare him than you can condemn an innocent Person. It never was pretended by any Man, nor will it be asserted by any Man that understands himself or the Constitution of the Government of this Kingdom, that a Vote of the House of Commons can change the Law of the Land. It cannot excuse us, if we deny to try a Man that is brought before us; nor will it excuse you, being under an Oath, justly to try him. If you should, (because the Commons House have voted that he shall not be tried) declare that Man innocent, who in your own Judgment you believe to be nocent; you nor we are not to consider what will be the Consequence of this, if this Man be acquitted or condemned; that is not before us. You and we too are tied precisely to the Laws of the Land, and by that Law must this Man be judged. As to our parts, we must do it as to the Law, and you as to the Fact. But I'll tell you further, Gentlemen, this Doubt was moved to us by the Grand Jury, before the Bill was found; we had an intimation that they would move such a Doubt to us as seems to be your Doubt now. Therefore for their Satisfaction, and the taking away any Scruple that might be in the Case, all the Judges of *England* did meet together, and seriously debate the Matter and Substance of all this; and it was not our Opinion of this Court only, but the Opinion of all the Judges of *England*, That we had a Jurisdiction to try this Man. This we have told you, because we would satisfy all Men to go on fairly in the Things that are before them. Therefore that being put out of the Case, you must consider of your Verdict, and give it in upon this Tryal.

Mr. *Johnson.* We do not doubt, my Lord, but your Opinion in this Case will indempnify us from any future Charge by the Commons of *England.* But it lies before us to consider what we are bound to do in the Case.

Mr. Just. *Jones.* Gentlemen, I suppose you do not doubt but we are all of the same Opinion. It is no marvel indeed to hear a Man that stands in *Fitz-Harris*'s place, to object any thing that may cast a Mist before your Eyes. And yet it cannot but be wondered at too, that when three Protestant Witnesses have sworn precisely, he should have the Confidence to urge any thing of this nature. He who appears by the Indictment it self, and the Proofs made upon the Indictment, to have endeavoured to destroy all the Laws of *England*, all *Magna Charta*, all our Liberty and our Religion, and to inslave us to the King of *France:* for that appears plainly the Design, if you have any Credit to the Witnesses that are produced: He that would have pulled down all that is Sacred amongst us, is so zealous for the Authority of the House of Commons. We have all of us a great Reverence for the House of Commons, and for their Opinions; but as my Lord hath told you, so I tell you my Opinion, That a Vote of the House of Commons does not in the least sort alter the Law: for indeed if it did, it were to give a Legislative Power to the Commons, which does only belong to the King, the House of Lords, and the Commons together. And, Gentlemen, though Mr. *Fitz-Harris* says, If he be acquitted here by you, yet he should remain to be questioned again in Parliament; there is no Man in the World can doubt, if he were acquitted here, and were questioned in Parliament, but he would say, He hath been upon his legal Tryal by his Peers, and that he hath been acquitted by his Peers upon solemn Evidence. But, Gentlemen, you are to consider what is your business: Your Office is to be Jurors, not to be Judges; you are not to take upon you any such Authority. Your Commission is your Oath, and by that Oath you are sworn to inquire whether the Prisoner be guilty, as he is indicted, or not: If you, as *Englishmen*, can say he is not guilty, let it lie upon your Consciences, and the Danger of the King's Blood and Life be upon you.

Mr. Just. *Dolben.* Gentlemen, I desire to speak one word to you, to let you know I am of the same Opinion with my Lord, and with my Brother; and I cannot but wonder at you for making this Scruple: for if there were any thing in what you have said, it concerns us that are Judges, and not you at all; for 'tis a matter of Jurisdiction: and

and whether we have a Juriſdiction or not, we muſt ſatisfy our ſelves that we have a Commiſſion to do it; it concerns not you. Do you but conſider the Oath you have taken, That you will well and truly try, and true Deliverance make betwixt our Sovereign Lord the King, and the Priſoner at the Bar, according to your Evidence: And you have ſworn a true Verdict to give upon it, and do you now ſcruple whether you ſhould give any Verdict or no, when but even now you have ſworn you will give a Verdict? If any ſuch thing as this had been in your Heads, (for it might be then in your Heads as well as now) why did not you ſpeak of it before you took your Oath? You now lie under the Obligation of an Oath to give a Verdict according to your Evidence, and would you acquit him againſt ſuch an Evidence as hath been given? For beſides what Sir *William Waller*, *Smith*, and *Everard* have depoſed, the very Note ſworn by Sir *Philip Lloyd* and Mr. *Bridgman*, to be owned by *Fitz-Harris* as his Hand, contains Treaſon enough in it, if there were no more: Therefore there muſt be ſomething more in it, than for the ſake of ſuch an unreaſonable Scruple.

Mr. Juſt. *Raymond*. I am of the ſame Opinion, truly.

Mr. *Johnſon*. My Lord, I took the Liberty to ſpeak it now; I could not ſpeak it before: for I was not then to inquire what I was to be ſworn to, nor could I know what would be the matter that would come before us, till we were ſworn. Therefore I humbly beg your pardon that I made the Motion.

L. C. J. We are not at all troubled at any thing you have ſaid; do not miſtake us, we do not take it ill from you that you acquaint us with your Scruples: We are ready to give all Satisfaction we can, to any that are concerned before us; therefore we are no way troubled that you made any ſuch Scruple, but have given you a fair Anſwer to it.

Mr. *Johnſon*. My Lord, I deſire a Note of the Names of the Jury.

L. C. J. Give it him, Mr. *Aſtrey*, or elſe the Croud is ſo great he may not know them.

[*Then the Jury withdrew for half an Hour, and at their return being called over and appearing, the Clerk took the Verdict.*]

Cl. of Cr. Edward Fitz-Harris, hold up thy Hand: (*Which he did.*) Look upon the Priſoner; How ſay you, is he Guilty of the High-Treaſon whereof he ſtands indicted, or Not Guilty?

Foreman. Guilty, *&c.*

L. C. J. I think you have found a very good Verdict, and upon very full and ſtrong Evidence.

Mr. Sell. Gen. Will your Lordſhip pleaſe to give Judgment?

L. C. J. We will take time for that.

Mr. Soll. Gen. Will you give a Rule to have him brought up to-morrow?

L. C. J. Move us another Day for it.

Fitz-Harris. My Lord, I hope I may have the Liberty of my Wife, and ſome Friends now to come to me.

L. C. J. Any Friend I think may come to you: but, Mr. *Fitz-Harris*, you muſt be modeſt in the uſing that Liberty we give you. You have heretofore abuſed your Liberty; I do not love to exaſperate Things to one in your Circumſtances, but you muſt be Prudent and Careful, knowing your own Condition, that you do nothing prejudicial to the King or Kingdom.

Upon Wedneſday June 15. 1681. Edward Fitz-Harris *was brought to the Bar of the Court of* King's-Bench, *to receive his Sentence.*

Mr. Att. Gen. My Lord, I humbly pray your Judgment againſt Mr. *Fitz-Harris*, who is convicted of High-Treaſon.

Silence proclaimed during Judgment.

C. of Cr. Edward Fitz-Harris, hold up thy Hand. Thou haſt been indicted and arraigned of High-ſon, and haſt thereunto pleaded, Not Guilty, and for thy Tryal put thy ſelf upon God and thy Country, and thy Country have found thee Guilty: What can'ſt thou ſay for thy ſelf, why Judgment of Death ſhould not be given againſt thee, and Execution awarded according to Law?

Fitz-Harris. My Lord, I think it will be prejudicial to the King's Service, that Sentence ſhould paſs before I have made an end of the Evidence I have given in againſt my Lord *Howard*.

L. C. J. Mr. *Fitz-Harris*, we can take no notice of any thing of that nature. When you are asked what you can ſay why Judgment ſhould not paſs againſt you, it is, What legal Matter you have, what Matter in Law, to excuſe your ſelf from that Judgment? For this is nothing, the ſaying you are to give Evidence; we know nothing of that, it will not delay Judgment a Minute. And for what you ſay, it will be prejudicial to the King's Service, it is the King that prays Judgment againſt you by his Attorney.

Fitz-Harris. I beg the King's Mercy for Tranſportation, my Lord.

L. C. J. We can do nothing in that.

Fitz-Harris. Nor to give me time before my Execution? I can ſay no more, my Lord.

L. C. J. Look you, Mr. *Fitz-Harris*, you have been here indicted for a very great and heinous Treaſon, a Treaſon that is in truth of the firſt Magnitude; for it is a Treaſon that tends to the rooting up the whole Government of this Kingdom, and the deſtroying of us all; plainly, both

both of the King and of all his Subjects. It does not only destroy the Peace and Quiet, but it tends in truth to the utter Destruction of the whole Kingdom, and to bring us into a Confusion and Disorder, never to be avoided or retrieved, if your Designs should have taken effect. You have been here arraigned, and put your self upon the Country, and they have found you Guilty of this Treason: it is a thing you should well consider; for certainly, you have contracted to your self a mighty Guilt in such a thing as this is. You have endeavoured the Destruction of the King, and in such a way as must have in truth destroyed all his good Subjects together with him. Your Design hath been to excite the People to a Rebellion, and a popular Insurrection, that would have swept away all like a Deluge, if it had taken effect. In truth it is a Treason against all Mankind, and the stirring up of the People is; it is of evil Example to all Mankind, the stirring up of the People against their natural Lord, to whom we owe all Allegiance and Obedience. But your Design in this was by setting the People of *England* together by the ears, to bring in the Roman Catholick Religion upon such as should be left. It seems you are an *Irish* Papist, and sucked in very ill Principles where you have lived; and you have here endeavoured to do as much mischief in this Kingdom by that treasonable Book, as lies in any one Man's power perhaps to do. It is a Mercy and a Happiness, that it hath pleased God in his Providence to deliver us out of your hands; for this was your design, if you could have brought it about: But it hath pleased God now to bring you to Justice for it, and the Judgment of the Law must pass upon you. Now that Judgment is this: You must return to the *Tower* from whence you came, and from thence you must be drawn through the Streets of the City of *London* to *Tyburn*; there you shall be hang'd by the Neck, but cut down before you are dead; your Bowels shall be taken out and burnt before your Face, your Head cut off, and your Body divided into four Quarters to be disposed as shall please the King; and I pray God to have Mercy upon your Soul, to give you a sight of your Sin, and Repentance for it.

Fitz-Harris. My Lord, I hope I may have the Liberty of my Wife to come to me, and any Friend.

L. C. J. You have that Liberty already.

Fitz-Harris. No, not without the presence of a Warder.

L. C. J. We will not restrain them as to that, let them come to you.

Officer. There is no Rule of Court for it, my Lord.

L. C. J. We will not restrain any thing of your Wife's coming, there is no Rule to restrain her; but let him have that Liberty that other Prisoners in his Condition usually have had in the *Tower*, his Wife to come to him, or any other Friend or Protestant Minister whatsoever.

Officer. Pray let it be put into the Rule of Court, my Lord.

L. C. J. We make no Rule, there does not need any. Look you, Mr. *Fitz-Harris*, we lay no restraint upon your Wife, or any other Friend; but if your Wife be in another Condition that she can't come to you, we can't meddle with that.

Mr. Just. *Jones.* We are not to deliver her out of Prison.

L. C. J. No, we make no Rule, but take off the Hands of the Court from restraining any one to come to you.

Then the Prisoner was taken away, and in pursuance of this Sentence, the last Day of the said *Trinity*-Term, being the 22d of *June*, 1681. a Writ issued out of the Court of *King's-Bench* directed to the Lieutenant of the *Tower* of *London*, reciting the Judgment, and commanding him to deliver the Prisoner to the Sheriff of *Middlesex*, upon Friday the first Day of *July* next following, to be executed according to the Sentence. Which Writ followeth in these words.

CAROLUS *Secundus Dei gratia* Angl. Scot. Franc. & Hibern. *Rex, fidei Defensor, &c. Loc. tenen. Turris nostræ* London. *salutem. Cum nos in Cur. nostra coram nobis consideraverimus quod* Edwardus Fitz-Harris *nuper de Parochia* S. Martini in Campis *in Com.* Midd. *Gen. pro quibusdam altis proditionibus unde ipse coram nobis indictat. est, & superinde per quandam Juratam Patriæ inde inter nos & prefat.* Edwardum *capt. convict. & attinct. existit, de Turr. nostra* London. *per medium Civitatis nostræ* London. *pred. usq; ad Furcas de* Tyborne *trahatur, & super Furcas illas ibidem suspendatur, & vivens ad terram prosternatur, ac Interiora sua extra ventrem suum capiantur, ipsoq; vivente comburentur; Et quod Caput ejus amputetur, quodq; Corpus ejus in quatuor partes dividatur, & quod Caput & Quarter. ill. ponantur ubi nos ea assignare voluerimus: Ideo tibi præcipimus firmit. injungend. quod die Veneris primo die* Julii *prox. futur. apud* Tower-Hill *cum Vic.* Midd. *convenias, & pred.* Edwardum Fitz-Harris *eidem Vic.* Midd. *deliberari facias, ut idem Vic. executionem de eo in forma pred. fieri faciat, prout inde nobis respondere volueris. Teste* Francisco Pemberton *apud* Westm. xxij° *die* Junii, *Anno Regni nostri* xxxiij°.

Per Cur. ASTRY.

And another Writ at the same time was issued out of the same Court, directed to the Sheriff of *Middlesex* to receive the Prisoner from the Lieutenant of the *Tower* at the time appointed, and to execute him according to the Sentence. Which Writ was in these Words.

CAROLUS *Secundus Dei gratia* Angl. Scot. Fran. & Hibern. *Rex, fidei Defensor, &c. Vic.* Midd. *salutem. Cum nos in Cur. nostra coram nobis consideraverimus quod* Edwardus Fitz-Harris *nuper de Parochia* S. Martini in Campis *in Com.* Midd. *Gen. pro quibusdam altis proditionibus unde ipse coram nobis indictat. est, & superinde per quandam Jur. Patriæ inde inter nos & prefat.* Edwardum

capt. convict. & attinct. existit, de Turr. nostra London. *per medium Civitatis nostræ* London. *pred. usq; ad Furcas de* Tyborne *trahatur, & super Furcas illas ibidem suspendatur, & vivens ad terram prosternatur, ac Interiora sua extra ventrem suum capiantur, ipsoq; vivente comburentur; Et quod Caput ejus amputetur, quodque Corpus ejus in quatuor partes dividatur & Quarter. il. ponantur ubi nos ea assignare voluerimus: Ideo tibi præcipimus firmiter injungen. quod tum Loc. tenen. Turr. nostra* London. *pred. die Veneris primo die* Julii *prox. futur. apud* Tower-Hill *convenias, & ipsum* Edwardum Fitz-Harris *de prefat. Loc. tenen. recipias, & Executionem de eo in forma pred. facias prout decet. Teste* Francisco Pemberton *apud* Westm. xxij° *die* Junii *Anno Regni nostri* xxxiij°.

Per Cur. ASTRY.

All which was accordingly performed on the Day, and at the Place appointed.

The

The Tryal of Dr. OLIVER PLUNKET, *Titular Primate of* Ireland. 33 Car. II. 1681.

THE Third of *May* 1681. in *Easter*, 33 *Car. Secund. Reg.* Dr. *Oliver Plunket* was arraigned at the King's-Bench-Bar for High-Treason, for endeavouring and compassing the King's Death, and to levy War in *Ireland*, and to alter the Religion there, and to introduce a foreign Power: And at his Arraignment, before his Plea, he urged for himself, that he was indicted of the same High-Treason in *Ireland* and arraigned, and at the Day for his Tryal, the Witnesses against him did not appear; and therefore he desired to know if he could be tried here for the same Fact. The Court told him, that by a Statute made in this Kingdom, he might be tryed in the Court of *King's-Bench*, or by Commission of *Oyer* and *Terminer* in any part of *England*, for Facts arising in *Ireland*; and that this Arraignment there (he being never tried upon it) was not sufficient to exempt him from being tried here; because till a Tryal be passed, and there be a Conviction or Acquittal thereupon, an Arraignment, barely, is no Plea: For in such Cases the Party is not put twice in danger of his Life, which only is the thing the Law in such Cases looks after to prevent. He then desired time for his Witnesses, which they told him he could not do till after Plea pleaded; whereupon he pleaded, Not Guilty, and put himself upon the Country for his Tryal. And after some Consideration had about time to be allowed him to bring his Witnesses from *Ireland*, the Court appointed the Day for his Tryal, to be the first Wednesday in next Term, which was full five Weeks time.

And accordingly on Wednesday the 8th of *June*, in *Trinity* Term, he was brought to his Tryal; and Proclamation, as in such Cases is usual, being made, it proceeded thus.

C. of Cr. Oliver Plunket, hold up thy Hand, those good Men which thou shalt hear called and personally appear, are to pass between, *&c.*

Plunket. May it please your Lordship, I have been kept close Prisoner for a long time, a Year and an half in Prison: when I came from *Ireland* hither, I was told by Persons of good Repute, and a Counsellor at Law, that I could not be tryed here; and the Reasons they gave me were, that first the Statute of *Henry* VIII. and all other Statutes made here, were not received in *Ireland*, unless there were an express mention made of *Ireland* in them: So that none were received there but such as were before *Poyning*'s Act. So I came with that Persuasion that I could not be tried here, till at my Arraignment your Lordships told me it was not so, and that I must be tried here, though there was no express mention made of *Ireland*. Now, my Lord, upon that, whereas my Witnesses were in *Ireland*, and I knew nothing of it, and the Records upon which I very much rely were in *Ireland*, your Lordship was pleased to give me time from the 4th of the last Month to this Day; and in the mean time, as your Lordship had the Affidavit here yesterday, and as Captain *Richardson* can testify, I have not dispatched only one, but two to *Ireland*, into the Counties of *Armagh*, *Dublin*, &c. and where there were Records very material to my Defence; but the Clerk of the Crown would not give me any Copy of any Record at all, unless he had some express Order from your Lordship. So that whether it were that they were mistaken, or wilfully refused, I could not get the Records which were very material for me. For in some of those Records, some of those that accuse me were convicted of high Crimes, and others were outlawed and imprisoned, and broke Prison; and there were other Records also of Excommunication against some of them, and I could not get the Records, unless your Lordship would instruct me in some way or other, how I can get over them that are most material for my Defence. The Servants that I sent hence, and took Shipping for *Ireland*, were two Days at Sea, and cast back again, and from thence were forced to go to *Holly-Head*, and from *Holly-Head* in going to *Dublin* they were thirteen or fourteen Days, the Winds were so contrary; and then my Servant went about to go into the County of *Armagh* and *Derry*, that were a hundred Miles from *Dublin*, and *Meath*, and other places: so that in so short a time, my Lord, it was morally impossible for them to have brought the Witnesses over; and those that were ready to have come, would not stir at all, unless they had a Pass from hence, because some of them were Roman Catholicks, and they had heard that here some were taken Prisoners that were Roman Catholicks, and that none ought to come without a Pass; and they being Witnesses against the King, they might be clapped up here, and brought into very ill Condition; so they sent one over that made Affidavit.

L. C. J. It was the Affidavit was read here yesterday.

Plunket. So that, my Lord, I conceive your Lordſhip will think I did it not out of any intent to put off my Tryal, for Captain *Richardſon* is here, who knows that I writ by the Poſt, and deſired them to come with the Pacquet-Boat, and they writ over to the Captain after they were landed; ſo that I depended upon the Wind and the Weather for my Witneſſes, and wanted your Lordſhip's Order for the Records to be brought over, and that their Examination might be brought into Court, and their own original Examination here might be compared with it. So I humbly beg your Lordſhip's Favour, the Caſe is rare, and ſcarce happens in five hundred Years, that one ſhould be in my Circumſtances. I am come here where no Jury knows me, nor the Quality of my Adverſaries: If I had been in *Ireland*, I would have put my ſelf upon my Tryal to-morrow without any Witneſſes, before any Proteſtant Jury that knew them and me. And when the Orders went over, that I ſhould be tried in *Ireland*, and that no Roman Catholick ſhould be upon the Jury, and ſo it was in both the Grand and other Jury; yet then when I came to my Tryal, after I was arraigned, not one appeared. This is manifeſt upon the Record, and can be proved.

L. C. J. There was no Proſecution of you there.

Plunket. But, my Lord, here is no Jury that knows me, or the Quality of my Adverſaries; for they are not a Jury of the Neighbourhood that know them, and therefore my Caſe is not the ſame with other Caſes. Though I cannot harbour, nor do not, nor will not, nor ought not, the leaſt Conceit of hard Meaſure and Injuſtice; yet if I have not full time to bring my Records and Witneſſes all together, I cannot make my Defence. Some were there then, ſome afar off, ſo that it was a Miracle that in ſix or ſeven Counties they could do ſo much as they did: But they got in ſeven or eight of them, yet there were five or ſix wanting. Therefore I beſeech your Lordſhip that I may have time to bring my Records and Witneſſes, and then I will defy all that is upon the Earth, and under the Earth, to ſay any thing againſt me.

L. C. J. Look you, Mr. *Plunket*, 'tis in vain for you to talk and make this Diſcourſe here now; you muſt know, that by the Laws of this Kingdom, when a Man is indicted and arraigned of Treaſon or Felony, 'tis not uſual to give ſuch time; 'tis rare that any Man hath had ſuch time as you have had, five Weeks time to provide your Witneſſes: If your Witneſſes are ſo cautious, and are ſuch Perſons that they dare not, or will not venture for fear of being apprehended, or will not come into *England* without ſuch and ſuch Cautions, we cannot tell how to help it; we can't furniſh you with Witneſſes, you muſt look to get your Witneſſes your ſelf: If we ſhould ſtay till your Witneſſes will come, perhaps they will never come here, and ſo you will eſcape out of the Hands of Juſtice. Do not be diſcouraged in this, the Jury are Strangers to you peradventute, but they are honeſt Gentlemen, and you ſhall have no other upon your Jury; and you may be confident, that if there be not ſome Fact proved againſt you, that may amount to Treaſon, you ſhall be diſcharged; they are Perſons that underſtand ſo much, and we will direct them ſo much. You ſhall have as fair a Tryal as if you were in *Ireland*; but for us to ſtay for your Witneſſes, or ſend you back to *Ireland*, we cannot do it: Therefore you muſt ſubmit to your Tryal. We heard your Affidavit yeſterday, and we did then tell the Gentlemen that moved it, as much as we tell you. You are here to be tried, look to the Jury as they are called, and except againſt them if you will.

Plunket. My Lord, I deſire only to have the favour of time, ſome time this Term.

L. C. J. We can't do it. *Clerk of Cr.* Swear Sir *John Roberts*.

Plunket. I humbly preſent this to your Lordſhip, I am then in eminent danger of my Life, if I cannot get ten Days to have my Witneſſes over: I deſire I may have but to the one and twentieth of this Month, and then if they do not come, you may go on.

L. C. J. We cannot do it, you have had five Weeks time already.

Plunket. I deſire but a few Days.

Cryer. Sir *John Roberts*, take the Book, look upon the Priſoner; You ſhall well and truly try, *&c.*

Plunket. My Lord, I deſire to know whether they have been of the Juries of *Langhorn*, or the five Jeſuits, or any that were condemned?

L. C. J. What if they have? that is no Exception.

Then the Jury was ſworn, whoſe Names follow.

Sir *John Roberts*,	*Thomas Earsby*,
Thomas Harriott,	*John Hayne*,
Henry Aſhhurſt,	*Thomas Hodgkins*,
Ralph Bucknall,	*James Partherich*,
Richard Gowre,	*Samuel Baker*,
Richard Pagett,	*William Hardy*.

Cl. of Cr. Oliver Plunket, hold up your Hand. You of the Jury look upon the Priſoner, and hearken to his Charge.

" HE ſtands indicted by the Name of *Oliver* " *Plunket*, late of *Weſtminſter*, in the County of *Middleſex*, Doctor of Divinity, for that " he as a falſe Traytor againſt the moſt illuſtrious " and moſt excellent Prince our Sovereign Lord, " *Charles* II. by the Grace of God, of *England*, " *Scotland*, *France* and *Ireland* King, and his natural Lord, the Fear of God in his Heart not " having, nor weighing the Duty of his Allegiance, but being moved and ſeduced by the inſtigation of the Devil, the cordial Love, and " true and due natural Obedience, which true " and faithful Subjects of our ſaid Sovereign Lord " the King, towards him our ſaid Sovereign " Lord the King do and of right ought to bear, " utterly withdrawing, and contriving, and with " all his might intending the Peace and common " Tranquillity within the Kingdom of *Ireland*, " as alſo of this Kingdom of *England*, to diſturb, " and War and Rebellion againſt our ſaid Sovereign Lord the King in the Kingdom of *Ireland*, " then being the Dominion of our ſaid Sovereign " Lord the King, in parts beyond the Seas, to " ſtir up and move, and the Government of our

" ſaid

" ſaid Sovereign Lord the King there to ſubvert; " and our ſaid Sovereign Lord the King from his " Regal Power and Government there to depoſe " and deprive; and our ſaid Sovereign Lord the " King, that now is, to Death and final Deſtruc- " tion to bring and put; and the true Worſhip of " God within the ſaid Kingdom of *Ireland*, by " Law eſtabliſhed and uſed, to alter to the Super- " ſtition of the Romiſh Church: The firſt Day " of *December*, in the Year of the Reign of our " Sovereign Lord *Charles* the Second, now King of " *England*, *&c.* the two and thirtieth, and divers " other Days and times, as well before as after, " at *Dublin* in the Kingdom of *Ireland*, in Parts " beyond the Seas, with divers other falſe Trai- " tors unknown, traitorouſly did compaſs, ima- " gine and intend the Killing, Death and final " Deſtruction of our ſaid Sovereign Lord the King, " and the antient Government of his ſaid King- " dom of *Ireland* aforeſaid to change, alter, and " wholly to ſubvert; and him our ſaid Sovereign " Lord the King, that now is, from the Crown " and Government of his Kingdom of *Ireland* a- " foreſaid to depoſe and deprive, and the true " Proteſtant Religion to extirpate, and War and " Rebellion againſt our ſaid Sovereign Lord the " King there to move and levy. And to fulfil and " accompliſh his ſaid moſt wicked Treaſons, and " traitorous Compaſſings, Imaginations and Pur- " poſes aforeſaid, he the ſaid *Oliver Plunket*, the " ſaid firſt Day of *December*, in the aboveſaid two " and thirtieth Year of the Reign of our ſaid So- " vereign Lord the King, that now is, with Force " and Arms, *&c.* at *Dublin*, in the Kingdom of " *Ireland*, then being the Dominion of our ſaid " Sovereign Lord the King in Parts beyond the " Seas, maliciouſly, deviliſhly, and traitorouſly " did aſſemble and gather together himſelf, with " divers other Traitors unknown, and then and " there deviliſhly, adviſedly, maliciouſly, ſubtilly, " and traitorouſly did conſult and agree our ſaid " Sovereign Lord the King, that now is, to Death " and final Deſtruction to bring, and from his " Crown and Government aforeſaid to depoſe and " deprive, and the Religion of the *Romiſh* Church " into the Kingdom of *Ireland* aforeſaid, to intro- " duce and eſtabliſh. And the ſooner to fulfil and " perfect his ſaid moſt wicked Treaſons, and trai- " torous Imaginations and Purpoſes, he the ſaid " *Oliver Plunket* with divers other falſe Traitors " unknown, then and there adviſedly, maliciouſly, " and traitorouſly, did further conſult and agree " to contribute, pay, and expend divers great " Sums of Money to divers Subjects of our ſaid " Sovereign Lord the King, and other Perſons un- " known, to procure them the ſaid Perſons un- " known, our ſaid Sovereign Lord the King, that " now is, traitorouſly to kill, and the Romiſh Re- " ligion into the ſaid Kingdom of *Ireland* to in- " troduce and eſtabliſh. And that he the ſaid *Oli-* " *ver Plunket*, and other Traitors unknown, af- " terwards, to wit, the ſaid firſt Day of *Decem-* " *ber*, in the two and thirtieth Year of the " Reign of our ſaid Sovereign Lord the King " aboveſaid, at *Dublin* aforeſaid, in the King- " dom of *Ireland* aforeſaid, within the Domi- " nion of our ſaid Sovereign Lord the King, " with Force and Arms, *&c.* unlawfully, mali- " ciouſly, deviliſhly, and traitorouſly did receive, " collect, pay and expend divers great Sums of " Money to divers Perſons unknown, to perſuade " and induce divers other Perſons alſo unknown, " the ſaid falſe Traitors in their ſaid Treaſons to " help and maintain, againſt the Duty of his Alle- " giance, and againſt the Peace of our ſaid Sove- " reign Lord the King, that now is, his Crown " and Dignity, and againſt the Form of the Sta- " tutes in that Caſe made and provided." To this Indictment he hath pleaded, Not guilty.

Mr. *Heath.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, this is an Indictment of High-Treaſon againſt Dr. *Oliver Plunket*, the Priſoner at the Bar; and it ſets forth, That the two and thirtieth Year of the King, at *Dublin* in the Kingdom of *Ireland*, he did compaſs and imagine the Death of the King, and to deprive the King of his Kingdom of *Ireland*, and to raiſe War to extirpate the Proteſtant Religion in the Kingdom of *Ireland*, and to eſtabliſh the *Romiſh* Religion there. And it ſets forth further, that for the Accompliſhment of theſe Treaſons, the Defendant with ſeveral others did meet together at ſeveral Places at *Dublin* in the Kingdom of *Ireland*, and elſewhere, and at theſe ſeveral Meetings did conſult and agree to put the King to death, to raiſe War, to extirpate the Proteſtant Religion, and ſet up the *Romiſh* Religion. And the Indictment further ſets forth, that to accompliſh theſe Treaſons, the Defendant did raiſe great Sums of Money in the Kingdom of *Ireland*, and did get ſeveral Perſons to contribute ſeveral Sums for theſe Treaſons; and that the Defendant with others did diſburſe ſeveral Sums of Money to ſeveral Perſons, to perſuade them and entice them to be aiding and aſſiſting in theſe Treaſons, and to recompenſe them for them. To this Indictment the Defendant hath pleaded, Not guilty. If we prove theſe things, you are to find him guilty.

Mr. Serj. *Maynard.* My Lord, we will quickly come to the Evidence: But in ſhort, you have heard his Charge is as high as can be againſt the King, and againſt the Nation, and againſt all that is good. The Deſign and Endeavour of this Gentleman was the Death of the King, and the Deſtruction of the Proteſtant Religion in *Ireland*, and the raiſing of War: And to accompliſh this, we charge him, that there was a Confederacy made, Aſſemblies and Conſultations had to theſe ends, and raiſing Money to accompliſh it. Gentlemen, Dr. *Plunket* was made, as we ſhall prove to you, as they there call him, Primate of *Ireland*; and he got that Dignity from the Pope upon this very Deſign. He did by virtue of that Power, which he thought he had gotten, make out Warrants, Significations, I know not what they call them, to know how many Men in *Ireland* could bear Arms from Sixteen to Forty; he raiſes Taxes upon the People and the Clergy there. But, my Lord, the Particulars will beſt fall from the Witneſſes that we ſhall call and prove it by, and we need not make any Aggravation; for ſuch a thing as this cannot be more aggravated than 'tis.

Mr. Att. Gen. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, the Character this Gentleman bears, as Primate under a foreign and uſurped Juriſdiction, will be a great Inducement to you to give credit to that Evidence we ſhall produce before you. We ſhall prove that this very Preferment was conferred upon him upon a Contract, that he ſhould raiſe ſixty thouſand Men in *Ireland*, for the Pope's Service, to ſettle Popery there, and to ſubvert the Government. The Evidence that we ſhall give you, will prove how it

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leads to deſtroy the King; and I take it according to the Reſolutions that have been, to raiſe War in the Kingdom, and to introduce a foreign Power, will be certainly Evidence of an Attempt and Machination to deſtroy the King. As ſoon as he was in poſſeſſion of his Primacy, he goes about his Work. There are two great Neceſſaries to be provided, Men and Money: For Men, having this great ſpiritual Juriſdiction, whereby, indeed, all that are under it are become Slaves, he iſſues out his Warrants to all the Clergy of *Ireland*, to give an account, and make return from the ſeveral Pariſhes, of all the Men in them above fourteen and under ſixty. And Returns were accordingly made by them, that he might accordingly take a meaſure what Men to pick out for the Service. The next thing was Money, my Lord; and your Lordſhip takes notice, that when the Mind is enſlaved, the Purſe, nay all the Body bows to it. He iſſues out his Warrants to his Clergy to make a Collection of Money; in all Parts great Sums were levied, and when they were levied, we ſhall give you an account by our Proofs, that ſeveral Sums were iſſued out, and ſent into *France* to further the Buſineſs. There was alſo Proviſion made of great Ammunition and Arms; and we ſhall prove in particular, ſeveral deliver'd out by this Gentleman's order, to carry on this thing: and to go through ſtitch with this Buſineſs, he takes a view of all the ſeveral Ports and Places in *Ireland*, where it would be convenient to land; for they were to have from *France* an auxiliary Force, and upon his view he pitched upon *Carlingford* as the Place. We ſhall prove the ſeveral Correſpondencies between *Rome* and him, and *France* and him, and ſeveral Meſſengers imploy'd, and Moneys iſſued out from time to time for their Maintenance. This will be the courſe of our Evidence; and we ſhall begin firſt with ſome that do not ſpeak ſo particularly to this Doctor, but prove there was a general Deſign in all Parts of the Kingdom of *Ireland*, to bring in the King of *France*, and extirpate the Proteſtant Religion. And then we ſhall call the particular Perſons to the particular Facts againſt him. Firſt we call *Florence Wyer*.

[*Who was ſworn.*]

Mr. Sol. Gen. Are you ſworn, Sir?

Wyer. Yes, Sir.

Mr. Sol. Gen. Pray give the Court and the Jury an account of what you know of any Plot in *Ireland*, to introduce the Romiſh Religion, or to bring in the *French* King.

Wyer. Yes, I know there was a Plot, both before *Plunket*'s time, and in his time; for it was working in the Years 65 and 66, but it was brought to full Maturity in the Year 1667. For then Col. *Miles Rely* and Col. *Bourne* was ſent to *Ireland* from the King of *France*, with a Commiſſion to muſter as many Men as he could, promiſing to ſend an Army of 40000 Men with a Commiſſion, upon St. *Lewis*'s Day in *Auguſt* next following, to land at *Carlingford*, to deſtroy all the true Subjects, to deſtroy the Religion as it was eſtabliſhed there, and to ſet up the *French* King's Authority and the Roman Catholick Religion. And one *Edmond Angle* that was a Juſtice of Peace, and Clerk of the Crown, ſent for all the Rebels abroad in the North to come up into the County of *Longford*, and they marched into the Head-Town of the County, and fired the Town; the Inhabitants fled into the Caſtle: Then they came up to the Goal, thinking to break it open, and by ſetting the Priſoners free, to join them with them; but then *Angle* was ſhot, received a deadly Wound, and dropt off of his Horſe, and they fled. So then when they were without the Town, one *Charles Mac-Canal* alighted, and took away all the Papers out of his Pocket: which if they had been found, would have diſcovered all. This occaſioned Col. *Bourne* to be ſuſpected; and being ſo ſuſpected, he was taken Priſoner, and turned to *Newgate* in *Dublin*. Then Col. *Rely* fled away again to *France*, and the Plot lay under a Cloud during the Life of Primate *Raley* the Priſoner's Predeceſſor. This Primate *Raley* died beyond Sea. Then many of the Popiſh Religion would have had the Primacy conferred upon one *Duffy*; but the Priſoner at the Bar put in for it: which might have been oppoſed, if the Priſoner had not engaged and promiſed that he would ſo manage Affairs, that before the preſent Government were aware, he would ſurprize the Kingdom; provided the Pope and King of *France* would ſend a competent Army to join with theirs for the effecting of it. So the firſt Year of his coming over I was in the Friery at *Armagh*; I was an Acquaintance of the Friers, and they invited me: and one *Quine* told the Priſoner, that they thought *Duffy* would have been Primate. Said he, 'tis better as it is; for *Duffy* hath not the Wit to do thoſe things that I have undertaken to do: meaning that he did undertake to ſupplant the Proteſtant Religion, to bring in Popery, and put the Kingdom under Subjection to the King of *France*.

Mr. Sol. Gen. How do you know that?

Wyer. Thoſe were the Words, and the Meaning I knew before, becauſe I had heard it talked of.

L. C. J. Who was the firſt of theſe Primates you ſpeak of?

Wyer. Edmund Raley; he ſet this Buſineſs on foot firſt.

L. C. J. About what?

Wyer. About calling the Rebels together out of the North when they came to *Longford*.

L. C. J. What Year was that?

Wyer. It was in the Year 67.

L. C. J. When died he?

Wyer. He died a little while afterwards.

L. C. J. Then *Duffy* would have it conferred upon him?

Wyer. Yes, after *Raley*'s Deceaſe he would have had it conferred upon him; and there was a Contention between him and the Priſoner, who did engage he would bring things to that full Maturity, that before the preſent Government were aware he would do the Work.

L. C. J. How do you know this?

Wyer. I know this, becauſe I had an account of it from certain School-Fellows that were with me in *Ireland*, then ſtudying in *Rome*; they wrote this to me, deſiring me I would take a good heart with the reſt of my Countrymen, and aſſuredly in a ſhort time the Kingdom would be relieved, and the *Iriſh* reſtored to their former Patrimonies.

L. C. J. This you ſpeak of their Information. What do you know of your own Knowledge?

Wyer. All that I know is, He coming into the Friery of *Armagh*——

L. C. J. About what time?

Wyer. It is either 10 or 11 Years ago, and there was a Faſt there, and I was invited by the Friers, being their Acquaintance: one *Quine*, one of the Friers told him——

L. C. J.

L. C. J. Told whom?

Wyer. The Priſoner, that he did expect *Duffy* ſhould have been Primate: but the Priſoner made anſwer, 'tis better as it is; for *Duffy* had not the wit to manage the things that I have undertaken for the general Good of our Religion.

L. C. J. Now tell me this: What things were thoſe he had undertaken? Did he explain himſelf?

Wyer. No further than thoſe words: But I did conceive this was his meaning; becauſe I knew partly of it my ſelf, knowing of the former Plot.

L. C. J. I ask you only what words came from him; and you ſay they were, that *Duffy* had not the Wit to manage what he had undertaken for the general Good of their Religion.

Wyer. Yes, and then again in his Aſſembly, kept by him, he charged his Inferiors to collect ſuch ſeveral Sums of Money as he thought fit, according to the ſeveral Pariſhes and Dignities, to aſſiſt and ſupply the *French* Forces when they came over.

L. C. J. How know you that?

Wyer. I have ſeen the Money collected; and I have ſeen his Warrant, *ſub pœna ſuſpenſionis*, to bring it in, to redeem their Religion from the Power of the *Engliſh* Government. Again, there were thoſe Rebels that went to *Longford*——

L. C. J. What time were thoſe Collections?

Wyer. From time to time ſince he came into *Ireland.*

L. C. J. About what time?

Wyer. Nine Year, 8 Year, 7 Year ago, and the laſt Year of all.

L. J. C. Then it was ſeveral times, you ſay?

Wyer. Yes, and he procured the *Mackdonels* a piece of Money out of the Exchequer, pretending to do good ſervice to his Majeſty; but he ſent them for *France*, meaning they ſhould improve themſelves, and bring themſelves into favour with the King of *France*, and come over with the *French* King to ſurprize *Ireland.* This one of the ſaid Rebels told me. So I have ſeen the Priſoner's Letter directed to the grand Tory *Flemming*, deſiring that they ſhould go to *France*, and he would ſee them, in ſpite of all their Enemies in *Ireland*, ſafe aſhoar: And *Flemming* ſhould return again a Colonel to his own Glory, and the good of his Country.

Mr. Att. Gen. Do you know his Hand?

Wyer, Yes, I do, as well as my own. I have ſeen Capt. *O-Neal*, Son of General *O-Neal*, coming every Year into *Ireland*, and carrying three Regiments to the *French* King into *France*; and he uſed to come over to *Ireland* every Year to get a Recruit; and he did get my Brother to go with him, and ſo much importun'd me, that I could hardly withſtand him; but I did not yield to his Deſire. He told me, it was to improve me for my good, to improve my ſelf in Military Diſcipline; and then I ſhould return for *Ireland* a Captain under the *French* King, to ſurprize the Kingdom and ſettle the Popiſh Religion; and then I ſhould be reſtored to my Eſtate.

L. C. J. Who told you this?

Wyer. Captain *O-Neal.* And in the mean while, ſays he, I hear Dr. *Plunket* is the only Man intruſted in *Ireland* to make theſe Preparations, and get things ready againſt the *French* King's coming, who is to land at *Carlingford.*

Mr. Att. Gen. How often were you in the Doctor's Company?

Wyer. Not very often.

Plunket. I never ſaw him with my Eyes before in all my Life.

Wyer. I have ſeen him in the Priory the firſt Year that he came over to *Ireland*; and you know the Meetings held at *George Blyke*'s Houſe in the *Fives*, and I have ſeen him in his own Houſe.

Mr. Juſt. *Dolben.* How come you to know the Priſoner's Hand?

Wyer. Becauſe I was well acquainted with his Hand, ſeeing his Hand among the Prieſts.

Mr. Juſt. *Dolben.* Did you ever ſee him write?

Wyer. Yes, in the Priory, and in his own Houſe.

Mr. Juſt. *Dolben.* How often?

Wyer. Not often.

Mr. Juſt. *Dolben.* How often?

Wyer. Ten or a dozen times. I ſhould know his Hand from all the Writing in *London*, if it were among never ſo many. Let me but ſee it, I will know it.

L. C. J. Have you ever heard him own himſelf Primate?

Wyer. Yes, my Lord, he writes himſelf *Oliverus Armacanus, Primas & Metropolitanus totius Hiberniæ*, that is his Stile.

L. C. J. Who did he ſay made him Primate?

Wyer. The Pode, my Lord.

L. C. J. Have you heard him ſay ſo?

Wyer. Yes, I heard him diſcourſe of it in the Priory.

Mr. Att. Gen. He was a publick Officer, and they might well know his Hand.

L. C. J. I believe any body that hath ſeen us write but a little, would ſoon know our Hands.

Wyer. His Hand is as well known over *Ireland*, as mine is among my Acquaintance.

L. C. J. Well, go on.

Wyer. During the time of his Impriſonment, I have ſeen his Commands to ſome of his inferior Dignitaries, commanding them, *ſub pœna ſuſpenſionis*, to bring in the Monies aſſeſſed for bringing in the *French* Army; and that there was no better time than the time of his Impriſonment to bring it in.

L. C. J. Who were they, you ſay, that were commanded *ſub pœna ſuſpenſionis?*

Wyer. Since his taking, I have ſeen in the time of his Impriſonment his Commands to his inferior Dignitaries, not to be forgetful of the Monies that were aſſeſſed towards the ſupplying the *French* Army; and that there was no better time to bring in the *French*, than when he was in Priſon.

L. C. J. How long ago was that?

Wyer. The firſt of *February* (79.) The ſecond and laſt of it was in *July* and *November* laſt.

L. C. J. And this was to bring in the Money?

Wyer. Yes, to ſupply the *French* Army. And that there was no better time than during his Impriſonment, and they ſhould not be ſo much ſuſpected.

L. C. J. And theſe Mandates you have ſeen under his Hand?

Wyer. Yes, I have, my Lord?

Mr. Att. Gen. What do you know of his ſummoning or iſſuing out theſe Warrants for Liſts of Men?

Wyer.

Wyer. I have not ſeen any of the Warrants; but the Prieſts have told me they were commanded by his Warrants to let him know how many there were in all their Pariſhes from ſixteen to ſixty.

Mr. Att. Gen. Yow ſay you never ſaw the Mandates?

Wyer. No, I did not.

Mr. Serj. *Jefferies.* What do you know about the Priſoner's viewing the Ports?

Wyer. I have ſeen him going about from Port to Port, to *Derry*, to *Carricfergus*, *Caſtle-Down*, and *Carlingford*, and all about.

Mr. Serj. *Jefferies.* When he went to take a view of thoſe Ports, can you tell to what purpoſe he did it?

Wyer. Yes, I heard it among the Church, that he went on purpoſe to view the Sea-Ports to know the ſtrength of all the Gariſons, and to ſee which was the moſt convenient way to bring in the *French* Army.

Mr. Serj. *Jefferies.* Did you ever ſpeak with the Priſoner at the Bar. about his going?

Wyer. No.

Mr. Serj. *Jefferies.* What place did he pitch on as moſt convenient?

Wyer. Carlingford.

Mr. Att. Gen. Were you in the Priſoner's Company when he viewed the Ports?

Wyer. I have ſeen him go to and fro; I did not go all the Circuit round with him.

Plunket. Did you ever ſee me at *Carlingford?*

Wyer. No.

Plunket. Did you ever ſee me at any other of the Ports?

Wyer. I have ſeen you at *Hamiltons* coming back from *Derry*. Do you not remember that you lodged at at Sir *Geo:* ?

Plunket. I never lodged there in my Life.

Sir *Fra. Withens.* Have you any thing more to ſay concerning the Plot in general?

Wyer. No, in general I have not.

Mr. Serj. *Jefferies.* He hath not only given an account of the general, but fixed it upon the Priſoner.

Mr. Att. Gen. Dr. *Plunket*, will you ask him any Queſtions?

Plunket. You ſay you remember you ſaw me at my firſt coming as Primate ten Years ago, and that you were at the Priory when I was there?

Wyer. Yes.

Plunket. You were inviſible to me.

L. C. J. If you will ask any Queſtion, do; but do not make theſe kind of Obſervations.

Plunket. Tell me this, Why did you not acquaint ſome Juſtice of the Peace then with what you knew, that which you had heard ſeven Years ago?

Wyer. When I firſt knew it, I was as willing to have it conceal'd as they.

L. C. J. What is your Queſtion, Dr. *Plunket?* pray tell it us.

Plunket. He ſays, my Lord, that ten Years ago I had ſuch a Deſign in hand, and he knew the Money was collected for theſe very ends, and he knew of the Deſign from that ſame Captain *O-Neal* whom I employed and ſent abroad; and that I had a Deſign to bring in the *French* at *Carlingford*, and went about to all the Ports in *Ireland*, and pitched upon that as the moſt convenient; and yet it is ſo inconvenient for the bringing in a foreign Force, that any one that knows any thing of the Maps of the World, will eaſily conclude it otherwiſe. But, I ſay, my Lord, why did not he tell ſome Juſtice of Peace that I was upon ſuch a Deſign, but let me live in *Ireland* ten Years after, and never ſpeak of it till now?

L. C. J. What ſay you to the Queſtion?

Plunket. When he ſaw me all the time, and to the time of my taking Priſoner, and never ſaid one word; for I was a Priſoner ſix Months, only for my Religion, not one word of Treaſon ſpoken of againſt me for ſo many Years: why did not he acquaint ſome Juſtice of the Peace with it before?

L. C. J. What Religion were you of then?

Wyer. I was a Roman Catholick.

Plunket. And are you not ſo now?

Wyer. Yes, I am ſo.

Mr. Juſt. *Dolben.* Therefore it will be no wonder that you did not diſcover it.

Mr. Serj *Jefferies.* But I ask you, Why did not you diſcover it all this time?

Wyer. Becauſe I was a Papiſt my ſelf: The firſt that did diſcover it, he and I did conſult about it, I had charged him ſo to do, and I ſet him on work; but he was ill paid for having diſcovered: you got him to be trapan'd, that he hath gone in danger of his Life for it.

Plunket. Who is the Man?

Wyer. Moyer.

Sir *Fra. Withens.* Call *Henry O-Neal*, (*who was ſworn.*) What know you of any Deſign in *Ireland* to introduce the Popiſh Religion?

O-Neal. In *Auguſt* (78) Biſhop *Tirril* came with 40 odd Horſe-Men to Vicar-General *Brady*'s Houſe, and alighted at the Door; and he gave them there an Oath, which they took willingly and freely from hand to hand, to forward the Popiſh Plot againſt the Proteſtant Religion, to make an end of them all in one hour from end to end in *Ireland*; and, ſaid he, I will come within two days with an Order from the Lord *Oliver Plunket*; and you need not be afraid, for the Lord *Oliver Plunket* and I have ſent ſome Gold and Money into *France* to get Men and bring them from *France* over Sea: and do not fear, this will go on in one hour thro all *Ireland* from end to end. In *September* (78) a little while after, the ſame meeting was in a place which they call *Virginia*, in the County of *Connaught*, where they took a Prieſt, he is here, and he was with me, and deſired me to come up to *Dublin* and diſcover this; and there I did diſcover it to Sir *John Davis*; which is all that I can ſay. For this *Plunket*, I never ſaw him in my Life.

Mr. *Jones.* You were a Papiſt then?

O-Neal. Yes, I was.

Mr. *Jones.* Are you a Roman Catholick ſtill?

O-Neal. Yes, I am.

Mr. *Jones.* And were you acquainted with all theſe Orders?

O-Neal. Yes.

L. C. J. How came you to know of this Oath?

O-Neal. I was in the Houſe with them; I was one concerned to take my Oath with them, and I durſt not but take the Oath.

L. C. J. Had you the Oath of Secrecy given you?

O-Neal.

O-Neal. Yes, and ſo this Prieſt commanded me to go along to *Dublin* and diſcover it.

Mr. Serj. *Jefferies.* What is his Name?

O-Neal. John Macklegh.

Sir *Fra. Withens.* Do you know any other Tranſactions about the Plot?

O-Neal. No, I will not ſwear for all the World more than I know.

Sir *Fra. Withens.*—— Then call *Neile O-Neal, (who was ſworn.)* What do you know of any Deſign carrying on in *Ireland* againſt the Government and the Proteſtant Religion?

N. O-Neal. I will tell you all I know: I was at Vicar *Bradey*'s Houſe the 21ſt of *Auguſt.*

L. C. J. What Year?

N. O-Neal. (78:) And Biſhop *Tirril* came with 40 Horſe-Men to the Houſe, and went into the Houſe, and diſcourſed a little while; and they took their Oaths every one round to keep ſecret the Plot to deſtroy the Proteſtant Religion and the Proteſtants, that they might have their Eſtates again. And he ſaid they did not need to fear: for, ſaid he, you have a very good Man to aſſiſt you, and that is the Lord *Oliver Plunket*, and you need not fear but it will go thro all *Ireland.*

Mr. Att. Gen. Will you ask him any Queſtions?

Plunket. Why did he not diſcover it before?

Mr. Serj. *Jefferies.* Were you a Roman Catholick at that time?

N. O-Neal. Yes, and am ſo ſtill.

Mr. Paget, *Jury-Man.* I deſire he may be asked how he came to be there.

L. C. J. You ſay, I think, this was at Vicar-General *Bradey*'s; how came you to be there.

N. O-Neal. I was there ſeveral times before that; for my Nurſe, or my Foſter-Mother (I don't know which you may underſtand beſt) was Houſekeeper to him.

L. C. J. Were you required to take the Oath?

N. O-Neal. No, my Lord, I was acquainted in the Houſe, I had been there two or three Weeks before.

Plunket. Why did not you tell it to ſome Juſtice of the Peace?

L. C. J. He was a Papiſt, and ſo he is now.

N. O-Neal. There were many there that were wiſer than I, that did not diſcover it.

L. C. J. How old are you?

N. O-Neal. I believe about two and twenty Years old.

L. C. J. And this was but in (78.)

Mr. Att. Gen. Swear *Owen Murfey, (which was done.)* Come, what ſay you?

O. Murfey. Mr. *Edmond Murfey* diſcovered the Plot; he went to one Lieutenant *Baker* and did diſcover the Plot to him, that there was a Deſign to bring in the *French.*

L. C. J. Speak out aloud, I can't hear you.

O. Murfey. All I know is from Mr. *Edmond Murfey*——

L. C. J. What do you know of any, of your own knowledge?

O. Murfey. Mr. Lieutenant *Baker* told me, that he did hear of the *French*——

L. C. J. Speak what you know your ſelf.

O. Murfey. If it pleaſe your Lordſhip, this is more: I ſaw that Evidence that *Edmond Murfey* did produce in *Ireland*, when he was ſent to the Goal there; but without Tryal or any thing.

Mr. Att. Gen. Then ſwear *Hugh Duffy*; (*which was done.*) Speak aloud, and tell my Lord what you know of this Plot and the Priſoner. You know the Priſoner, don't you?

Duffy. I know him! yes I know him well enough.

L. C. J. What ſay you more of him?

Duffy. My Lord, I ſay I have ſeen this Dr. *Oliver Plunket* raiſing ſeveral Sums of Money to carry on this Plot; ſometimes 10 *s. per An.* ſometimes 20.

Mr. Sol. Gen. Of whom?

Duffy. Of all the Prieſts in *Ireland*; of every Prieſt according to his Penſion and Pariſh.

L. C. J. In all *Ireland?*

Duffy. Yes.

L. C. J. And towards the Proceedings of the Plot?

Duffy. It was to give to his Agent which was at *Rome*, and for the carrying on the Buſineſs.

Mr. Att. Gen. How came you to know this?

Duffy. I was Servant to Dr. *Duffy*, who was infinitely beloved by this Man. He was Father-Confeſſor to the Queen of *Spain.* There was nothing that happened between them, but I was by all the time.

L. C. J. Were you Chaplain to him?

Duffy. Yes.

L. C. J. You are a Papiſt then?

Duffy. Yes.

Mr. Att. Gen. This Man is a Friar, my Lord.

L. C. J. Were you in the Company with them?

Duffy. Yes, I was.

L. C. J. What did paſs there?

Duffy. About the Plot; how they could confirm the Plot: And this Man *Plunket* ſaid, he could prevail with the King of *France*, and the other with the King of *Spain.*

Mr. Att. Gen. Pray acquaint my Lord particularly when this was, and in what Place, and what they ſaid.

Duffy. It was in 73, 74, and 75. at his own Houſe; and at he kept three or four Jeſuits there, and a matter of a hundred Prieſts.

Mr. Att. Gen. What paſſed in the Company?

L. C. J. Who elſe was there?

Duffy. The Diſcourſe, my Lord, was always about the Plot, how they could contrive the Matter between them; and ſo they did conclude afterwards to raiſe ſo much Money upon ſeveral Prieſts, all the Prieſts in *Ireland*, ſometimes 20 *s.* ſometimes 40.

L. C. J. A-piece, do you mean?

Duffy. Yes.

Mr. Att. Gen. What Diſcourſe had they about the *French* at any time?

Duffy. Yes, a hundred times; he talked ſeveral times, that he did not queſtion but he ſhould prevail with the King of *France* not to invade *Spain:* And I have ſeen his Letter to Cardinal *Bouillon*, to expoſtulate with him about the King of *France*, why he ſhould wage War with the King of *Spain*, who was a Catholick, but rather ſhould come and redeem *Ireland* out of its Heretical Juriſdiction.

Mr. Att. Gen. Did you ſee the Letter?

Duffy. Yes.

Mr. Attorn. Gen. Why, do you know his Hand?

Duffy. Yes, I know it as well as I know my own; I know it if there were a thouſand Papers together.

Mr. Att. Gen. And what was the Import of it, pray?

Duffy. That Cardinal *Bouillon* ſhould prevail with the King of *France* not to invade *Spain*; and the Contents of the reſt of the Letter were, That he did admire he ſhould not rather wage war with the King of *England*, who hath been an Apoſtate, and help their poor Country that was daily tormented with heretical Juriſdiction.

Mr. Att. Gen. How came you to be in *France?* were you employ'd?

Duffy. I went to *France* to live there in a Convent.

Plunket. Did Cardinal *Bouillon* ſhew you my Letter?

Duffy. Yes.

Plunket. What Year?

Duffy. 77.

Mr. Att. Gen. Pray, Sir, you were ſpeaking of raiſing of Money ——

Duffy. Yes.

Mr. Att. Gen. Did you ſee any Precept about it?

Duffy. Yes, I have ſeen ſeveral Precepts: I was Curate to one Father *Murſey*; and while that Man was with Dr. *Oliver Plunket*, and other Jeſuits, I did officiate in his place, and he ſent his Letters to me to raiſe 40*s.* and 20*s.* a time, ſeveral times.

L. C. J. You your ſelf?

Duffy. Yes.

Mr. Att. Gen. What for?

Duffy. It was to ſend to Dr. who was at *Rome.*

Mr. Att. Gen. Did you ſend any Money that you know of?

Duffy. Yes.

Mr. Att. Gen. Tell what time you gave the Money your ſelf.

Duffy. In 73, 74, 75.

Mr. Att. Gen. Where?

Duffy. At his own Dwelling-Place at :

Mr. Juſt. *Jones.* Of what Quality was the Priſoner amongſt you?

Duffy. He was Primate of all *Ireland.*

Mr. Juſt. *Jones.* Under whom?

Duffy. Under whom? under the Pope.

Mr. Juſt. *Jones.* How do you know he was ſo?

Duffy. We had it in his Writings.

L. C. J. Did he ſtile himſelf ſo in his Letters?

Duffy. Yes, if he writ but to the leaſt Man in the Country, he would write, *Oliverus Armacanus Primas totius Hiberniæ.*

L. C. J. And ſo you always underſtood him?

Duffy. Yes.

Mr. Att. Gen. Were you preſent at any of the general Conſultations or Meetings?

Duffy. Yes, I was.

Mr. Att. Gen. What number might meet at that time?

Duffy. Five hundred Men and Women.

Mr. Att. Gen. Where was this?

Duffy. At *Clouds.*

Mr. Att. Gen. What was the Occaſion and Deſign of that Meeting?

Duffy. Confirmation from the Biſhop.

Mr. Att. Gen. And what was done there beſides?

Duffy. The ſecond thing was, that the Gentlemen of the three Counties ſhould conclude together about this Matter.

L. C. J. About what?

Duffy. About joining the *French* and *Spaniſh* together.

Mr. Juſt. *Dolben.* Where was that Meeting?

Duffy. In the County of *Monaghan.*

Mr. Juſt. *Dolben.* Was the Priſoner there?

Duffy. Yes, he was the chief Man.

L. C. J. When was this?

Duffy. In 71, to the beſt of my knowledge.

Mr. Juſt. *Dolben.* Were you there your ſelf?

Duffy. Yes.

Mr. Att. Gen. What was the Tranſaction of that day, beſides the Sacrament of Confirmation?

Duffy. It was agreed that the Gentry of *Armagh*, *Monaghan*, and *Connaught* ſhould join together; and then they went into a private Council to get a Liſt of all the Officers that were in the laſt Rebellion, and thoſe that loſt their Eſtates.

Mr. Att. Gen. How do you know that? Did you go into the Conſult?

Duffy. Yes, I was in the ſame Conſult my ſelf, and was as willing to proceed in the Matter as any one in the World.

L. C. J. Where was this?

Duffy. Within two Miles of *Clouds*, at one Father Houſe.

L. C. J. Was that at the time when there were ſo many Perſons met? Pray ſpeak again what was done there beſides Confirmation.

Duffy. Why, they were withdrawn aſide into a Garden, ſome ſtood up, and ſome ſat down: and *Oliver Plunket* ſtood in the middle of them all as a Prelate, and every one kneeled before him and kiſſed his Hand.

Mr. Att. Gen. What was then ſaid?

Duffy. Then they did conſult and gave ſpecial order to ſome of them to get a Liſt of all the Officers in the late Rebellion, and that loſt their Eſtates, and that they ſhould be more forward than others to proceed in that wicked Deſign.

L. C. J. What was that Deſign?

Duffy. To deſtroy all the Proteſtants together.

Mr. Att. Gen. Was it to mingle the *Iriſh* and *Spaniſh*, and *French* Army together?

Duffy. Yes, it was.

Mr. Att. Gen. Did you hear the Priſoner ſpeak about it?

Duffy. Yes, and he made a Speech before them concerning our own Faith and Religion.

Mr. Att. Gen. Was there any mention of Money at that time?

Duffy. It was, that every Man of them that could diſpoſe of Money ſhould provide ſome for thoſe Gentlemen that would ſoon come into *Ireland.*

Mr. Serj. *Maynard.* Who were thoſe Gentlemen?

Duffy. The *French* Army and the *Spaniſh* Army together.

Mr. Att. Gen. Were you at any other Meeting?

Duffy. No.

Mr.

Mr. Att. Gen. After he was taken, do you know of any Order he ſent out to gather Money?

Duffy. Yes, at the Aſſizes of *Dalkeith*, I think it is *June* two Years ago, he was apprehended——

Mr. Att. Gen. Indeed he was firſt apprehended as a very buſy Papiſt.

Duffy. I have ſeen two or three ſeveral Orders to raiſe Money, for the ſame purpoſe; and that it was the only time to bring the Matter to an end when he lay in Goal himſelf.

Mr. Att. Gen. Was that the Effect of the Letter?

Duffy. Yes; and that the *French* and *Spaniſh* Kings ſhould take the Advantage that now was offered whilſt he was in Priſon.

Mr. Juſt. *Jones.* You ſay ſome Money was ſent to Dr. *Cray?*

Duffy. Yes.

Mr. Juſt. *Jones.* To what end?

Duffy. To comply with this Deſign.

Mr. Juſt. *Jones.* Where was that Dr. *Cray?*

Duffy. He was at *Rome*, he was made a Biſhop there.

Mr. Att. Gen. Who employ'd him there?

Duffy. This Man employ'd him always.

L. C. J. What was his Name?

Duffy. Cray.

Mr. Juſt. *Jones.* You ſay ſome of the Prieſts paid 20, ſome 40?

Duffy. Yes.

Mr. Juſt. *Jones.* Did the Lay-Gentry agree to pay nothing?

Duffy. I don't know for the Gentry.

L. C. J. But I think you paid ſomething your ſelf?

Duffy. Yes, I paid for two or three Years my ſelf.

L. C. J. And that was for the Deſign?

Duffy. Yes, for the *French* and *Spaniſh* Army, and all the Purpoſes together.

Mr. Att. Gen. What do you know of any Precept to be given in of all ſorts of Perſons of ſuch an Age?

Duffy. I gave a Liſt of the Age of every Perſon from 16 to 60.

Mr. Att. Gen. By whoſe order?

Duffy. By his order.

Mr. Serj. *Jefferies.* To whom did you give it?

Duffy. To Dr. *Plunket.*

Mr. Serj. *Jefferies.* That is, to the Priſoner?

Duffy. Yes, out of my own Precinct.

Mr. Att. Gen. Had you an Order from him?

Duffy. Yes, it was directed to the Pariſh-Prieſt; and I being Curate in his place, received the Order.

Sir *F. With.* To what purpoſe was it?

Duffy. To know what Men in *Ireland* were able to bear Arms.

Mr. Juſt. *Jones.* What was the number contain'd in your Liſt?

Duffy. 250.

Mr. Juſt. *Jones.* What in one Pariſh?

Duffy. Yes.

Mr. Serj. *Jefferies.* What was the Pariſh's Name?

Duffy. Coghan.

Mr. Att. Gen. Do you know any thing of his going to view the Ports?

Duffy. I accompanied him to *Carlingford.*

Mr. Att. Gen. Did you?

Duffy. Yes, in Perſon I did.

Mr. Serj. *Jefferies.* What did he ſay?

Duffy. He went round about the Place where ſome of the Cuſtom-Ships come in; there was a great Caſtle there near the Sea, and he went to view the Place, and could not get a Boat: And there was a great Talk of *Carlingford* to be one of the beſt Havens in *Ireland*; there was no great Gariſon at the Place, and any Ship might come to the Gates of the Town, and ſurprize it, being a little Town.

Mr. Att. Gen. What did he conclude upon that?

Duffy. That he might get the *French* Army to land ſafely there.

Mr. Att. Gen. What do you know of delivering any Ammunition and Arms?

Duffy. He did ſend ſome of this Money to get Ammunition into *Ireland.*

Plunket. You ſay you were *Murfey*'s Curate: Can you ſhew any ſuch Inſtitution as you ſay came to you to raiſe Money?

Duffy. I could have brought them, but I thought it needleſs.

Plunket. Can you name any other Perſon I received Money from?

Duffy. I have ſeen your Paper of the County of *Monaghan.*

Plunket. Have you ſeen any of them pay any Moneys?

Duffy. Yes, I have ſeen twenty of them pay Money.

Mr. Juſt. *Dolben.* Why, you are acquainted with this Man, are you you not, Mr. *Plunket?*

Plunket. My Lord, I believe I have ſeen him.

Mr. Juſt *Dolben.* Don't you know he was Chaplain to Biſhop *Duffy?*

Plunket. No, I never was in his Company.

Mr. Serj. *Jefferies.* Pray tell him what time of the Year it was that you were at *Carlingford.*

Duffy. It was at the end of the Year 77, and the beginning of the Year 78.

Mr. Att. Gen. Pray, if you can recollect, was you once, or twice, or twenty times in his Company?

Duffy. As I am a Chriſtian, I have been a hundred times in his Company. And when you were creating Prieſts, you would always ſend for me to be preſent; and I wonder how the Man ſhould forget himſelf.

Plunket. I do not ſay I have not ſeen him, or that I am a Stranger to the Man; but in the Company of Biſhop *Duffy* I never ſaw him, nor I never ſent him orders to pay any Money; and if he did pay any Money, he might ſhew the Order.

Mr. Serj. *Jefferies.* If he did pay any Money, you did ill to take it.

Mr. Att. Gen. Pray let him have fair play to ask any Queſtions.

Mr. Sol. Gen. Tell how you came to remember that you ſaw him at Sir *Nich. Plunket.*

Duffy. Dr. *Duffy* did ſend me to Sir *Nicholas Plunket*'s, and I met Dr. *Plunket* as I was coming out of the City. I had been half a Year at the *Spaniſh* Ambaſſador's, and he ſent me for *Ireland* again, and then I lived at the Convent in *Dublin*; and then when I knew that he would come to Town, I went to *Ring's-end*, where the Ships came in, to meet him.

Plunket.

Plunket. You ſay you were with him at my Houſe?

Duffy. Yes.

Plunket. If you were, you were inviſible: But I ask you, Why did not you tell this to ſome Juſtice of the Peace?

Mr. Juſt. *Dolben.* Good Mr. *Plunket*, he tells you he was as willing to forward it then you.

L. C. J. How come you now to change your mind?

Duffy. I went into *France* in 77, and I was not there a Year all together; but when I have ſeen how the poor People there are brought into ſuch Slavery by the *French* King, I thought of it, and had rather the Devil ſhould reign over us, than the *Frenchman.*

Mr. Juſt *Dolben.* He gives you a very good rational Account why.

Duffy. I have been at Sir *Nicholas Plunket*'s, and Dr. *Patrick Plunket*'s, where there fell ſome variance about ſomething this Man had done to Father *Duffy.* Says Biſhop *Duffy*, I might have had you drawn and quartered, if I were as ill a Man as you; and I might have been Primate of *Ireland*, if I would have undertaken thoſe things that you undertook. Upon that, ſays Sir *Nicholas Plunket*, what is that? Why it was ſaid it was to raiſe 60000 Men in *Ireland* at any time whenever the *French* or the *Spaniſh* King ſhould wage War with *England*, *Scotland*, or *Ireland.* And this Man did confeſs before my face to Father *Duffy*, that it was not only to exalt himſelf, but all the *Roman* Clergy, and all the Gentry that had loſt their Eſtates.

Plunket. Mr. *Duffy*, one word with you: Is not this out of Malice to me for correcting ſome of the Clergy?

Duffy. You had nothing to do with me, for I was a Friar.

Mr. Att. Gen. Swear *Edmond Murfey*, (*which was done.*) Tell your whole Knowledge of Dr. *Plunket* and the *Iriſh* Plot.

Murfey. May it pleaſe you, my Lord, I was one of the firſt Diſcoverers of this Plot; but of nine Witneſſes, I have but one in Town.

L. C. J. Well, tell your own Knowledge.

Murfey. Now I beg your Lordſhip, as to Dr. *Plunket*, that you will reſpite it till next Term; I could bring ten Witneſſes.

Mr. Att. Gen. Do you ſpeak your own Evidence.

Murfey. I refer it to the King and Council what Evidence I have given.

L. C. J. Do not trouble your ſelf, be directed a little: You are here now to ſpeak what you know concerning any Treaſons, or any other Matters againſt the King, done by Dr. *Plunket*; ſpeak your own Knowledge, for as to other Witneſſes we do not call you.

Murfey. If I be called in queſtion for this Evidence——

Mr. Att. Gen. Come, Sir, you have been at the *Spaniſh* Ambaſſador's lately, anſwer my Queſtion; Have you ever been with *Plunket* in *Ireland?*

Murfey. Yes, Sir.

Mr. Att. Gen. Have you ever heard him own himſelf Primate of *Ireland?*

Murfey. Yes, Titular Primate.

Mr. Att. Gen. Under whom did he claim that Authority? under the King, or under the Pope?

Murfey. I think he could not be under the King at all.

Mr. Att. Gen. Under whom then?

Murfey. It muſt be either the King or the Pope.

L. C. J. Anſwer me directly, did he claim to be Titular Primate under the Pope?

Murfey. I ſuppoſe he did.

L. C. J. Was he reputed generally ſo to be?

Murfey. Yes, my Lord.

Mr. Att. Gen. Mr. *Murfey*, remember what you ſwore before the Grand Jury; pray recollect your ſelf whether that be true, and tell all.

L. C. J. You are upon your Oath, you muſt ſpeak the Truth and the whole Truth; you muſt not mince or conceal any thing.

Mr. Serj. *Jeff.* Were you ſworn before the Grand Jury?

Murfey. I was ſworn before the King and Parliament.

Mr. Serj. *Jeff.* Did you give in any Evidence to the Grand Jury?

Murfey. Yes, I did.

Mr. Serj. *Jeff.* Was that you ſwore before the Grand Jury true, upon your Oath?

Murfey. I can't ſay but it was.

Mr. Serj. *Jeff.* Repeat it; tell my Lord and the Jury what it was, and tell the Truth.

Murfey. I have forgot it.

Mr. Att. Gen. Why then I would ask you a little; you remember I was by, and 'tis no laughing Matter, Mr. *Murfey*, you will find it ſo. What do you know of any Orders iſſued out by Mr. *Plunket* to raiſe Money from the Prieſts?

Murfey. I know there was Orders, and I took the Orders my ſelf in my Hand.

Mr. Att. Gen. From whom had you thoſe Orders?

Murfey. From another, and not from him.

Mr. Att. Gen. Under whoſe Hand were thoſe Orders?

Murfey. They were from the Primate.

Mr. Att. Gen. Did you ſee any Order under *Plunket*'s Hand for raiſing of Money?

Murfey. No, but under the Vicar-General's, by his Authority, as I ſuppoſe.

Mr. Att. Gen. Upon your Oath, did you not ſwear before the Grand Jury, that you ſaw the Orders under his Hand.

Murfey. No, I did not; or I was miſtaken, for it was only by his Direction.

Mr. Att. Gen. Pray had you any Converſe with *Oliver Plunket* about the raiſing of Money?

Murfey. Oliver Plunket about the raiſing of Money!

Mr. Att. Gen. Yes, that is a plain Queſtion.

Murfey. It was about other Matters I converſed with him.

Mr. Att. Gen. But did you converſe with him about Money?

Murfey. No, not about the Money.

Mr. Att. Gen. Upon your Oath, did you converſe with him about bringing in the *French*?

Mr. Serj. *Jeff.* Declare the Truth, come.

L. C. J. Come, don't trifle; what Diſcourſe have you had with the Priſoner about raiſing of Money, or bringing in the *French?* either of them, Sir.

Murfey. I know this, if the Duke of *York* and Duke of *Ormond* had proceeded according to their Intentions, it was a general Expectation at the ſame time, that all the *French* and *Iriſh* would come and fall upon the *Engliſh* Nation, as I underſtood.

L. C. J.

L. C. J. Pray anſwer the Queſtion directly. You muſt not come and think to trifle with the Court, you muſt ſpeak the truth, you are ſworn to it; you muſt not come to quibble and run about to this and that and t'other, but anſwer directly, Have you had any diſcourſe with the Priſoner about Orders for raiſing of Mony in *Ireland*?

Murfey. Yes, I have ſeen Orders from his Vicar-General for the raiſing of Mony.

L. Ch. Juſt Hath he owned them to be by his direction?

Murfey. Not before me, but others he has.

Mr. Att. Gen. Have you ſeen any Mony paid to him?

Murfey. To whom?

Mr. Att. Gen. To *Plunkett.*

Murfey. To the Vicar General I have.

L. C. Juſt. But to *Plunkett.*

Murfey. None to *Plunkett.*

L. C. Juſt. Have you had any diſcourſe with him at any time about the raiſing of Mony, which the Vicar-General gave order for?

Murfey. I have had diſcourſe with the Vicar-General.

L. C. Juſt. Sir, don't trifle, have you had any with him?

Murfey. With him?

L. C. Juſt. Yes, with him.

Murfey. Yes, I have had ſome diſcourſe with him.

L. C. Juſt. Tell me what that diſcourſe was?

Murfey. I think it was about this. If the D. of *York*, and the D. of *Monmouth* fell out together, that he had ſome men to raiſe about the matter, and if the D. of *Monmouth* would raiſe the Proteſtant Religion ———

Mr. *Att. Gen.* You ſee he hath been in *Spaniſh* hands.

L. C. Juſt. Were you a Proteſtant Sir?

Murfey. No, I am a Prieſt.

Mr. *Serj. Jeff.* He is to ſeek yet.

Murfey. I am indifferent whether I be a Proteſtant or a Prieſt.

Mr. *Att. Gen.* My Lord he is a Prieſt in Orders, and ſo hath acknowledged himſelf.

Murfey. Yes, I am a Prieſt, but it makes me forget myſelf to ſee ſo many Evidences to come in, that never knew *Plunket.*

L. C. Juſt. Sir, you refuſe to anſwer thoſe Queſtions that we put to you here.

Murfey. What I ſaid before the Parliament I anſwer punctually.

L. C. Juſt. You are asked Queſtions here, and produced as a Witneſs, will you anſwer directly or not?

Murfey. Yes, I will.

L. C. Juſt. Then let me hear what diſcourſe you had with the Primate *Plunkett* concerning any mony raiſed by him or his Vicar General.

Murfey. May it pleaſe your Lordſhip, firſt of all I did not impeach Primate *Plunkett*, but the Officers and Juſtices of the Peace.

Mr. *Jones.* Had you any diſcourſe with him, yea, or no?

Murfey. That he ſhould find ſo many Catholicks in *Ireland*, if the D. of *York* and the D. of *Monmouth* fell out.

Mr. *Juſt. Jones.* Why it plainly appears what you drove at at firſt, to put off this Tryal if you could.

L. C. Juſt. The Papiſts in *England* have been at work with you.

Mr. Serj. Jeff. I perceived this Gentleman was very buſie looking upon his Hat, I deſire he may be ſearched if he have no paper about him.

Mr. *Att. Gen.* Mr. Solicitor and myſelf heard the Evidence he gave to the Grand Jury.

Then he went out of the Court and would ſcarce be perſwaded to come back again.

Mr. *Att. Gen.* We both heard him, and he gave the fulleſt Evidence, much fuller to all Inſtances and particulars of this *High Treaſon*, much fuller than *Duffy* to the Grand Jury. Afterwards, about three Weeks ago the Tryal coming on, he ran away and lay hid, I took a great deal of pains to find him out, and ſent Meſſengers about, at laſt I heard he was got to the *Spaniſh* Ambaſſadors, I ſent, and they ſpied him in the Chappel; but the *Spaniſh* Ambaſſador's Servants fell upon the Meſſengers and beat him, the Ambaſſador was firſt ſent to about it, and his Excellency promiſed that he ſhould be brought, and when he was found he told me but the laſt night, that all he had ſworn before the Grand Jury was true, and he was ready to make it out again.

L. C. Juſt. And now he ſays, he knows not what he ſaid then, pray take notice of that.

Murfey. I told the Grand Jury this, that my Lord *Plunkett* had a deſign to get 60 or 70000 men in *Ireland*, if the D. of *York* and the D. of *Monmouth* ſhould fall out.

Mr. *Att. Gen.* Did you tell a word of that to the Grand Jury?

Murfey. Yes Sir, or I was miſtaken.

Mr. *Att. Gen.* Not one word of that did he then ſay.

L. C. Juſt. Do you own this man, Dr. *Plunkett*, to be of your Religion?

Mr. *Serj. Jeff.* Do you know this Seeker?

Plunket. He ſays himſelf he is indifferent to be a Proteſtant or a Papiſt.

Mr. *Serj. Jeff.* I will only try you by one Queſtion more, for you are ſought out, and it may be you may be found; Do you know how many men he was to raiſe in *Ireland*? remember what you ſaid to the Grand Jury.

Murfey. 70000 Men.

L. C. Juſt. What were they to do?

Murfey. For eſtabliſhing if occaſion ſhould be———

Mr. *Serj. Jeff.* Eſtabliſhing, eſtabliſhing what?

Murfey. Of the Romiſh Religion.

Mr. *Serj. Jeff.* Well, ſo far we have got 70000 men to eſtabliſh the Romiſh Religion; What, was *Plunkett* to do this?

Murfey. As far as I underſtood.

Mr. *Juſt. Jones.* And you underſtood it by himſelf?

Murfey. I received Letters from the Vicar General to get ſo much mony collected, and aſſoon as I got the Letters to my hands, I ſent them to a Privy Councellor.

L. C. Juſt. Do you not know that he was ingaged to aſſiſt the *French* Army?

Murfey. I do not know that by him, but by others.

Mr. *Juſt. Dolb.* Did you ever diſcourſe with him about it?

Murfey. I did diſcourſe with him about ſeveral matters.

Mr. *Juſt. Dolb.* About the *French* Army?

Murfey. Yes.

L. C. Juſt. Do you know that he did endeavour to bring them into *Ireland*?

Murfey. I had a Correſpondence in *France* at the ſame time——

L. Ch. Juſt. With whom?

Murfey With one *Mac Carty.*

L. C. Juſt. And do you know that he had Correſpondence in *France?*

Murfey. Yes. I know that.

Mr. *Juſt. Dolb.* With whom had *Plunkett* Correſpondence in *France?*

Murfey. He had Correſpondence with Dr. *Cray,* and others in *France,* as I underſtood by others.

Mr. *Juſt. Dolb.* Was the end of that Correſpondence to bring men from *France* into *Ireland?*

Murfey. Yes, ſo far as I underſtand.

Mr. *Juſt. Dolben.* You underſtood the Letters when you read them, did you not?

Murfey. I know not how theſe People come to ſwear this buſineſs, whether they had not malice againſt him——

Mr. *Att. Gen.* Well, Sir, pray give you your Evidence, we will take care of the reſt.

Mr. *Juſt. Dolb.* I reckon this man hath given the beſt Evidence that can be.

L. C. Juſt. Yes, it is Evidence that the Catholicks have been tampering with him.

Mr. *Serj. Jeff.* I deſire he may be committed my Lord, becauſe he hath fenced from the beginning *(Which was done accordingly.)*

Mr. *Att. Gen.* Swear *John Mac Legh.* *(Which was done.)*

Sir *Fran. Wyth.* Tell my Lord and the Jury what you know of any Plot in *Ireland* to bring in the *French.*

Mac Legh. I was a Pariſh Prieſt in *Ireland* in the County of *Monaghan,* and Dr. *Oliver Plunkett* received ſeveral Sums of mony in *Ireland,* and eſpecially in the Dioceſs where I am. I raiſed ſome of it, and paid him 40 s. at one time, and 30 s. another time, in the Year (74) I paid him 40 s. in the Year (75) I paid him 50 s. and it was about *July,* and it was for the better advancement of the *French* coming in.

Mr. *Jones.* Did he tell you that the mony was to be employ'd that way?

Mac Legh. Yes, that the mony was to be kept for Arms and Ammunition for the Roman Catholicks in *Ireland.*

L. C. Juſt. Before you paid it, did you receive any order from him?

Mac Legh. Yes, I received an order *ſub pœna ſuſpenſionis,* and there was a publick order thro'-out *Ireland,* or we would not pay it; nay ſeveral would not pay it, and they were to be ſuſpended.

Plunket. Can you ſhew any of the orders under my hand?

Mac Legh. Yes, I can ſhew them, but only they are afar off, I did not expect to have them ask'd for.

Plunket. Have you no Superiors of your own?

Mac Legh. Yes, but you being Lord Primate, you could ſuſpend Biſhops and inferior Clergy together.

Plunket. When was this?

Mac Legh. In the Years (74) and (75.)

Plunket. What is the reaſon you kept it ſecret all this while?

Mac Legh. In the Year (77) I did diſcover it to one Mr. *O Neale,* whom I ſent to *Dublin* to diſcover this Plot. I was in *France* myſelf my Lord.

Plunket. How many Years is it ſince you returned from *France?*

Mac Legh. In *May* in the Year (78.)

Plunket. Why did you not ſpeak all this while till now?

Mac Legh. I did ſend one Mr. *Henry O Neale* to *Dublin,* for I durſt not go, leſt I ſhould have been ſuſpended and excommunicated.

Mr. *Att. Gen.* This is the Prieſt that *Henry O Neale* ſpeaks of.

L. C. Juſt. Is not this a very good reaſon? if he had come to *Dublin* to diſcover, you would have ſuſpended him.

Plunket. But my Lord, then he might have ſhewn my Suſpenſion, and brought me into a Præmunire.

Mr. *Serj. Jeff.* If you pleaſe Dr. let us who are for the King have done with him firſt. I would ask you another Queſtion Sir, were you at one Vicar *Brady's* Houſe?

Mac Legh. Yes, I was.

Mr. *Att. Gen.* Tell what was done there.

Mac Legh. There was Biſhop *Tyrrell* came there with 40 Horſemen well mounted and armed, he came into the Houſe about 10 in the morning, and ſtaid till about 11 at night, I was very much among them, and was as willing to be of the Plot as themſelves.

Mr. *Att. Gen.* Tell what was done there.

Mac Legh. There Biſhop *Tyrrell* ſaid, that he had order from Dr. *Oliver Plunket* and others, to partake of the Plot to bring in the *French* and ſubvert the Government in *Ireland,* and deſtroy the Proteſtant Religion and the Proteſtants.

Mr. *Att. Gen.* Was there an Oath given?

Mac Legh. Yes, they were all put to their Oaths, which they did take willingly to keep it private during their Lives time, and the reaſon was they were to have their Eſtates during their Lives time.

Mr. *Serj. Jeff.* Now tell us when this was.

Mr. *Att. Gen.* My Lord, *Henry O Neale* and *Phelim O Neale* ſpeak to the ſame purpoſe.

Mr. *Serj. Jeff.* Do you remember whether *Henry O Neale* was there? Did he take the Oath of Secreſy?

Mac Legh. Yes.

Mr. *Att. Gen.* What do you know of any Letters from *Plunket?*

Mac Legh. In *France* I landed at *Breſt,* and going thro' *Brittany,* I met with Biſhop *Tyrrell* and Dr. *Cray,* who was my Lord *Oliver Plunkett's* Agent, and Duke *John* of Great *Brittany* came in to them; for he heard of theſe two Biſhops being newly come out of *Rome,* ſent for them, and I being a Prieſt of *Tyrrell's* Dioceſs, I went along with them, and they were well accepted, and he ſhewed Dr. *Oliver Plunkett's* Conditions with the King of *France,* which was this; to get *Dublin* and *London-derry,* and all the Sea Ports into their own hands, to levy War and deſtroy the Proteſtant Religion, and that they ſhould have him to protect them during his Life time.

L. C. Juſt. Did you ſee thoſe Conditions?

Mac Legh. A Copy of them I did, the Governor of *Brittany* did ſhew them to the Biſhop.

Mr. *Serj. Jeff.* What Language were thoſe Conditions in?

Mac Legh. They were in Latin Sir.

Mr. *Serj. Jeff.* Was *Edmond Murfey* put out of the Dioceſs?

Mac Legh. Not as I know of.

L. C. Juſt. What do you know of his being Primate? Upon what Conditions was he made Primate?

Mac

Mac Legh. He was made Primate by the Election of the King of *France*: And upon his Election, he made thoſe Conditions with the King of *France*, to raiſe men to join with the *French*, to deſtroy the Proteſtant Religion.

Mr. *Juſt. Jones.* You know that man Dr. *Plunkett?*

Plunkett. Yes, my Lord.

Mr. *Att. Gen.* Will you ask him any Queſtions?

Plunkett. None, but what I ask'd the others.

Mr. *Juſt. Dolb.* Then if that is all, he hath given you a good Anſwer to that already, he was as forward then as the reſt.

Mr. *Att. Gen.* Then ſwear *John Moyer.* (which was done.)

Mr. *J. Jones.* What do you know concerning any Plot in *Ireland*, and Dr. *Plunkett*'s being in it?

Moyer. I know him firſt, my Lord, to be made Primate of *Ireland*, ingaging that he ſhould propagate the Roman Faith in *Ireland*, and to reſtore it to the Catholick Government; and I know the time by relation, that I came to *Rome* within two months after his being made Primate of *Ireland*, upon the ſame Conditions that have been related to you; and I was brought into the Convent of St. *Francis* in *Rome*, by one Father and this Father was very intimate with Cardinal *Spinola*, and when he uſed to go abroad he uſed to carry me along with him as a Companion, and there I found ſeveral of the Roman Cardinals ſay, That the Kingdom of *Ireland* ſhould come under the Catholick Government by the way and means of the Lord Primate *Plunkett:*

Mr. *Att. Gen.* What do you know of your ſelf?

Moyer. As I was coming then from *Rome*, I happen'd to come into a Convent of the Order of St. *Francis*, and there came out of *Ireland* a young Gentleman of the Family of the *O Neales*, who hath been my Lord Primate's Page.

Plunket. I never had a Page.

Moyer. You termed him ſo my Lord in *Ireland*, and as I came, this young man had a packet of Letters with him, as tho' they were commendations to enter him into the Colledge *de propaganda fide*, directed to the Secretary of that Colledge. And thinking them to be Letters of Recommendation, an old Father, called one *Thomas Crawley*, and I thought it not prejudicial to open the Seal; and the Contents were theſe, I tranſlated them five Years ago, and here are the Contents following, if you pleaſe they may be read, I will do my beſt to read them in Engliſh, the original were in Latin, and ſome phraſes in Italian. And when I was ſurprized by Mr. *Murfey* the laſt year and taken ſuddenly, all my Papers were taken away before I could return back again, by the Soldiers and the Tories, I only kept a Copy of this Letter I had in Engliſh as near as I could, and if I did not diminiſh any thing by the Tranſlation; upon the Oath I have taken, I have not put any thing in it, but what the Contents of the Letter were.

L. C. Juſt. Was that Letter under his own hand?

Moyer. My Lord cannot deny that.

Plunket. Do you know my own hand-writing?

Moyer. Does your Lordſhip deny that I know your hand?

Plunket. Pray Sir will you anſwer it?

Moyer. Yes I do very well.

Plunket. When did you leave *Ireland?*

Moyer. I will tell you that, my Lord, 'tis ſome 14 or 15 Years ago.

Mr. *Serj. Jeff.* You were giving an account of the Letter, read it.

Moyer. Here is the Contents, *Illuſtriſſime Domine*, It was directed to *Seignior* , who is now Secretary of the Colledge *de propaganda fide.* (*So then he read his Paper.*)

Mr. *Sol. Gen.* You ſay, you tranſlated that out of a Letter under the Priſoner's own hand?

Moyer. Yes, I tranſlated it immediately, and to prove it, I have ſtatutes which his Lordſhip made in the general National Council, which are under your own hand my Lord.

Mr. *Sol. Gen.* When did you make this Tranſlation?

Moyer. Five Years ago.

Mr. *Sol. Gen.* Where did you make it?

Moyer. I made it out of the Original in *Ireland.*

Mr. *Sol. Gen.* Where is the Original?

Moyer. When I was taken by Mr. *Murfey* and Mr. *Hetherington* the laſt Year, the Soldiers and Tories came and took them away, with other Papers I had of the ſame buſineſs.

L. C. Juſt. Was the Paper you tranſlated from, of his hand-writing?

Moyer. No my Lord, the Paper I took this out of, was a Copy of the Original.

L. C. Juſt. Was the Original of his hand-writing?

Moyer. Yes, it was.

L. C. Juſt. Where did you take it?

Moyer. In *Caprennica*, when I met with my Lord's Page.

L. C. Juſt. What made you take a Copy of it?

Moyer. It was in Latin and Italian, and I tranſlated it afterwards.

L. C. Juſt. And the Engliſh Father, you ſay, made bold to open it.

Moyer. Yes, becauſe he thought 'twas a Letter of Recommendations; but the Original of the Statutes made at *Clouds*, I did take the Original and gave a Copy to the Page.

L. C. Juſt. Have you the Original here?

Moyer. Yes my Lord, under his own hand.

Plunket. That's another thing.

L. C. Juſt. But we would know that other thing.

Mr. *Serj. Jeff.* My Lord, I deſire that he would produce it, 'tis his own hand-writing, ſee whether his Grace can deny it.

Moyer. The ſigning of it is his own hand-writing, I got the writing along with the Letter, and thinking to have a Copy of the one as well as of the other; it was the Statutes I got, and I never knew I had them till I was in *Madrid* in *Spain.*

Then the Paper was ſhewn to the Priſoner.

Plunket. My Lord, 'tis my hand.

Moyer. Indeed my Lord, it is your own hand.

Mr. *Serj. Jeff.* He owns it.

Moyer. And there is an Order in thoſe Statutes, wherein *Ireland* was bound to ſend ſo much mony to *Rome* upon ſuch a deſign.

Then the Witneſs read the Title in Latin.

Mr. *Juſt. Dolb.* Look out that Clauſe for the raiſing of the mony.

Moyer. My Lord, 'tis that I look for. *Cum toti Clero in Hibernia neceſſarium ſit.*

Mr. *Juſt. Dolb.* That is but *negotia* generally.

Mr. *Serj. Maynard.* That was to ſolicite their Affairs.

Mr. *Att. Gen.* 'Tis 500 *l.* in the whole.

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Plunket. Is it 500 *l.*?

Moyer. 'Tis in Figures a 5 and two (00.)

Plunket. My Lord this is counterfeit, 'tis put in by other Ink.

Mr. *Juſt. Dolb.* Like enough ſo.

L. C. Juſt. Nothing more ordinary, you leave a blank for the Sum, and then, may be, you put it in with other Ink.

Mr. *Juſt. Dolb.* How much do you ſay was the mony, Dr. *Plunket*?

Plunket. My Lord, every Agent that is kept at *Rome* hath a maintenance, as all Countries have their Agents at *Rome.*

Mr. *Juſt. Dolb.* How much was it?

Plunket. It was 50 *l.* a Year.

L. C. Juſt. Look you Mr. *Plunket*, conſider with yourſelf, 50 or 500 in this Caſe is not 5 farthings difference, but the mony was to be raiſed by your Order.

Plunket. Ay, but whether it was not raiſed to this Effect. There is never a Nation where the Roman Catholick Religion is profeſſed, but hath an Agent for their Spiritual Affairs at *Rome*, and this was for the Spiritual Affairs of the Clergy of *Ireland.*

Mr. *Serj. Jeff.* And the Letter was for Spiritual Affairs too, was it not?

Plunket. I deſire nothing, that is a truth, every Nation hath an Agent, and that Agent muſt be maintained; and the reaſon is this, becauſe we have many Colledges beyond Sea, and ſo there is no Country of Roman Catholicks, but hath an Agent in *Rome.*

L. C. Juſt. You had better reſerve your ſelf till by and by, to anſwer that and the Letter together; for this is but a ſmall part of the Evidence.

Mr. *Att. Gen.* About this Letter you were ſpeaking of, pray, will you tell what fell out about it.

Moyer. I will tell you how it fell out afterwards. Then I came along into *Marſeilles* in *France*, and there were two Captains that had as much notice as I had in that Letter, for they were diſcourſing that they would advance themſelves in the *French* King's ſervice, and hoped, that by the King of *France*'s help to have the Roman Catholick faith ſet up in their own Country; why, that diſcourſe paſſed off, for I was mightily afraid of any ſuch thing, becauſe I was of another opinion; for perhaps I might think the Roman Catholick Faith would flouriſh as well as ever it did, and hoped ſo as well as any body elſe, but not by the Sword. As I came to *Madrid*, there came one *Hugh O Donnell*, Son to O *Donnell*, with Letters of Recommendation, and thoſe Letters were to intitle the young man Earl of *Tyrone*; and likewiſe that his Majeſty, the King of *Spain*, ſhould help him for *Ireland*, according to the form of the Letters he had. And then as I came for *Ireland*, ſpeedily after there came Letters of Recommendation to me, that I ſhould preſent my ſelf to my Lord Primate, to hear Confeſſions and be heard preach. I came to his Lordſhip at his own Houſe the 9th of *December* (74,) and there he kept me ſeveral hours, and approved me; and the Copy of the Approbation I have to ſhew. And after a long diſpute we went aſide, and went to look Father *Patrick*, and there he ſhewed me ſuch and ſuch things. And after a long diſcourſe I told my Lord Primate, I ſee your Lordſhip's Letter, which you ſent by young O *Neale*, in ſuch a place, and he ſhew'd me the Contents of it and ſaid, Ay, my Lord, 'tis a good Intention and Deſign, if it can be done without Bloodſhed: Then my Lord muſed a little, and he ſaid, Well Father *Francis*, (which is my Name in Religion, my Chriſtian Name was *John*) pray will you keep it ſecret? Well my Lord, ſaid I, you need not fear; for, ſaid he, whatever I have done herein was not for my own good, but for the publick good of the Catholicks. Well ſaid I, 'tis well. Then does he commend me into the Pariſh of where this Mr. *Murfey* here was to put in a Bull, that I had from my Lord Primate, which Bull was brought here laſt year; and there he proffer'd me high Promotions, if I would further ſuch things, and ſolicite ſuch Gentlemen as I knew would be private in ſuch a buſineſs, ſuch as were old Commanders among my Friends and Relations. Shortly after this I ſaw *Plunket* and Biſhop *Tyrrell*, and Captain *Con O Neale*, practiſing to bring Soldiers ready for *Ireland*, aſſoon as they could get opportunity. This Captain *Con O Neale* coming to the place where we kept our Priory, and he and his Brothers were Sons to General *O Neale.* And there Captain *Con* comes in the Night-time and lodges with us, and diſcourſed with his Brother and I, becauſe I was his Companion beyond Sea, about theſe matters, That he expected my Lord Primate and Biſhop *Tyrrell*'s coming thither that Night, to make ſome propoſals about the Church and other Affairs. After 10 a Clock, or thereabouts, my Lord Primate and Biſhop *Tyrrel* came, with others in their Company, and there they and Father *O Neale* did conſult amongſt themſelves, that they ſhould ſend Captain *Con* to *France* and to *Barcelona*, with ſuch and ſuch Inſtruments; and ſending thoſe Inſtruments away, Captain *Con* departs the Country and goes for *France* ſoon after; and ſpeedily my Lord Primate undertook, that he and Biſhop *Tyrrel* ſhould view *Munſter* and *Ulſter*, and other parts of *Ireland*, to ſee how Affairs ſtood. Soon after my Lord Primate calls a General Provincial Council, and ſends out his Orders to levy ſuch and ſuch Taxes and Subſidies, and Warrants to all the Pariſh Prieſts, that they ſhould give them new Liſts to know whether the Numbers they had ſent to *Rome* before, would comply with that Liſt. And then *O Neale* went to view the Forts of *Charlemont* and *Dun-Gannon*, whilſt thoſe Lords did collect the mony: The Orders I have ſeen with my own proper Eyes, and his own man confeſſed before the Council in *Ireland*, that my Lord gave them under his hand.

Mr. *Serj. Jeff.* What Year was this?

Moyer. It was in (76) to the beſt of my remembrance.

L. C. Juſt. Look you Sir, was this at a Provincial meeting?

Moyer. Yes, my Lord, a General National Council, to ſend over Inſtruments, to tell them, that they were ready to aſſiſt any foreign Army, that ſhould help on the deſign.

L. C. Juſt. And to raiſe mony?

Moyer. Yes, my Lord.

Mr. *Juſt. Dolb.* Have you paid him any mony?

Moyer. I was exempted myſelf, but I have ſeen others.

Mr. *Juſt. Dolb.* How many?

Moyer. I believe 30.

Mr. *Juſt. Dolb.* It was not a ſecret thing then, but openly done by them.

Moyer. Yes, I ſaw them when they came with orders,

orders, there were four Prieſts, and they had a great Cloak-bag going with orders up and down.

Mr. *Serj. Jeff.* Why were you exempted?

Moyer. Becauſe I am a Regular Prieſt.

Sir *Fra. Wythins.* You ſay you ſaw the Orders for raiſing of mony, how do you know for what it was to be employ'd?

Moyer. It was there ſpecified down.

Plunket. Can you ſhew any of the Orders?

Moyer. I could not take them, they did not concern me.

Sir *Fra. Wythins.* How was it ſpecified?

Moyer. To levy ſo much mony *per* Prieſt. I cannot remember the particular Sum; but that every Prieſt ſhould give ſo much towards an Agent in *Rome* to ſolicite their Buſineſs, and forward it.

L. C. Juſt. What year was it?

Moyer. (76.)

L. C. Juſt. Was any of the mony ſpecified for raiſing an Army, or bringing in the *French*?

Moyer. It was both for the Agent and to ſummon a National Council, to get things ready prepared to entertain and accept the *French* Army when it ſhould come. I am not ſo good in expreſſing myſelf in Engliſh.

L. C. Juſt. Your ſenſe is good, 'tis no matter for your expreſſion.

Mr. *Jones.* What more do you know?

Moyer. I know that he had the ſame Council, and that they did agree upon the buſineſs, and this I know by one *Patrick Borne*, and I being willing that this wicked Action ſhould be hinder'd, ſent to the next Juſtice to diſcharge my ſelf of it, which Juſtice was as favourable to the buſineſs as my Lord himſelf was.

L. C. Juſt. Will you ask him any Queſtions, Mr. *Plunket*?

Plunket. I deſire to know when he left *Ireland*.

Moyer. I cannot tell how to number the years, but I think it was in 62 or 63, to the beſt of my remembrance it was 16 or 17 years ago.

Plunket. When did you return?

Moyer. I came back in 74, you know it my Lord.

Plunket. Very well, when did you ſee the Letter with the young man in *Caprennica*?

Moyer. In (72.)

Plunket. How then did you know my hand, which you had never ſeen?

Moyer. I have ſeen it ſeveral times to ſeveral Inſtruments, to Seignior and I have ſeen ſeveral other Letters of your hand.

Plunket. How did you know my hand?

Moyer. I cannot poſitively ſay, I then knew your hand, but according to relation, I heard it from thoſe Cardinals I converſed with at *Rome*.

L. C. Juſt. But now you are acquainted with his hand, is it the ſame hand which you have ſeen up and down in writings with his name to?

Moyer. Yes my Lord, it is the very ſame hand.

Mr. *Serj. Jeff.* I ask you Sir, when you came back again and told him you had ſeen ſuch a Letter under his hand with O *Neale*, did he own it to you?

Moyer. Yes, he did own it, and that he did not do it for his own benefit, but for the publick.

Mr. *Serj. Jeff.* Did he deſire you to be ſecret?

Moyer. Yes, he did, and to be diſcreet, and he would ſee me highly promoted. And my Lord, you ſent Propoſals to me, to give me 100 *l.* that I ſhould not proſecute you, according as they told me, and they gave me one Guinea in hand for it.

L. C. Juſt. Some of it came to the hands of *Murfey* I believe.

Plunket. My Lord, I cannot ſay any thing to this, my hands are tied, becauſe my Witneſſes are not here. My Lord, if I had my Witneſſes and Records, I did not care for all theſe Witneſſes.

L. C. J. But you know, you had time to bring them.

Plunket. My Lord, I deſire to know whether this be his hand (ſhewing the Paper to Mr. *Moyer.*)

Moyer. Yes, I believe it is.

Plunket. I deſire it may be read.

Moyer. Yes, I am very well ſatisfied it ſhould.

Cl. of Cr. Reads. For my Reverend Father *Anthony* Guardian of *Armagh*, Your Letter and Citation —— 'Tis dated in *July* (78.)

Plunket. He can beſt read it himſelf.

Cl of Cr. Read it right (the Paper being delivered him)

Moyer. My Lord, I pity him with all my heart, that a Man of my own Function, ſhould be brought into Queſtion for ſuch things as theſe are, (he reads) Very Reverend Father Guardian, 'tis dated 1 *July* (78) Your paternities paternal Letter and Citation homeward, I did inſtantly peruſe. As for my Lord *Oliver Plunket*, I wrote a Letter to him the day before I ſaw your Reverends laſt, that he might cauſe my fame, which is as dear to me as my Life, to be recalled, or I ſhould cauſe his Name to be fixed at every publick place, which by the Almighty I will do, nature and all reaſon compelling me to do it.

Plunket. My Lord, I ſay this, he ſays he came to my Houſe when he came over, and I imparted this Secret to him, yet you ſee I had denounced him throughout my whole Dioceſs, and he here calls me by all thoſe Names of *Elymas*, *Simon Magus*, and *Barjeſus*, and 'tis impoſſible if I had communicated ſuch a Secret to him, that I would deal ſo with him

Mr. *J. Dolben.* He does not ſay, you imparted this Secret to him, but he ſays when he told you of the Letter, you anſwered him, but you ſeemed ſurprized and amuſed firſt.

L. C. J. You ſeemed to flatter him then, and told him you hoped to ſee him the beſt of his Order, highly promoted.

Mr. *J. Dolben.* How came you to fall out, *Moyer*?

Moyer. When firſt they had this meeting at *Brantry*, ſeeing a Cloud a coming, and dreading a War, and the Conſequences of it, I went and applyed my ſelf to Sir *Hamilton* one of His Majeſties Privy Counſellors in *Ireland*, and I gave in all my Informations the 7th *December* (76.)

Mr. *J. Dolben.* And thereupon he denounced you Excommunicate?

Moyer. Yes, and afterwards, when he ſaw I was in Communication and Familiar with theſe Privy Counſellors, then he was certain I had diſcovered the matter, and then he got a great many Devices to get the Letters out of my hand.

Plunket. You ſhall ſee under his own hand all the Stratagem of this, if I had my Witneſſes here

here, you ſhould then ſee under his own hand, upon what account he fell out with me. Pray my Lord ask him if this other Letter be his hand.

Moyer. I believe it is my own hand.

L. C. J. Read it.

Moyer. (Reads) Very Reverend Father Guardian (then ſpeaking) My Lord, you know that I was loth to diſcover my ſelf, being among People knowing of the Plot.

L. C. J. Well, read it over.

Moyer. (Reads) The 23d of *April* (78.) I was ſomewhat comforted by your Letter. But now I hope your Reverence hath conſider'd what wrong I have ſuſtained, by my envious Adverſaries Calumnies, only for ſtanding, as I have a Soul to ſave, for your Rights and Priviledges, as alſo for endeavouring to hinder my Native Countries ruin and deſtruction.

Mr. *J. Dolben.* Read that again. (which he did.)

Plunket. Obſerve, that I was his Adverſary, for ſtanding for the Rights and Priviledges of the Fryars.

Mr. *Juſt. Dolben.* As alſo for endeavouring to hinder his Countries ruin and deſtruction.

L. C. J. The one and the other were the reaſon of your falling out.

Moyer. (Reads on.)

Moyer. My Lord, I was, I confeſs, a begging Fryar, and ſtood up for the Priviledges of the Fryars.

Plunket. Did you write any Proceſs to *Rome* againſt me?

Moyer. No, I never did.

Plunket. My Lord, does not he ſay I was in diſgrace at *Rome*?

Moyer. No, nothing of that.

L. C. J. I don't hear it, but what if he did? what is that to the purpoſe?

Plunket. To ſhew his Contradictions, now he ſays, I was great in *Rome*, and but then in his Letter he ſays, I was in diſgrace at *Rome*. Now he ſays, all that he had againſt me, was for his Fryars, and to hinder the deſtruction of his Country, becauſe I hindred the Fryars to beg there, is the deſtruction of the Country, as he was doing there. Upon that he fell out with me, and upon that his own Superiors ſent this Order.

L. C. J. We can't meddle with your Superiors Orders, they are nothing before us.

Mr. *Serj. Jefferies.* My Lord, I think for the preſent, We have done our Evidence.

Plunket. My Lord, to ſhew what was part of the falling out, I would ask him if he was Indicted for any Crime, and found Guilty by a Jury?

Moyer. That was for diſcovering, for I diſcovered it before.

Plunket. My Lord, he confeſſes he was Convicted for giving Powder and Shot to the Rebels.

Mr. *J. Dolben.* No, he does not ſay ſo, produce the Record, if you have any ſuch thing.

Moyer. To ſatisfie the Court.

Mr. *Serj. Jefferies.* Look you Dr. *Plunket*, if you will ask him any Queſtions, that by Law he is bound to anſwer, do it of Gods Name, we will not interpoſe, but if you ask him any Queſtions that may tend to accuſe himſelf, we muſt tell you he is not bound to anſwer them.

Plunket. He hath been Convicted and found Guilty, he will confeſs it himſelf.

L. C. J. He is not bound to anſwer ſuch a Queſtion.

Moyer. It was a Tory ſwore againſt me, that you did abſolve.

Mr. *J. Dolben.* Don't tell us a Story of your Tories.

L. C. J. Look you Mr. *Plunket*, don't miſpend your own time; for the more you trifle in theſe things, the leſs time you will have for your Defence, I deſire you now to conſider, and well husband your time for your Defence; what have you to ſay for your ſelf?

Plunket. My Lord, I tell you, I have no way to defend my ſelf, in that I was denied time to bring over my Records and my Witneſſes which are 10 or 12. And if I had them here, I would ſtand in defiance of all the World to accuſe me; but I have not ſufficient time to bring over my Records and my Witneſſes, and I am brought here out of my Native Country; were I in *Ireland*, there both I and they ſhould be known: but when I was to be tried, they would not appear; and it is all falſe and only Malice. Theſe Men uſed to call me *Oliverus Cromwellus* out of Spight.

Mr. *Serj. Maynard.* You are very like him, a deſtroyer of the Government.

Mr. *Serj. Jefferies.* Were not you acquainted with him?

Plunket. This is all I can ſay. If I had my Witneſſes here, I ſhould make my Defence.

L. C. J. Here are ſome things, that if you can give an Anſwer to, you will do well to do it; for they ſtick cloſe to you. They do teſtifie againſt you here, that you did undertake to raiſe a body of Men in *Ireland*, 70000 Men they ſpeak of out of your own Nation, and all theſe were to joyn with the *French* for the introducing the Religion of the *Romiſh* Church into *Ireland*, and ſettling that again there. And that you in order to this, did take a Survey of all thoſe Roman Catholicks that were able to bear Arms, from 16 to 60; and there is plentiful Evidence, that you did go a Circuit there to peruſe all Towns, and ſee which might be moſt convenient for the taking in and entertaining the *French*, and landing their Forces; and *Charlemont*, you did deſign that for one ſtrong place to be taken, and *Dun Gannon* for another, and that you did deſign the *French* Army to land at *Carlingford*, and all that was with you, tells the reaſon you gave, why that ſhould be the place, that they might come up with a burdened Ship to the very Gates of the Town, that you did in order to the entertaining theſe Foreign Forces, raiſe Money, That you did ſend out your Orders *ſub pœna ſuſpenſionis* to all that were of the Roman Clergy, and that this Money was received, ſeveral of them teſtified that they paid it to you, and this Man hath ſeen great numbers of Perſons pay Money to you upon theſe Accounts. All theſe are Treaſon: what ſay you to them? It does import you to conſider what Anſwer you can give.

Plunket. My Lord, firſt as to the firſt point, I anſwer, that I never receiv'd a Farthing of Money out of my own Diſtrict, and but for my own Livelihood, and that I can prove by thoſe that have received it for me, that I never received over threeſcore Pound a Year in my Life, unleſs ſome Gentleman would now and then give me 10 s. for my relief. For, my Lord, this is the way in *Ireland*, every Prieſt hath ſo many Families allotted to him, and every Roman

man Catholick Family gives 2 s. a Year) *as they that profeſs that way, know)* and the Prieſts give me who am Superior over them, in my own Diſtrict, ſome 20 s. ſome 30 s. and I never got ſo much in my Life as to maintain a Servant, and this was atteſted before the Council in *Ireland*.

Mr. *J. Dolben.* Ay, but the Witneſſes ſay, out of your own Diſtrict you ſent into another Biſhops Dioceſs to Collect Money.

Plunket. My Lord, I ſay I could never get ſo much as to keep a Servant, and till now I never got a Farthing out of my own Dioceſs, unleſs I have been called to an Arbitration or ſome ſuch thing, it may be for my Journey and Expences 40 or 50 Miles they would give me ſomething for my Maintenance. If you ſhould find any thing elſe, I will be content to ſuffer, and if my Evidence were brought from *Ireland*, there is nothing but what would be made clear, both under their own hands and by Records, and that is all well known, and was atteſted in his Preſence before the Council in *Ireland*, which threeſcore pounds was a very ſmall thing to maintain me, and I never had above one Servant, and the Houſe I lived in was a little thatch'd Houſe, wherein was only a little Room for a Library, which was not 7 foot high, where once this fellow came to affront me, becauſe I hinder'd him from begging, and that's for the mony. For the Men, I defie any one that ever ſee me make a Liſt of Men in my life, or can produce any Liſt made by my order. I was never in my life at *Kingſale*, at *Corke*, at *Dun-Gannon*, at *Lymerick*, &c. or thoſe parts of *Munſter* which were the chief Ports where the *French* ſhould come in, and not in *Carlingford*, which is the narrow Seas in *Ulſter*, which any one that knows the World will judge to be a very improper place for the *French* to land in. 'Tis all one as to ſay that the *French* ſhould come in at a poor place where they could get nothing, it being at the narrow Seas, and they never ſaw me there in their lives.

L. C. Juſt. Yes, one does ſay, he was with you.

Plunket. Well, one does ſay he ſaw me there, but if I had my Witneſſes here, I could prove he was a Fryer, and declared an Apoſtate by his own Provincial, as this Gentleman is, and becauſe I hinder'd them to beg in my Diſtricts, therefore they have this malice againſt me, that is all. Well my Lord, that is for that, I was never in my life in *Connaught*; and they cannot ſay, I took any Liſt in *Ulſter*, nor was 12 miles in *Munſter* in my life. But thus my Lord, ſometimes there would be, as our way is, ſo many Families aſſigned to every Prieſt, *(and this is the plain truth,)* this Prieſt perhaps complains to me of the Inequality, my Companion near me hath 150, and I have but threeſcore, which I muſt rectifie; tho' I never knew but one of theſe Complaints. And if I had my Witneſſes from *Ireland* and the Records, I would defie all theſe Witneſſes together. For my ſending to *Rome*, I never had an Agent in *Rome* for theſe ſeven years paſt, becauſe I was not able to maintain him, and indeed it was a great ſhame to us; becauſe there is never a Community of Fryers, that hath a Colledge beyond Sea, but hath ſome Agent at *Rome*.

L. C. Juſt. 'Tis a ſhame to have one there, not to want one.

Mr. *Juſt. Dolb.* Well, if you have Witneſſes, I cannot tell what to ſay.

Plunket. If I had gotten but to the latter end of the Term, I had defied them all together. And your Lordſhip ſhould have ſeen under their own hands what they were.

L. C. Juſt. You forget this all this while, your own Letter; wherein this matter is, that you had ſearched the Towns and conſider'd it.

Mr. *Att. Gen.* He does deny there was ſuch a Letter, he does not own there was ſuch a Letter.

Plunket. I, my Lord, I never did write ſuch a Letter. And that young Man that he ſpeaks of, I could prove, if I had my Witneſſes, that he never was in any Service or Company in *Ireland*, nor writ any Letters by him.

L. C. J. Did you never ſend any Letter by one *O Neale*?

Plunket. No my Lord, but he went over a begging.

Moyer. This young Man's Brother in Law will teſtifie, that he was your Lordſhips Page.

Plunket. I have 3 Witneſſes that he came there begging naked, and was ſick Three Months, and went over a begging, and was at *Rome* as a Stragler.

Moyer. Call *Hanlet*, (who came in.)

Sir *Fran. Wythins.* Did you know *Neale O Neale*?

Hanlet. Yes.

Sir *Fran. Wythins.* Whoſe Servant was he?

Hanlet. My Lord *Plunket* ſent him to *Rome*; he was ſent there with his Letters, and I ſaw the young Man and his Letters.

Mr. *Jones.* Did he come a begging there?

Hanlet. No.

Plunket. Where did you ſee him?

Hanlet. At *Mant*.

Plunket. Where is that?

Hanlet. In *France*.

Plunket. And you ſaw him with my Letters?

Hanlet. Yes.

Plunket. And this Man ſays, the Letters were opened at *Caprennica*, becauſe he thought they were Letters of Recommendation.

Hanlet. Why, he went that way afterwards, and they were not opened, when I ſaw them.

Mr. *Serj. Jefferies.* Did you know he was the *Doctors* Servant?

Hanlet. Yes, he was.

Plunket. Did you ſee him in my Service?

Hanlet. I ſaw him in *Mant*.

Mr. *J. Dolben.* How do you know he was the Biſhop's Servant?

Hanlet. Becauſe he ſhew'd me his Letter.

L. C. J. Was he owned for his Servant, and was he taken for his Servant?

Hanlet. Yes.

Plunket. Did he go on Foot, or on Horſeback.

Hanlet. He went on Foot.

Plunket. He was in a poor Condition in a place not above four Miles from *Rome*, that I can prove.

L. C. J. Did he beg as he went?

Hanlet. No.

L. C. J. Mr. *Plunket*, if there is any Queſtion you will ask of the Witneſſes; or if there be any Evidence you would give your ſelf, this is your time for the doing of it; if not, we muſt leave your Caſe to the Jury, who have heard the Evidence all along.

Plunket. Only this my Lord, your Lordſhip ſees how I am dealt with. Firſt and foremoſt, I have not time to bring my Witneſſes or my

Records

Records, which if I had, I would not weigh one Farthing to leave my Cauſe with any Jury in the World. Beſides all this, I am brought out of my own native Country, where theſe men lived, and I lived, and where my Witneſſes and Records are, which would ſhew what theſe People are. I ſent by the Poſt, and did all that I could, and what can I ſay when I have not my Witneſſes againſt theſe People, they may ſwear any thing in the World. You cannot but obſerve the Improbability of the thing in itſelf, and unto what a Condition I am brought. My Lord, my Life is in imminent Danger, becauſe I am brought out of my own Country, where theſe People would not be believed againſt me.

Mr. *Sol. Gen.* My Lord, I think this matter lies in a narrow Compaſs, the Evidence hath been long; I would only repeat the ſhort heads of that which hath been given at large. He is indicted for a Conſpiracy to kill the King, the Overt Act is an Endeavour to introduce a foreign Power into *Ireland*, to raiſe an Army, and levy War there; and the Proof of it hath been very full. The Proof in general, that there was a Plot to introduce the *French*, is plain by all the Witneſſes, and the Proof in particular upon this Perſon at the Bar, hath been as plain as any thing can be. They prove to your Lordſhip in general, that there was an Expectation that the *French* ſhould come in, that there was an Invitation of *Florence Wyer* the firſt Witneſs, to go over into *France*, and ſpeedily he ſhould have a Command upon his return, in *Ireland*, that there were Preparations; for this appears by the Oath of Secrecy given to ſeveral men. Forty men that came along with Biſhop *Tyrrel* to keep it private during their Lives. And there was a farther Proof of that general Conſpiracy by *Duffy*, that when there was a general meeting of ſo many thouſand People for Confirmation, there was by the Gentlemen at that meeting a ſecret Conſultation how to carry on the Deſign, and how to look out the old Officers in the late Rebellion, and to ſee what Poſture they were in, as to the management of this Deſign; and this comes now particularly to the Priſoner, who was by at this Conſultation, ſo the Witneſſes do tell you. But that that comes nearer to him, is, that he did iſſue out Orders for the raiſing of mony, and that he did raiſe mony purſuant to thoſe Orders, and did receive mony for that very purpoſe: This is proved by three Witneſſes, *Duffy*, and *Mac Legh*, who paid the mony, and by *Moyer* the laſt Witneſs, who ſaw him receive it from ſeveral Perſons. This is poſitive upon him; nay, they ſay farther, that there was a Liſt made of the ſeveral men, in the ſeveral Pariſhes, that were able to bear Arms upon occaſion, from ſixteen to ſixty, and there was a Liſt of a matter of threeſcore thouſand men that were ready upon any Occaſion to riſe for the Purpoſe, and this Liſt was deliver'd over into the hands of the Priſoner at the Bar. There is one Witneſs, *Duffy*, that ſays farther, that he ſaw a Letter under his hand in *France* to the Cardinal *Bouillon*, to invite the *French* King into *Ireland*; and he did wonder that he ſhould ſpend his Time and Blood in Wars againſt *Spain*, which was a Roman Catholick, and not come into *Ireland* to extirpate the Hereticks And this Letter is confirmed by another Letter, which was ſeen by *Moyer*, a Copy of which is produced, which he tranſlated from the Original in Latin, and the Letter was ſent to *Rome* by *Neale O Neale*, whom the Priſoner ſays he had no Concern for, but to give him ſome Recommendations.

Plunket. I gave him no Recommendations.

L. C. Juſt. No, he ſays he did not give him any, nor ſent any Letter by him.

Mr. *Sol. Gen.* Then he urged, that he went along begging by the way; but 'tis proved he was ſent by him, and ſent with Letters, and that by his Brother-in-Law, who met him at *Mants*. And 'tis proved by *Moyer*, who ſaw the Letter opened, taking it to be but a common Letter of Recommendation, he read the Letter and took a Copy of it, and tranſlated that Copy, which Tranſlation is enough to verify all the matter which the Witneſſes have ſworn, for 'tis agreeing to what he ſaid to Cardinal *Bouillon* in his other Letter, that it was more proper for the Catholick Princes to agree together to extirpate Hereſy, than to vary amongſt themſelves; that now was the time; for there were threeſcore thouſand men ready to riſe upon ſuch an Invaſion. This is the Subſtance of the Letter, and this proves fully the Conſpiracy this man was ingaged in, his receiving mony, his liſting men, and his Invitation of foreign Princes. And this is fully proved.

Mr. *Serj. Maynard.* And ſo his viewing the Ports too.

Mr. *Sol. Gen.* It was likewiſe agreed that *Carlingford* ſhould be the Port, and 'tis like enough to be the Port, for 'tis a very large Port, that Ships of the greateſt Burden may come up to the Town, and the Town itſelf but a weak Town. This is the Subſtance of the Evidence, and this is Proof enough, we think, to convict any man of this Fact.

Mr. *Serj. Jeff.* My Lord, I ſhall trouble you but with one word that hath been omitted. I think 'tis a Cauſe of great Example, and that thing which the Priſoner ſeems to make his Excuſe, hath been anſwered by a Favor and Indulgence from the Court in a very extraordinary manner. For, in as much as this Gentleman would make it a very hard Caſe, that he is brought out of his own Country, and hath not his Witneſſes; it is very well known that by a particular Favour of the Court, which is not uſual in theſe Caſes, he had between five and ſix weeks time for preparation for his Tryal: So that truly as to what does appear, I think all the Witneſſes that have been examined, are Witneſſes to be credited, except you Gentlemen, of your ſelves can convict upon your own Knowledge theſe Perſons of any Miſdemeanor, which I think you cannot, much leſs of Perjury. But beſides, the Witneſſes we have produced, all which ſpeak to the Plot in general, and four of them fix it upon the Perſon at the Bar; they ſpeak particularly, and every one agrees in Circumſtances, and that other that ſpoke mincingly, I put it upon; it is the greateſt Evidence that can be. For that perſon that could come before a Grand-Jury, and there be the main Witneſs, but when he comes here, muſt be ſcru'd and pump'd to diſcover the ſeventy thouſand men. And I ſuppoſe you did obſerve how difficult it was to know of him, whether this perſon was Primate of *Ireland*, or whether it were from the Authority of the King or the Pope; a very probable thing, that he ſhould be ſuch a one as the King deſigned to be Primate and Superintendent of

of *Ireland*. Further my Lord, this I desire to take notice of too, that *Wyer*, the first Witness, fixes four particular things upon the Prisoner at the Bar, which have not yet been taken notice of. First, he fixes a Discourse with another Person that was Competitor with him for this very Office, Bishop *Duffy*, and he gives the Reason why he was admitted into the Office rather than the other, because he was a Man of greater Ability to carry on the Design, and tho' he does not give you an account of the Design; yet the rest of the Evidence do, and make it to be the Design then carrying on. Another thing is, he tells you of the sending one into *France*, that was to come back again in order to this Design, I think his Name was *Mac Donnel*, and then the great Tory *Flemming* and he were to come back again Colonels in the Army that was to be raised. The next Person, that fixes it upon him, is Mr. *Han O Neal*, and he gives the plainest Circumstances, That at a time in *August* when Bishop *Tyrrel* came to the House of one *Bradey* with so many Men well equipped with such and such Arms, and took the Oath of Secrecy; he himself, but not only he, but the other Priest *Mac Legh*, was present at the same time, and took the said Oath, and he does tell you that that very Priest was sent to *Dublin* to discover it at that very time, and so he hath fixed the Person, and Time, and the Business they came about. Then *Mac Legh* comes and tells you the same thing in every Circumstance; ay, but says the Prisoner at the Bar, and would make it to be a great Objection, How chance that they have concealed this all the while, and not discovered it to some Justice of the Peace? Why, says one, I was under your Jurisdiction in that place that is the very reason he gives wherefore he durst not, and says another, I was concerned and as earnest as the Prisoner or any body else, but going into *France*, I observed the Slavery that all the Subjects were under, under the Tyranny of that King, and apprehending that the same King was to come into *Ireland* by the means of these Gentlemen; I was concerned at it, and had rather the Devil should reign over us than such an one, and therefore I will discover it. And he said very well I think, that he had rather have the Devil to reign; for it seems to be him, or one in his shape that reigns after that manner. And there are two Persons that swear to the very Year that they were obliged to raise the Money, and swear positively, they saw his Orders, *Sub pœna suspensionis*, I do not know whether they meant hang'd or suspended from their Office. But it seems it was so terrible, that it made them pay twenty Shillings apiece for three Years successively. And there is another Gentleman that tells you, that out of a small Living, wherein he was concerned only as Curate to a third Person it had been paid two or three times, and another tho' he was exempt himself from the Payment, yet so great a Confident was he of the Prisoner's at the Bar, that he was present when he saw thirty or forty pay this Tax, and whereas the Prisoner at the Bar would make it thought a strange thing, that he should raise so much Money, who had but an house seven foot high, it seems there is above that thatched House a Chappel.

Plunket. There is no Chappel.

Sir. *Geo. Jeff.* But now my Lord, that which substantially proves what these Witnesses say, is the Letter that is sent to *Rome* to the Secretary of the College *de propaganda Fide*, which is the last Letter that the last Gentleman speaks of, wherein he does particularly take notice, that he had taken care to raise such Moneys, and view all the Ports and Places of Strength. And my Lord, that which is a very great Circumstance to back the Evidence of the first Letter to the French Cardinal *Bouillon*, which was taken notice of by the first Witness, and there is such a Passage in this too that the Catholick Princes should not spill one anothers Blood, when they might better employ it here in *Ireland* for the Propagation of the Faith; this last Letter takes particular Notice of this very Instance too, that instead of drawing their Swords against one another, they had better come to promote the Catholick Faith in *Ireland*. These four Witnesses are punctual and precise in every particular Circumstance of the Case, and against them there is nothing but the common Objection. If I had such Records, and Witnesses here, I could make my Defence, that is, if he had those things that he has not, he might appear to be another Man than he is; but I am sure, as it appears upon the Evidence that hath been given by all the Witnesses, there is a plain Proof, and a full Proof of every Treason laid to his Charge.

Plunket. My Lord, I desire these Witnesses may be called [*giving in a Paper.*]

Cryer. *David Fitz-Gerard*, *Eustace Commines* and *Paul Gormar*.

L. C. J. Who gave him this Paper? he had it not before.

Stranger. I was told that these were good Evidences for Dr. *Plunket*, and I gave him the Names.

L. C. J. Where are they?

Stranger. They are hard by.

Mr. *Att Gen.* Where is *Eustace Commines*? for he was one that gave in Evidence against the Prisoner.

Then *Paul Gormar* appeared.

L. C. J. What would you ask him?

Plunket I desire to know of him, whether Mr. *Moyer* did allure and intice him to swear against me?

Gormar. Indeed my Lord he never did.

L. C. J. Will you ask him any more?

Gormar. But this my Lord, Mr. *Moyer* and I were in Discourse, and he said if there was Law to be had in *Ireland*, he would shew Mr. *Plunket* his share in it.

L. C. J. Well, what of that?

Gormar. My Lord, I did come out of *Ireland* to reveal what Plots the Irish had against the King, and as for this Mr. *Plunket*, as I have a Soul to save, I never heard of any Misdemeanor of him.

Mr. *J. Dolben.* How came you here to day?

Gormar. I was summoned.

Mr. *J. Dolben.* By whom? Was it the Attorney General or *Plunket* that summoned you?

Gormar. Here is the Summons.

Mr. *Serj. Jefferies.* It is a common *Subpœna*.

Plunket. I never sent for him.

Gormar. It was not against you, they knew I had nothing against you, I thought you did

more good in *Ireland* than hurt, ſo I declare it.

L. C. J. Have you any more Witneſſes? If *Fitz-Gerard* or *Commines* will come, we will hear them.

Plunket. My Lord, I have not any more Witneſſes.

L. C. J. Look you Gentlemen of the Jury, This Gentleman here Mr. *Plunket*, is indicted of High-Treaſon, and 'tis for Conſpiring the King's Death, and endeavouring to bring the French Army into *Ireland* for to invade that Kingdom, and to plant the Romiſh Religion in that Kingdom. You have had Evidence againſt him that hath been fully examined. And theſe things do ſeem to be very plain by the Witneſſes, That he himſelf hath taken a Commiſſion, or a Grant, or what you will pleaſe to call it, from the Pope to be Primate of *Ireland*, that he hath taken upon him to make Laws as the Provincial, and that he hath undertaken and endeavoured to ſettle the Popiſh Religion in that Kingdom, and in order to that, he hath invited the Aid of the French Army, and that he hath for the better landing of them, looked out what places were moſt convenient for them; That he hath ſet a Tax upon the Clergy within his Province for the facilitating of all this, and for the making Preparations for the Entertainment of this Army. This the Witneſſes teſtifie againſt him, and that there were ſome Towns, as *Dungannon* and another Town, that were to be betrayed to the French. Now you muſt conſider concerning theſe Witneſſes: If you believe the Evidence that hath been given, and which hath been repeated by the King's Council, and if you believe that he did deſign to bring in a French Army, to eſtabliſh the Roman Religion there again, and that he took upon him to raiſe Money for that purpoſe, ſurvey'd the Ports, and made ſuch Proviſions, as the Witneſſes ſpeak of, and was in that Conſpiracy; you muſt find him Guilty. I leave it to you, it is a pretty ſtrong Evidence, he does not ſay any thing to it, but that his Witneſſes are not come over.

Plunket. I can ſay nothing to it, but give my own Proteſtation, that there is not one Word of this ſaid againſt me is true, but all plain Romance, I never had any Communication with any French Miniſter, Cardinal, nor other.

Then the Jury withdrew for a quarter of an Hour, and being returned gave this Verdict.

Cl. of Cr. Oliver Plunket, hold up thy hand. How ſay you, is he guilty of the High-Treaſon whereof he ſtands Indicted, or not Guilty?

Foreman. Guilty.

Plunket. Deo gratia, God be thanked.

Then the Verdict was Recorded, and the Court roſe. And the Keeper went away with his Priſoner.

On Wedneſday 15 *Junii*, 1681. *Oliver Plunket* was brought to the Bar to receive his Judgment.

Mr. *Att. Gen.* My Lord, I pray your Judgment againſt the Priſoner *Oliver Plunket*.

Cl. of Cr. Oliver Plunket, hold up thy Hand; Thou haſt been Indicted of High-Treaſon, thou haſt been thereupon Arraigned, thou haſt thereunto pleaded not Guilty, and for thy Tryal haſt put thy ſelf upon God and the Country, which Country hath found thee Guilty, what haſt thou to ſay for thy ſelf, why Judgment of Death ſhould not paſs upon thee, and Execution be thereupon awarded according to the Law.

Plunket. My Lord, may it pleaſe your Lordſhip, I have ſomething to ſay, which if your Lordſhip will conſider ſeriouſly, may occaſion the Courts Commiſeration and Mercy. I have my Lord for this Fact been Arraigned in *Ireland*, and brought to my Tryal there. At the Day of my Tryal all the Witneſſes voluntarily abſented themſelves, ſeeing I had Records and Witneſſes to convince them evidently and ſhew what Men they were, and the prepenſed Malice that they did bear to me, and ſo finding that I could clear my ſelf evidently, they abſented themſelves, on the Day of my Tryal no Chriſtian appeared, but hither over they came, and procure that I ſhould be brought hither, where I could not have a Jury that knew the Qualities of my Adverſaries, or who knew me, or the Circumſtances of the Places, Times, and Perſons; the Juries here as I ſay were altogether Strangers to theſe Affairs, and ſo my Lord they could not know many things that conduce to a fair Tryal, and it was morally impoſſible they ſhould know it. I have been accuſed principally and chiefly for ſurveying the Ports, for fixing upon *Carlingford* for the Landing of the *French*, for the having of ſeventy Thouſand Men ready to joyn with the *French*, for collecting Money for the Agents in this matter, for aſſiſting of the French and this great Utopian Army. A Jury in *Ireland* conſiſting of Men that lived in that Country, or any Man in the World that hath but ſeen *Ireland* in a Map, would eaſily ſee there was no probability that that ſhould be a place fit for the French to land in, tho' he never was in *Ireland*, yet by the Map, he would ſee they muſt come between the narrow Seas all along to *Ulſter*, and the Rocks, and ſuch places would make it very dangerous; and by their own Confeſſion it was a poor Town, and of no ſtrength, a very ſmall Garriſon, which had not been ſo, if it had been a place of any Conſideration. And whereas I had Influence only upon one Province, as is well known, tho' I had the Title of Primate of all *Ireland*, as the Arch-Biſhop of *Canterbury* hath of all *England*; yet the Arch-Biſhop of *York* will not permit him to meddle with his Province; and 'tis well known by the Gentry there, and thoſe that are accuſtomed to the place; That in all the Province of *Ulſter*, take Men, Women, and Children of the Roman Catholicks, they could not make up ſeventy Thouſand. This, a Jury there my Lord had known very well, and therefore the Laws of *England*, which are very favourable to the Priſoner, have provided that there ſhould be a Jury of the Place where the Fact was Committed, as Sir *Thomas Gaſcoine*, as I have heard, had a *Yorkſhire* Jury, tho' he was tried at *London*. And then after my coming here, I was kept cloſe Priſoner for ſix Months, not any Chriſtian was permitted to come at me, nor did I know any thing, how things ſtood in the World. I was brought here the third of *May*, to be Arraigned, and I did petition your Lordſhip to have ſome Time for my Tryal, and I would have it put off till *Michaelmas*, but your Lordſhips did not think fit to grant ſo long, but only till the eighth of this Month, when my Witneſſes who were ready at the Sea ſide, would not come over without Paſſes, and I could not get over the Records without an Order from hence; which

which Records would have ſhewn that ſome of the Witneſſes were Indicted and found Guilty of high Crimes, ſome were impriſoned for Robberies, and ſome of the Witneſſes were Infamous People, ſo I petition'd the eighth of this Month, that I might have time but for twelve Days more, but your Lordſhip thought, when the Motion was made, that it was only to put off my Tryal, and now my Witneſſes are come to *Coventry* yeſterday morning, and they will be here in a few Days, and ſo for want of time to defend my ſelf in, I was expoſed to my Adverſaries, who were ſome of my own Clergy, whom for their debauched Lives I have corrected, as is well known there. I will not deny my ſelf, but that as long as there was any Toleration and Connivance, I did execute the Function of a Biſhop, and that by the ſecond of *Elizabeth* is only a Premunire, and no Treaſon. So that my Lord, I was expoſed Defenceleſs to my Enemies, whereas now my Witneſſes are come on, that could make all appear. I did beg for twelve Days time, whereby you might have ſeen as plain as the Sun, what thoſe Witneſſes are, that began the Story, and ſay theſe things againſt me. And my Lord, for thoſe Depoſitions of the ſeventy thouſand Men, and the Monies that are Collected of the Clergy in *Ireland*, they cannot be true, for they are a poor Clergy that have no Revenue nor Land; They live as the Presbyterians do here, there is not a Prieſt in all *Ireland*, that hath certainly or uncertainly above threeſcore Pounds a Year, and that I ſhould Collect of them forty Shillings a piece, for the raiſing of an Army, or for the Landing of the French at *Carlingford*; if it had been brought before a Jury in *Ireland*, it would have been thought a meer Romance. If they had accuſed me of a *Præmunire* for the exerciſe of my Epiſcopal Function, perhaps they had ſaid ſomething that might have been believed, but my Lord, as I am a dying Man, and hope for Salvation by my Lord and Saviour, I am not guilty of one point of Treaſon they have ſwore againſt me, no more than the Child that was born but yeſterday. I have an Atteſtation under my Lord of *Eſſex*'s hand concerning my good Behaviour in *Ireland*, and not only from him, but from my Lord *Berkly*, who was alſo Governor there, which the King's Attorney ſaw; But here I was brought, here I was tried, and having not time to bring my Witneſſes, I could not prove my Innocency, as otherwiſe I might. So that, if there be any Caſe in the World that deſerves Compaſſion, ſurely my Caſe does: and 'tis ſuch a rare Caſe, as I believe you will not find two of them in Print, that one arraigned in *Ireland*, ſhould be tried here afterwards for the ſame Fact. My Lord, if there be any thing in the World that deſerves Pity, this does, for I can ſay, as I hope for Mercy, I was never Guilty of any one point they have ſwore againſt me, and if my Petition for time had been granted, I could have ſhewn how all was prepenſe Malice againſt me, and have produced all Circumſtances that could make out the Innocency of a Perſon. But not having had time enough, and being Tried, I am at your Mercy.

L. C. Juſt. Well, you have nothing further to ſay in Bar of Judgment, you have ſaid all you can?

Plunket. I have nothing further to ſay, but what I have ſaid.

Then Proclamation was made for Silence, while Judgment was paſſing upon the Priſoner.

L. C. Juſt. Look you Mr. *Plunket*, you have been here indicted of a very great and heinous Crime, the greateſt and moſt heinous of all Crimes, and that is, High Treaſon; and truly yours is a Treaſon of the higheſt Nature, 'tis a Treaſon in truth againſt God and your King, and the Country where you lived. You have done as much as you could to diſhonour God in this Caſe; for the bottom of your Treaſon was, your ſetting up your falſe Religion, than which, there is not any thing more diſpleaſing to God, or more pernicious to Mankind in the world. A Religion that is ten times worſe than all the Heatheniſh Superſtitions; the moſt diſhonorable and derogatory to God and his Glory of all Religions or pretended Religions whatſoever, for it undertakes to diſpenſe with God's Laws, and to pardon the breach of them. So that certainly a greater Crime there cannot be committed againſt God, than for a man to endeavour the Propagation of that Religion; but you, to effect this, have deſign'd the Death of your lawful Prince and King. And then your deſign of Blood in the Kingdom where you lived, to ſet all together by the Ears, to deſtroy poor innocent People, to proſtitute their Lives and Liberties, and all that is dear to them, to the Tyranny of *Rome* and *France*; and that by introducing a *French* Army. What greater Evil can be deſigned by any man? I mention theſe things, becauſe they have all been fully proved againſt you; and that you may take notice, and repent of them, and make your Peace with God, by a particular Application for Mercy for all theſe Faults; for it ſeems to me, that againſt God, your Prince, and Fellow Subjects, you have behaved yourſelf very ill, deſigning very great Evil to all theſe; and now it hath pleaſed God to bring you to Judgment.

I muſt tell you, peradventure what you urge for yourſelf might introduce pity, if it were to be believed; that is, that you are innocent, and had Witneſſes to prove it; but we cannot ſuppoſe any man innocent, that hath had a legal and a fair Tryal, and a Tryal with as much Candor to you, as your Caſe could bear, or as perhaps any man in ſuch a Caſe ever had. You had time upon your Requeſt to ſend for your Witneſſes, to help you in your Defence, and to have proved your Innocence, if you could have done it; Time long enough to your own Content, you yourſelf thought it ſo, at the time it was given. To give a Priſoner under your Circumſtances, five or ſix weeks time to ſend for Witneſſes, is not uſual; we could have put you upon a preſent Defence, and hurried you out of the World by a ſudden Tryal, if we had had any deſign againſt you; but we go on in a fair way, and with legal Proceedings, and with as much Reſpect to you, as in ſuch a Caſe could be uſed, for we gave you all the fair Hearing and Liberty that you deſired to have.

Look you, as to what you urge, that your Tryal was in this Kingdom, whereas your Offence was in another, that is a thing that does not become you by any means to object; for you have had a Tryal here by honeſt Perſons, and that according to the Laws which obtain in this Kingdom, and that too of *Ireland*, which is by a Statute not made on purpoſe to bring you

into a Snare, but an ancient Statute, and not without Presidents of its having been put in Execution before your time: For your own Country will afford you several Presidents in this Case, as O *Rurke*, and several others that have been Arraigned and Condemned for Treason done there. So that you have no reason to except against the Legality of your Tryal. You say, now you have Witnesses that could prove all this matter; why that lies in the mouth of any man that is condemned to say; but pray consider with yourself, what regard ought to be given to this. We cannot help it, if your Witnesses don't come; you may remember they wanted not Time nor Opportunity to come over; but you told us they would not come unless they had a Passport.

Plunket. My Lord, they got a Pass to come over afterwards, and so in eight days they came hither.

L. C. Just. You might have provided yourself, if they wanted such a thing. In the first place, no body is bound to give it them, much less could you expect it for them without asking.

Plunket. I could not get the Copies of the Records neither by any means, unless I had an Order from the Council, and they would not give that Order, unless your Lordship appointed it.

L. C. Just. We cannot tell that, you should have petitioned in time.

Plunket. How could any one foresee, unless he was God Almighty, that they would deny it, or that he could not get out a Copy of a Record, paying for it, without a Petition. All the Friends I had, told me, upon motion there it might be had; but here I have it under the Lieutenants and Councils hands, that they would give no Copy of Records without Order from hence, which before I could know it, it was impossible for me to have them ready against my Tryal.

L. C. Just. Look you Sir, I do speak this to you, to shew you that those Objections, which you seem to make against your Tryal, have no weight at all; but in this Case it is not the Jury that are so material as the Witnesses themselves. I appeal to all that heard your Tryal, if they could so much as doubt but that you were guilty of what you were charged with. For consider, here were Persons that were of your own Religion, the most of them Priests, I think almost all of them in Orders.

Plunket. There were two Fryers, and a Priest whom I have endeavoured to correct this seven Years, and they were Renegadoes from our Religion, and declared Apostates.

L. C. Just. Look you Sir, they gave an Evidence very home to your matter; you had Liberty to examine them, and they gave you a rational Account of any thing you ask'd. Let me but put you in mind of one thing. You made Exceptions to one's Evidence, (and indeed that was very much of your Exception to all) why he did not reveal this in all that time: Truly he told you he was of your mind, till he went into *France*, and saw what a Slavery and Mischief you endeavoured to introduce upon his and your own Countrymen, and this his Spirit rose against, to see what a Condition *Ireland* was like to be brought into. And pray, did he not give you a full Answer to that Question?

Plunket. I had sufficient Witnesses to prove he was an Apostate, and was chastised by me, and therefore had prepensed malice against me.

L. C. Just. Therefore I have spoken this to the Satisfaction, I hope, of yourself and all that hear it. I do now wish you to consider, you are near your end. It seems you have lived in a false Religion hitherto; it is not too late at any time to repent, I wish you may have the Grace to do so: In the mean time there is no room for us here to grant you any kind of mercy, tho' I'll tell you, we are inclined to pity all Malefactors: Whoever have done evil, we are inclined to pity them, and wish heartily that they may repent, as we do that you may, of what you have done. But all we can do now, is to say what the Law says, and that is to pass Judgment upon you.

Plunket. May it please your Lordship to give me Leave to speak one word. If I were a man that had no care of my Conscience in this matter, and did not think of God Almighty, or Conscience, or Heaven, or Hell, I might have saved my Life; for I was offer'd it by divers People here, so I would but confess my own Guilt, and accuse others. But my Lord, I had rather die ten thousand Deaths, than wrongfully accuse any body. And the time will come when your Lordship will see what these Witnesses are, that have come in against me. I do assure your Lordship, if I were a man that had not good Principles, I might easily have saved my Life, but I had rather die ten thousand Deaths, than wrongfully to take away one farthing of any mans Goods, one day of his Liberty, or one minute of his Life.

L. C. Just. I am sorry to see you persist in the Principles of that Religion.

Plunket. They are those Principles, that even God Almighty cannot dispence withal.

L. C. Just. Well, however the Judgment which we give you is that which the Law says and speaks. And therefore you must go from hence to the place from whence you came, that is to *Newgate*, and from thence you shall be drawn thro' the City of *London* to *Tyburn*; there you shall be hang'd by the Neck, but cut down before you are dead, your Bowels shall be taken out, and burnt before your Face, your Head shall be cut off, and your Body be divided into four Quarters, to be disposed of as his Majesty pleases. And I pray God to have Mercy upon your Soul.

Plunket. My Lord, I hope I may have this Favor, of Leave, for a Servant and some few Friends that I have, to come at me.

L. C. Just. I think you may have Liberty for any Servant to come to you, I know nothing to the contrary.

Plunket. And some few Friends that I have in Town.

L. C. Just. But I would advise you to have some Minister to come to you, some Protestant Minister.

Plunket. My Lord, if you please, there are some in Prison, that never were indicted or accused of any Crime, and they will do my Business very well; for they will do it according to the Rites of our own Church, which is the ancient Usage, they cannot do better, and I would not alter it now.

L. C. Just. Mr. *Richardson*, you may let his Servant come to him, and any Friend in your Presence, to see there be no Evil done, nor any Contrivances that may hereafter have an Influence upon Affairs.

Mr. *Just. Jones.* Be you present, or somebody.

Plunket.

Plunket. My Servant I hope may come, without his being preſent.

L. C. Juſt. Yes, yes, his Servant may be with him alone. Well Sir, we wiſh better to you than you do to yourſelf.

Plunket. God Almighty bleſs your Lordſhip. And now my Lord, as I am a dead man to this World, and as I hope for Mercy in the other World, I was never guilty of any of the Treaſons laid to my Charge, as you will hear in time; and my Character you may receive from my Lord Chancellor of *Ireland*, my Lord *Berkley*, my Lord *Eſſex*, and the Duke of *Ormond*.

Then the Keeper took away his Priſoner, and upon Friday *the firſt of* July, *he was executed according to the Sentence.*

The TRYAL *of Sir* Miles Stapleton, *Bar.*

33 Car. 2. 1681.

SIR *Miles Stapleton*, Baronet, was indicted at a Seſſions of *Oyer* and *Terminer* at the Weſt Riding of the County of *York*, and the Indictment was removed by a Writ of *Certiorari* to the King's Bench, where Sir *Miles Stapleton* having been arraigned and pleaded to the ſame Not Guilty, was ſent down to be tried in the County of *York*. The Indictment was as followeth.

' Sir *Miles Stapleton* late of *Carleton* in the ' County of *York*, Baronet, ſtands indicted, for ' that he as a falſe Traytor againſt our illuſtrious ' and excellent Prince, King *Charles* the ſecond, ' his natural Lord, not having God before his ' eyes, nor weighing the Duty of his Allegiance, ' but by the inſtigation of the Devil being mov'd ' and ſeduced, the cordial Love, and true, due, ' and natural Obedience, which true and faithful Subjects of our Lord the King ſhould bear ' to him, and of right are bound to bear, wholly ' withdrawing, deviſing, and with all his power ' intending, to diſturb the Peace and common ' Tranquillity of this Realm, and to bring and ' put our ſaid Lord the King to death and final ' deſtruction, and the true Worſhip of God in ' this Kingdom by Law eſtabliſhed and uſed, to ' alter to the Superſtition of the Church of *Rome*, ' and to move and ſtir up War againſt our ſaid ' Lord the King in this Realm, and to ſubvert ' the Government of this Kingdom, the 30th ' day of *May*, in the thirty firſt Year of our ſaid ' Lord the King's Reign, at the Pariſh of *Barwick* in *Elmett* in the ſaid County of *York*, in the ' Weſt Riding of the ſame County, with divers ' other falſe Traytors unknown, did traiterouſly ' compaſs, imagin and intend, the death and ' final deſtruction of our ſaid Lord the King, ' and to change and alter, and wholly to ſubvert ' the ancient Government of this Realm, and to ' depoſe and wholly to deprive the King of the ' Crown and Government of the ſaid Kingdom, ' and to root out the true Proteſtant Religion: ' And to fulfil and accompliſh the ſame moſt ' wicked Treaſons, and traiterous Imaginations ' and Purpoſes, the ſaid Sir *Miles Stapleton*, and ' other falſe Traytors unknown, on the ſaid 30th ' of *May* in the thirty firſt Year aforeſaid, with ' Force and Arms, at the Pariſh of *Barwick* aforeſaid, adviſedly, deviliſhly, maliciouſly and traiterouſly, did aſſemble, unite and gather themſelves together, and then did deviliſhly, adviſedly, maliciouſly, craftily and traiterouſly, conſult and agree, to bring our ſaid Lord the ' King to death and final deſtruction, and to depoſe and deprive him of his Crown and Government, and introduce and eſtabliſh the Religion of the Roman Church in this Realm; ' and the ſooner to fulfil and accompliſh the ſaid ' moſt wicked Treaſons and traiterous Imaginations and Purpoſes, the ſaid Sir *Miles Stapleton*, ' and other unknown Traytors, then and there ' adviſedly, maliciouſly and traiterouſly, did further conſult and agree to contribute, pay and ' expend divers large ſums of mony, to divers of ' the King's Subjects, and other perſons unknown, to procure thoſe perſons traiterouſly ' to kill our ſaid Lord the King, and to introduce ' the Roman Religion into this Realm, againſt ' the Duty of his Allegiance, againſt the Peace ' of our ſaid Lord the King, his Crown and ' Dignity, and againſt the form of the Statute ' in ſuch Caſe made and provided.

Clerk of Aſſize. Hold up thy hand Sir *Miles*, thou haſt heard the Treaſons and other miſdemeanors whereof thou ſtandeſt indicted; Art thou guilty thereof or not guilty?

Sir *Miles.* Not guilty.

Clerk of Aſſize. How wilt thou be tried?

Sir *Miles.* By God and my Country.

Clerk of Aſſize. Culprit, God ſend thee a good deliverance.

Clerk of Aſſize. Sir *Miles*, this underſtand you, that theſe Gentlemen that are now to be ſworn, are returned by the Sheriff of this County, to paſs between our Sovereign Lord the King and you for your Life; therefore if you will challenge any of them, you are to challenge them as they come to be ſworn, and before they be ſworn.

The Jury being called, Mr. Juſtice *Dolben* took notice to Sir *Miles* that there were but few appeared, and therefore told him he would do well not to challenge too many of them. Sir *Miles* thereupon ſaid he ſhould not challenge many; and enquired whether thoſe that ſerved on the Lady *Tempeſt*'s, Mr. *Thwing*'s and Mr. *Ingleby*'s Juries did now appear; and the Judge anſwered him, that if they did, care ſhould be taken that they ſhould not be ſworn.

Then the Jury being called to the Book, Sir *Miles* challenged theſe, *viz.*

Sir *David Fowles*, Bar.	*Robert Bell*, Gent.
John Eaſtoft, Eſq;	*John Dixon*, Gent.
William Bethel, Eſq;	*Thomas Wood*, Gent.
William Caley, Eſq;	*Robert Turner*, Gent.
Towers Driffeild, Eſq;	*John Beckwith*, Gent.
Marm. Trueman, Eſq;	*Simon Warrener*, Gent.
John Wright, Eſq;	*Gervaiſe Hatfeild* Gent.
John Green, Eſq;	*John Coats*, Gent.

And

And only two of the {*Tho. Fletcher*, *Rob. Gudgeon*,} were ſworn. Jury returned, *viz.*

Mr. *Juſt. Dolb.* Sir *Miles*, I ſee you muſt ſtay till the next Aſſizes, for you challenge ſo many, here will not be a Jury gotten.

Sir *Miles.* If your Lordſhip pleaſe, I ſhall be content, and do deſire the Jury may be called that ſerved the firſt day; nay, all the three Juries if you pleaſe.

Mr. *Juſt. Dolb.* That is, you would chuſe all of one way, and leave the others; where is the Indifferency of the Tryal then? but come call them, I cannot deny it.

The three Juries called, and five challenged, *viz.*

Tho. Worſley, Eſq; *Samuel Tennant*, Gent. *Robert Buſhel*, Gent. } { *Roger Stretwel*, Gent. *Roger Lee*, Eſq;

And theſe ſworn, *viz.*

Sir *Tho. Pennyman*, Bar. *Thomas Rokely*, Eſq; *William Stone*, *Thomas Conyers*, } { *Chriſtopher Tankerd*, Eſq; who was excepted againſt by Sir *Thomas Stringer*,

as one that diſparaged the Evidence of the Plot, and called his Dogs by the names of *Oats* and *Bedloe*; which the Judge allowed to be a good Exception; but there being no witneſs in the Court to prove it, he was ſworn.

Mr. *Juſt. Dolb.* Sir *Miles*, you muſt ſtay till the next Aſſizes, we have not a full Jury.

Sir *Miles.* Here are Gentlemen in the Court, your Lordſhip may take whom you pleaſe.

Mr. *Juſt. Dolb.* I cannot do it without the King's Council move for a *Tales*, which as this Caſe ſtands they will not do.

And ſo he was remanded to Priſon, and *Remanet pro defectu Juratorum* until the 18th day of *July* 1681.

And at the Aſſizes then holden for the County of *York* before Mr. Juſtice *Dolben* and Mr. Baron *Gregory*, was proceeded againſt as followeth.

Clerk of Aſſize. Sir *Miles Stapleton* hold up thy hand, thou ſtandeſt indicted by the name of *Miles Stapleton* late of *Carleton* in the County of *York*, Bar. *&c. prout* in the Indictment.

After not Guilty pleaded to the Indictment and other Formalities of Court, as before, theſe Gentlemen following were called.

Sir *Thomas Maliverer*, Kt. Challenged by the King's Council.

Sir *Roger Beckwith*, Kt. Challenged by the King's Council.

Sir *Miles.* Are any Challenged?

Mr. *J. Dolb.* Yes, there are two Challeng'd for the King.

Sir *Miles.* I hope they muſt ſhew cauſe why they Challenge them.

Mr. *J. Dolb.* Yes, they ſhall, but they are not bound to ſhew cauſe before the Pannel be gone through, and then, if you deſire it they will ſhew cauſe: but I ſuppoſe Sir *Thomas Maliverer* married a Kinſwoman of yours, and if ſo 'tis a good Exception.

Sir *Miles.* I deſire it may be proved.

Richard Audbrough, Eſq; Challenged by the King.

John Dodſworth, Eſq; Challenged by the King.

Iſaac Fairfax, Eſq; *Chriſtopher Bradſhaw*, Eſq; } Challenged by Sir *Miles.*

Theſe following were called and Sworn, *viz.*

Sir *Barrington Boucher*, Kt.
Sir *John Jennings*, Kt.
Richard Hutton, Eſq;
Wellbrough Norton, Eſq;
Tobias Hodſon, Eſq;
John Beverly, Eſq;
Anthony Frankland, Eſq;
John Addams, Eſq;
Francis Battery, Eſq:
Francis Fuldgam, Eſq;
Humphry Brook, Eſq;
Thomas Lee, Eſq;

Cryer. Twelve good Men and true, ſtand together and hear your Evidence.

Clerk of Aſſize. Sir *Miles Stapleton*, Hold up thy hand (which he did) Gentlemen, you of the Jury that are Sworn, look upon the Priſoner and hearken to his Charge; you ſhall underſtand that he ſtands Indicted by the Name of Sir *Miles*, &c. *prout* in the Indictment; upon this Indictment he hath been arraigned, and thereupon pleaded not Guilty, and for his Tryal hath put himſelf upon his Country, which Country you are, *&c.*

Then Proclamation was made for Evidence, and Sir *Thomas Stringer*, one of the King's Council aggravated the Indictment as followeth.

Sir *Miles Stapleton.* I deſire my Lord the King's Evidence may be put apart, not to hear what each other Swears.

Mr. *J. Dolb.* No, no, Sir *Miles*, that muſt not be, would you have the ſame for your Witneſſes?

Sir *Tho. Stringer.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury; Sir *Miles*, the Priſoner at the Bar ſtands here Indicted of the greateſt and blackeſt Treaſons that can be invented by the worſt of Men; He ſtands here Indicted for endeavouring to depoſe the King from his Crown and Dignity; and imagining and compaſſing the Death of the King, to alter the Eſtabliſhed Government, and rout out the true Proteſtant Religion, and to Eſtabliſh the Romiſh Religion among us. Gentlemen, to compaſs theſe wicked Deſigns we ſhall prove there hath been ſeveral Conſults where the Priſoner at the Bar hath been, and where he hath contributed Money to carry on theſe wicked Deſigns: And Gentlemen I muſt acquaint you there hath been a horrid Plot againſt the King and Government, and I need not do it, for it hath been made notoriouſly known; not only Parliaments have declar'd it ſo, but there have been Noblemen, Gentlemen, and Prieſts, nay, ſome Men have been found guilty for carrying on the horrid Deſign, and have receiv'd their Deſerts. This Plot, Gentlemen, is no new Plot, not a Plot of a Day, nor of an Age; But a Plot that hath been carry'd on for a hundred Years. My Lord, ſince we were deliver'd by God's Mercy from the Popiſh Religion by the Reformation; ever ſince that time, the Pope, the Jeſuits, the Prieſts and thoſe of the Popiſh Perſuaſion, have, my Lord, been from time to time, and ever ſince, endeavouring to carry on this wicked Deſign, and had deſtroyed us long ſince, if we had not been by God Almighty from time to time deliver'd from their Power. And you Gentlemen of the Jury, I muſt tell you, this Plot was carry'd on in Queen *Elizabeths* time; And as they did in this Plot carry on their Deſigns, with the

the King of *Spain*, at *Validolid* in *Spain*. The King of *Spain*, he join'd with the Popiſh Party here; but it pleaſed the Lord to take the Queen to his Mercy, before that Plot was effected. And I muſt tell you, the ſame Men of the ſame Quality that carry'd it on then, have now endeavoured to carry it on in theſe Days. My Lords, the King of *Spain*, tho' he was a Papiſt, yet it was ſo horrid a thing that he left them to carry on their wicked Deſign, and God Almighty did preſerve the Queen. My Lords, they reſted not here, but in King *James* his time they deſign'd to have deſtroy'd both King and Parliament at one blow, and thereby the whole Nation in its Repreſentatives, and this they manag'd by *Guy Vaux* and others. And all King *Charles* his time the ſame Plot was on foot, and pray how far did they bring it? they brought it to the Death of that Gracious King, and the ſad effects of a Civil War; and they have brought it in theſe Days, to raiſe Officers, Generals, Major Generals, and other Officers, and proceeded ſo far that actual Commiſſion was deliver'd for deſtroying our King, and if this had not been by God's Mercy prevented, what would have been the evil effects thereof, e're this Day? And Gentlemen, I muſt tell you that which is now before you is the greateſt, and moſt wicked Deſign that ever was before Men; and tho' you be of the Relations and Kindred, yet I know if you have but Conſcience and Right in you, you will give a Verdict according to the juſtneſs of the thing and the Evidence you ſhall have.

Sir *John Ottwith*. We call Mr. *Smith* firſt who will give you an Account of the Plot in general.

Mr. John Smith *call'd, and Sworn.*

Mr. *J. Dolb.* Mr *Smith* pray tell the Court what you know of the Plot.

Mr. *Smith.* I muſt ſpeak of it then what I have done beyond-Sea my Lord.

My Lords, I remember when I had been firſt beyond-Sea, I became acquainted with one *Abbot Montague* and Mr. *Tho. Car*, at *Paris*, and they told me then, if I came to the Romiſh Religion what Preferment I ſhould have here in *England*; they told me what Friends they made in *England*, they nam'd ſeveral Perſons about the Court, and ſeveral Gentry in *England* which I did not then know to be Papiſts. I ſtay'd ſome time among them in *Paris*, and all this while I did not pervert to the Romiſh Religion; tho' they told me how many Jeſuits they had ſent over into *England*. After I left *France*, I was for going for *Rome*, where I met with Father *Anderton* Rector of the Engliſh College, and Father *Southwel* and Father *Campion*, who introduc'd me into the acquaintance of Cardinal *Grimaldi*, which is an *Italian* Name, but he is Arch-biſhop of that place, I happening there, they carried me to ſpeak to the Cardinal, and he told me what likelihood there was for introducing the Romiſh Religion into *England*, and he told me he would prefer me very well there, if I would turn to their Religion; and gave me Letters to ſeveral Friends in *Italy*: At laſt I was perverted to the Romiſh Religion by vertue of this Cardinal, and this Gentleman at laſt ask'd me if I had a mind to ſtudy, I told him yes, ſo I came into an *Italian* College, and became acquainted with all the Secular Prieſts, both Engliſh, Scotch, and French; who told me what intereſt they had made in *England* during the coming in of Cardinal *Norfolk*, and ſaid there was but one Man in the way, meaning the King, and ſaid they ſhould ſoon remove him.

Mr. *J. Dolb.* Did they mean the King?

Mr. *Smith.* Yes my Lord, they ſaid there was but one Man in the way, and that they would ſoon make an end of him, and that they had Men ready in *England* for it. After this, my Lord, I left this *Italian* College, and came to the Engliſh College (for I had a Mind to come there) and I made Friends with the Jeſuits: After I came to the Engliſh College, my Lord, I was inform'd of one Father *Anderton* Rector of that College, and Father *Mondford*, who told me that by means of this Cardinal *Norfolk* they did not doubt but to take the King out of the way; and that they would give me all Privileges that could be for a young Man in that time. When I was coming away, my Lord, from *Rome*, and had my Letters Emiſſaries, by Cardinal *Perorin* (He ſent for me when I was coming away, and as is uſually done to all Scholars, and they kiſs the Pope's Toe, and he gives them his Bleſſing and particular Indulgence; which I had when I came into *England*) ſaid he to me there is one Man in the way who hath made us fair Promiſes but will perform nothing, therefore we muſt take him out of the way, and that I might be inſtrumental in the Deſign; with this, my Lord, I took leave of the College, and we came five into *England* as Prieſts, and I made my Application to the Arch-Prieſt which was in *London*, one *Purrat*, and I was employ'd a long time by him in *England*; but Proclamations coming forth for the apprehending Popiſh Prieſts, I was conſtantly after at the *Portugal* Embaſſador's Chappel, where this *Purrat* had a Chamber, wherein I diſcours'd with ſeveral of the Clergy in *England*, who ſaid they doubted not but Popery would ſoon be ſettled in *England*. I came after that to live at one Mr. *Jenniſon*'s Houſe, where the Clergy had ſeveral Meetings, and we were all of Opinion that courſe would be taken with the King unleſs he brought in Popery. And this my Lords is all I can ſay in general.

Mr. *J. Dolb.* Do you know of any Conſpiracy in *Yorkſhire*?

Mr. *Smith.* My Lord I am coming to that. When I came to Mr. *Jenniſon*'s Houſe, there was one Mr. *Thwing* a Prieſt, who has ſuffer'd as a Conſpirator, he was well acquainted in the Houſe before I came there, and did very much to perſwade me that I would intreat Mr. *Jenniſon* to ſend his Daughters to a place called *Dolbank*, where a Nunnery was to be erected, and I knew ſeveral that were there. This Mr. *Thwing* came to me oftentimes, and ſeveral Prieſts in this City, and they all preſs'd me to it, but I was againſt it, knowing what their deſign was.

Mr. *J. Dolb.* But do you know any thing againſt the Priſoner?

Mr. *Smith.* All that I can ſay to the Gentleman at the Bar is this. I never ſaw him before to my knowledge; but Mr. *Thwing* when we were at Mr. *Jenniſon*'s and diſcourſing of the Plot, ask'd me how they gave Money in *Biſhoprick*, I told him ſome gave more, ſome leſs.

Mr. *J. Dolb.* What were thoſe Collections for?

Mr.

Mr. *Smith.* My Lord it went among our ſelves under the notion of killing the King, and rooting out the Proteſtant Religion; but we gave it out that it was repairing a College at *Doway*, which if granted, had been penal by Law. Then I ask'd him how doth the Collections go among you in *Yorkſhire*. Some, ſaith he, give freely, but ſaith he, my Uncle and his Friends are engaged another way; for ſaith he, they are going to make a Founder for *Dolbank*; ſeveral Perſons he named, among which he nam'd this Gentleman.

Mr. *J. Dolb.* What ſaid he of Sir *Miles*?

Mr. *Smith.* He ſaid Sir *Miles* was very zealous for promoting the Roman Catholick Religion, and had contributed largely for the introducing of it into *England.*

Mr. *Bar. Gregory.* You ſay that amongſt your ſelves you gave it out that the Money that was rais'd was for the killing of the King, and rooting out the Proteſtant Religion; pray by what way and means was it to be done, was that ever diſcours'd among any of you, was it for raiſing of an Army, or what was it for?

Mr. *Smith.* Where ever I was my Lord, it was reſolv'd that that was the moſt effectual means for the introducing of Popery.

Mr. Robert Bolron *call'd, and Sworn.*

Sir *Tho Stringer.* Mr. *Bolron*, acquaint my Lords and the Jury, what you know of Sir *Miles Stapleton.*

Mr. *Bolron.* May it pleaſe your Lordſhip, I came to live with Sir *Thomas Gaſcoine* in 1674. as Steward of his Cole works; and was then a Proteſtant, but was perſwaded by Mr. *Ruſhton*, Sir *Thomas* and others to turn Roman Catholick; when I had turn'd Roman Catholick, about 1676. they came and ask'd me what I would do for the Romiſh Religion, if it ſhould come to it; I told them I would venture my Life in that Cauſe, and then I went to *Barmbow* Hall, where I took the Oath of Secrecy, after that I went to *Barmbow* Hall, where Sir *Miles Stapleton* was at a Conſult in 1677.

Mr. *J. Dolb.* At what time in 77?

Mr. *Bolron.* It was about *Whitſontide*, my Lord.

Mr. *J. Dolb.* That was the Whitſontide after you had taken the Oath of Secrecy?

Mr. *Bolr.* Yes, my Lord.

Mr. *J. Dolb.* Who was there?

Mr. *Bolr.* Sir *Miles Stapleton*, Sir *Tho. Gaſcoyn*, Mr. *Gaſcoyn* his Son, my Lady *Tempeſt*, Lawyer *Ingoldby*, Mr. *Thwing*, Father *Ruſhton* and ſeveral others.

Mr. *Baron Gregory.* What was there done at that Conſult?

Mr. *Bolr.* My Lord, the Conſult was about killing the King, and eſtabliſhing a Nunnery at *Dolbank* near *Ripley*; Sir *Tho. Gaſcoyn* gave 90 *l. per Annum*, and 300 *l.* for killing the King; and I remember very well *Pickering* was mention'd about killing the King; and they ask'd Sir *Miles Stapleton* what he would give? and he ſaid 200 *l.* for killing the King.

Mr. *J. Dolb.* Are you ſure that in the preſence of Sir *Miles Stapleton* it was reſolved the King ſhould be killed?

Mr. *Bolr.* Yes, my Lord, it was reſolved both by him and all others that the King ſhould be killed; and my Lord I heard them further ſay, if the Duke of *York* did not pleaſe that they would ſerve him, as they would ſerve his Brother.

Mr. *Baron Greg.* Who ſaid theſe latter Words?

Mr. *Bolr.* *Sherby* of *Stone-houſe* ſaid theſe latter Words, and Mr. *Shereburn* ſaid ——

Mr. *J. Dolb.* No matter what Mr. *Shereburn* ſaid. What ſaid Sir *Miles*?

Mr. *Bolr.* The Gentlemen ſaid that Sir *Miles* ſhould be a Privy Counſellor, and that they would procure the Duke's conſent to it.

Mr. *J. Dolb.* Is that all?

Mr. *Bolr.* My Lord, I was further at a Conſult in Seventy-eight, about the thirteenth or fourteenth of *June.*

Mr. *Baron Greg.* What time was that?

Mr. *Bolr.* The thirteenth Day of *June* 78. and there it was agreed upon the taking of *Hull*, the letting in of the *French* there, as the fitteſt place for the *French* to land at.

Mr. *J. Dolb.* Where was this?

Mr. *Bolr.* At *Barmbow* and likewiſe they did diſcourſe, that my Lord *Bellaſis* had cauſed the Block-houſes to be almoſt ruined, that the *French* might more eaſily come in; and we had all Pardons for our Sins.

Mr. *Lawrence Mowbray* called, and ſworn.

Sir *Tho. Stringer.* Mr. *Mowbray*, tell my Lords and the Jury what you know againſt Sir *Miles Stapleton* the Priſoner at the Bar.

Mr. *Mowbray.* My Lords, you have heard what Mr. *Smith*, and Mr. *Bolron* ſay to the Plot in general, what I ſay ſhall be very brief in relation to Sir *Miles Stapleton* and no further. Sir *Miles Stapleton* being preſent with Sir *Tho. Gaſcoyn*, my Lady *Tempeſt*, Eſquire *Gaſcoyn* and ſeveral others, they held ſeveral Diſcourſes concerning a Deſign of killing the King, ſubverting the Government, and bringing in Popery, and accordingly they would fire *London.*

Mr. *Bar. Greg.* When was this?

Mr. *Mowbray.* This was in 76. where Father *Ruſhton* gave him an Oath of Secrecy, and he promiſed to be true to the Deſign, and would venture his Life and Eſtate for the promoting ſo good a Cauſe.

Mr. *J. Dolb.* Did you hear Sir *Miles Stapleton* ſay he would adventure his Life and Eſtate for killing of the King?

Mr. *Mowbray.* Yes my Lord.

Mr. *J. Dolb.* And was it reſolved at that Conſult?

Mr. *Mowbray.* Yes, my Lord.

Mr. *J. Dolb.* And he conſented to it?

Mr. *Mowbray.* Yes, my Lord, and took the Oath of Secrecy from Father *Ruſhton.*

Mr. *J. Dolb.* This is not the time that Mr. *Bolron* ſpeaks of.

Mr. *Mowbray.* No my Lord he ſpeaks of 76. and 78. this was in 78.

Mr. *Bolr.* I have in 75. a colluſive Conveyance of Sir *Miles Stapleton's* Eſtate to Sir *John Daney.*

Mr. *J. Dolb.* Where did you ſee it?

Mr. *Bolr.* I did ſee it at Sir *Thomas Yarbroughs*, and he asking me when Sir *Miles Stapleton* was at Sir *Tho. Gaſcoyns*; may it pleaſe you, ſaid I, I can tell you ſomething where you are concerned with Sir *Miles Stapleton*; as ſoon as he heard that he bluſh'd, and away he went and would hear no further.

Sir *Tho. Stringer.* What ſay you Mr. *Mowbray*, of an Indulgence you had?

Mr. *Mowb.* Yes my Lord I had an Indulgence.

Mr. *Juſt. Dolb.* Was it for the time to come, or the time paſt?

Mr.

Mr. *Mowb.* It was for the time paſt; for I was to enter into the Roſary.

Sir *Tho. Stringer.* Did you ever attend *Ruſhton* at the Altar?

Mr. *Mowb.* Yes I did.

Mr. *Juſt. Dolb.* Mr. *Bolron* you ſay you ſaw a colluſive Conveyance made by Sir *Miles Stapleton* to Sir *John Daney*; pray what was the forfeiture of it?

Mr. *Bol.* It was —

Mr *Juſt. Dolb.* Was it Sir *Tho. Yarbrough*, or Sir *John Daney* you told of it?

Mr. *Bol* I told it to Sir *John Daney.*

Mr. *Mowb.* I drew a Copy of that very Conveyance.

Sir *Tho. Stringer.* Truly my Lord we want Mrs *Bolron*, one of the moſt material Evidences againſt Sir *Miles*, being ſick at *London.*

Mr. *Bayns* called and ſworn.

Sir *Tho. Stringer.* Come Mr. *Bayns* declare to the Court what you know againſt Sir *Miles.*

Mr. *Bayn.* I know nothing againſt Sir *Miles*, only I have ſeen him at *Barmbow-Hall* in 77.

Sir *Tho. String.* Pray tell us this, whether you obſerved in the Year 76, Sir *Miles Stapleton* come to ſeveral meetings with Sir *Tho. Gaſcoigne*, and my Lady *Tempeſt*, and others?

Mr. *Bayns.* Yes my Lord I have.

Mr. *Juſt. Dolb.* But do you know what diſcourſe they had?

Mr. *Bayns.* No my Lord, but I remember we were once diſcourſing about ſome Nuns beyond Sea, and they were called galloping Nuns.

Mr. *Juſt. Dolb.* They were Gallopers indeed.

Mr. *Juſt Dolb.* Sir *Miles*, you have heard what hath been proved againſt you——

Sir *Miles.* My Lord there is nothing of truth in it at all; I hope to make it appear to your Lordſhip. I call God to witneſs I am as innocent of what they ſay, as any Child unborn.

Mr. *Juſt. Dolb.* That is an eaſy thing to ſay.

Sir *Miles.* I hope to make it appear to your Lordſhip. Will your Lordſhip pleaſe to give me leave to ask the Witneſſes ſome Queſtions?

Mr. *Juſt. Dolb.* That you may have allowance in.

Sir *Miles.* Then I deſire to ask *Bolron* this Queſtion; Did you accuſe me in your Information to Juſtice *Lowder?*

Mr. *Bol.* No my Lord, I did not.

Sir *Miles.* Did I or any other deſire you to keep any ſecret for me?

Mr. *Bol.* Yes my Lord, I have been deſired.

Mr. *Juſt. Dolb.* But did Sir *Miles* ever deſire you?

Mr. *Bol.* No my Lord he did not, but *Ruſhton* did, when I was introduced by the Prieſts to the Conſult.

Sir *Miles.* Did you and *Mowbray* know that each other was concern'd in the Plot?

Mr. *Bol.* Yes we did.

Sir *Miles.* Name the perſons that were private at the Conſult.

Mr. *Bol.* There was Sir *Tho. Gaſcoign*, my Lady *Tempeſt*, Eſquire *Gaſcoign*, Mr. *Ingleby*, Mr. *Thwing*, Mr. *Ruſhton*, Mr. *Addiſon*, Mr. *Metcalf*, and ſeveral others.

Sir *Miles.* How long did the Conſult laſt?

Mr. *Bol.* Some ſix or ſeven hours.

Sir *Miles.* What Servants were there?

Mr. *Bol.* I took no notice of the Servants.

Sir *Miles.* What Room was it in?

Mr. *Bol.* In the old Dining-Room.

Sir *Miles.* How long did it laſt?

Mr. *Juſt. Dolb.* Six or ſeven hours he tells you.

Sir *Miles.* Was there any other at Sir *Thomas Gaſcoyn*'s?

Mr. *Bol.* None elſe that I can remember.

Sir *Miles.* Upon what occaſion did he mention *Mowbray* in his Information to the Council?

Mr. *Juſt. Dolb.* There hath no Information to the Council been mention'd here.

Sir *Miles.* Pray what was the occaſion you were turn'd out of Sir *Thomas Gaſcoyn*'s ſervice?

Mr. *Bol.* My Lord I know not; they ſay it was about a Trunk: Sir *Thomas Gaſcoyne* ſent him to *York*, and he was to come again. I know there was a deſign to take away *Mowbray*'s Life, but I never told him ſo much; and my Lady accuſed him for a Ring; I never durſt tell him this, but this was the thing contriv'd againſt him to take away his Life; I can make it appear where he bought the Ring.

Mr *Juſt. Dolb.* What tell'ſt thou us of a Ring? can'ſt thou not as well tell us it was for that he left Sir *Thomas Gaſcoyn*'s ſervice?

Sir *Miles.* When did you firſt become a Proteſtant?

Mr. *Mowb.* When I made my firſt Information.

Bar. *Gregory.* When was that?

Mr. *Mowb.* That was in 9, and a little before that I kept correſpondence with Father *Addiſon.*

Sir *Miles.* I deſire to know whether he ſaw a Liſt of Names?

Mr. *Mowb.* Yes I did.

Sir *Miles.* Whoſe Names were there?

Mr. *Mowb.* There was your Name for one, and Sir *Thomas Gaſcoyn*'s.

Sir *Miles.* What was it for?

Mr. *Mowb.* It was a Liſt of thoſe that were Actors and Contributors for killing the King.

Mr. *Juſt. Dolb.* You are ſure Sir *Miles Stapleton*'s Name was in the Liſt?

Mr. *Mowb.* Yes my Lord, I am.

Mr. *Juſt. Dolb.* Was it Parchment or Paper?

Mr. *Mowb* No my Lord, it was Paper.

Mr. *Juſt. Dolb.* Were you to aſſiſt in killing the King?

Mr. *Mowb.* My Lord, I was to be an Actor in killing the King.

Sir *Miles.* Whether did I, or any other deſire you to keep any ſecret for me?

Mr. *Mowb.* Yes, Father *Ruſhton* did.

Sir *Miles.* Did I ever do it?

Mr. *Mowb.* No Sir *Miles*, you never did.

Sir *Miles.* Did any body elſe deſire you?

Mr. *Juſt. Dolb.* Father *Ruſhton* he tells you did.

Sir *Miles.* Was the diſcourſe ſo loud that Sir *Thomas Gaſcoyne* could hear it?

Mr. *Mowb.* Sir *Thomas* could hear well enough when he would.

Sir *Miles.* Was it in 79 that you diſcover'd the Plot?

Mr. *Bol.* Yes I went to *London*, and there diſcover'd the Plot in——79 I think it was.

Sir *Miles.* You ſaid I was not concern'd, you only accus'd Sir *Thomas Gaſcoyne* and ſome others in your Information, but did not name me.

Mr. *Juſt. Dolb.* Did he ſo, you may prove that upon him.

Sir *Miles.* It was ſo in his Information, my Lord.

Mr. *Juſt. Dolb.* Well then let it be ſo, Call your Witneſſes.

Mr. Lowder *call'd and examin'd.*

Sir *Miles.* I desire Mr. *Lowder* to acquaint your Lordships and the Jury, what was in the Information Mr. *Bolron* gave in, whether he accus'd me or no.

Mr. *Lowder.* All I know of it is, that in *January* 79, on *Sunday* Evening, as I think, about the 24th day of the month, *Robert Bolron* came to me and told me he had something of Secrecy to impart to me, and I ask'd him if he would go into the House with me; he told me it was matter of High Treason; I ask'd who was concern'd, he answer'd, Sir *Thomas Gascoyne* and several others: Then I order'd my Clerk to bring a Bible and Pen and Ink to take his Information. I desired him to be very cautious, telling him that several Lives were at stake: At that he began to be fearful and chang'd Colour; I ask'd him for what cause that fear was; he said if that were upon my Conscience that was upon his, for concealing it so long, I should be as fearful as he. I bid him seriously consider what he had to say; he then said he had deliver'd his Information to Mr. *Tindal.* Well then, said I, why is it you come to me? said I, Mr. *Tindal* is to be at my House the 25th day, and I shall discourse it with him, and we shall take it together. Mr. *Tindal* did come, and *Bolron* came and deliver'd in his Information.

Mr. *Just. Dolb.* You did not give him his Oath at that time?

Mr. *Lowder.* No my Lord, for it seems he had not then deliver'd in his Information, but only a writing of his to Mr. *Tindal.*

Bar. *Greg.* You took no Examination then?

Mr. *Lowder.* No my Lord, not at that time, but afterwards he came and he gave in his Information to us, and I think we were about two hours about it; and then he did not charge any person but *Rushton* and Sir *Thomas Gascoyn*; but said he had more to recollect: Well, said I, if you recollect any more you may come again.

Bar. *Gregory.* Pray who did he name?

Mr. *Lowder.* He nam'd Father *Rushton* and Sir *Thomas Gascoyn*; he nam'd my Lady *Tempest*, but spoke that as from another. And when he came again he said he would trouble us with no more, but would go to the King and Council to deliver in the rest.

Mr. *Just. Dolb.* He said then he should recollect more?

Mr. *Lowder.* Yes my Lord he did, and when he came again, he said he would not trouble us with it, but would inform the Council of it: When we saw him so positive, he had a Letter of Recommendation from Mr. *Tindal* to the Council; and he lost that Letter at *Ware*, but he went on, and deliver'd his Information to the Council.

Mr. *Just. Dolb.* Do you know it?

Mr. *Lowder.* Yes my Lord.

Mr. *Just. Dolb.* You cannot know it, were you there then?

Mr. *Lowder.* No my Lord, but I do know it.

Mr. *Just. Dolb.* How do you know it?

Mr. *Lowder:* I have a Copy of the Order under several of the Council's hands.

Mr. *Just. Dolb.* That is not Evidence, you are not to speak what another man knows. But that is not the matter, it seems he went to give in his Information to the Council, for indeed he could not otherwise have been safe.

Mr. *Lowder.* After this, he goes up to *London* again, and comes down and brings me another Order of Council to examin Mr. *Mowbray* and one *Hickeringil*, and I ask'd him if he knew any thing about Sir *Miles Stapleton's* being concern'd in the Plot, and he said no, he believ'd he was very clear.

Mr. *Just. Dolb.* You say, that *Bolron* brought you another Order of Council to examin *Mowbray.*

Mr. *Lowder.* Yes my Lord.

Mr. *Just. Dolb.* Did *Bolron* bring you in writing what *Mowbray* could say?

Mr. *Lowder.* My Lord, I know not whether it was by writing or by word of mouth.

Mr. *Just. Dolb.* What was it he told you *Mowbray* could say?

Mr. *Lowder.* He told me he could say he saw Sir *Miles Stapleton* at *Barmbow* when the Consult was; but, said he, there will others come against Sir *Miles.*

Mr. *Just. Dolb.* Pray let us ask *Bolron* that: Did you say to Mr. *Lowder* you knew nothing against Sir *Miles Stapleton*, but there was others would do it?

Mr. *Bol.* No my Lord, not that I remember.

Mr. *Lowder. Bolron* himself had never said any thing against Sir *Miles.*

Bar. *Greg.* Did you ask *Bolron* if he knew whether Sir *Miles* was concern'd in the Plot or no?

Mr. *Lowder.* Yes my Lord I did, and he answer'd he knew nothing against him.

Mr. *Just. Dolb.* He was not then upon his Oath?

Mr. *Lowder.* No not then; but after this he delivered his Information, and did swear to the same effect that *Mowbray* did swear, that Sir *Miles* was at *Barmbow*, and that they all did conspire the killing of the King, and introducing the Romish Religion; and he said my Lady *Tempest* came to him, when he was in the passage, and said to him, Mr. *Mowbray* it is fitter for you to be treating of Sir *Miles Stapleton's* Servants in the Larder: And he ask'd me whether he had best go and apprehend Sir *Miles* or Mr. *Ingleby* first.

Mr. *Just. Dolb.* This was your discourse with *Bolron.*

Mr. *Lowder.* Yes my Lord.

Mr. *Bol.* May it please your Lordship, I did not know then that Mr. *Mowbray* was at all concerned in the Plot.

Mr. *J. Dolb.* He tells you, how you told him what *Mowbray* would say before he came to him, and what he would say against Sir *Miles Stapleton.*

Mr. *Bol.* No my Lord, I never said any such thing.

Mr. *J. Dolb.* You say you did not know what *Mowbray* would say, Mr. *Lowder* saith otherwise.

Mr. *Bol.* My Lord, I did not know what it was before he brought it himself, and he brought it in writing.

Bar. *Greg.* Mr. *Lowder*, did he tell you the particulars, or he only said he was to depose things against Sir *Miles Stapleton.*

Mr. *Lowder.* My Lord he told me he could swear Sir *Miles* was at the Consult at *Barmbow*, and did there conspire the death of the King, and introducing the Romish Religion.

Mr. *J. Dolb.* How long was this Mr. *Lowder*, you had that discourse with *Bolron* before *Mowbray* came to give in his Information?

Mr. *Lowder.* It was my Lord two or three days before,

before, and I order'd him to come again, when Mr. *Tindal* was to be at my Houſe.

Mr. *J. Dolb.* Were you ever with Mr. *Lowder*, and knew when he and Mr. *Tindal* order'd him to come to him?

Mr. *Bol.* I went to Mr. *Mowbray*, and we came to Eſquire *Lowder*'s, and there Mr. *Tindal* was; but I knew nothing of what he had to ſay; my Lord, Mr. *Mowbray* was there at that time he doth affirm.

Mr. *J. Dolb.* *Mowbray*, before you came to Mr. *Lowder*'s had you acquainted *Bolron* with what you had to ſay?

Mr. *Mowb.* I might acquaint him I had ſomething to ſay, but did not tell him the particulars.

Mr. *J. Dolb.* Did you tell him you had any thing againſt Sir *Miles Stapleton*?

Mr. *Mowb.* 'Tis poſſible my Lord I might, but I am not poſitive in that.

Bar. *Greg.* Did he tell you Mr. *Lowder*, what Mr. *Mowbray* could ſwear againſt Sir *Miles*, and was it not the day which he tells here of?

Mr. *Lowder.* No my Lord, it was not.

Bar. *Greg.* It was not the ſame day?

Mr. *Lowder.* No my Lord, I ſhall be poſitive in it, if I be brought to my Oath.

Mr. *J. Dolb.* Come another Witneſs, Sir *Miles*.

Sir Thomas Yarbrough *call'd and examin'd.*

Sir *Miles.* I deſire Sir *Thomas* to ſpeak what he heard *Bolron* declare what he knew of the Plot after Sir *Thomas Gaſcoyn* was taken.

Sir *Tho. Yarbrough.* The 10th of *Auguſt* 79, Mr. *Bolron* came to my Houſe about 10 or 11 a Clock at night, and knock'd at my Door; I thought him very unſeaſonable; but my Servants looking out at the Window, ask'd who was there; he ſaid a Friend that would ſpeak with Sir *Thomas:* my Servant came and told me, and I order'd my Servant to go down and bring him into my Chamber; in the interim I put on a Morning-Gown: As ſoon as he came in he told me he had an Order of Council to ſearch all ſuſpicious places for Popiſh Prieſts, and I have great cauſe to believe that there is one *Ruſhton* a Prieſt now at Sir *Miles Stapleton*'s. What would you have me to do, ſaid I, would you have me go with you myſelf? He ſaid no, but a Servant. Said I, Mr. *Bolron* will you ſhow me the Order; and finding his name in the Warrant, I ask'd him, Was that the Perſon that inform'd againſt Sir *Thomas Gaſcoyn*? His Anſwer was this, that if I pleas'd he would ſhew me the Article againſt Sir *Thomas Gaſcoyn*; when I obſerv'd the Article, I ask'd him if he knew any thing of Sir *Miles Stapleton*'s being concern'd in the Plot: No I proteſt, ſaith he, I know nothing of Sir *Miles Stapleton*'s being concern'd in it, for he is a very honeſt Gentleman; only this I muſt ſay, that I know he hath made a colluſive Conveyance of his Eſtate, and I believe moſt of the Roman Catholicks in *England* have done it for the ſecuring of their Eſtates.

Mr. *J. Dolb.* What do you ſay to this, *Bolron*?

Mr. *Bol.* My Lord when I deliver'd in my Information to the Council I did accuſe Sir *Miles Stapleton.*

Mr. *J. Dolb.* Did you ſay this to Sir *Thomas*?

Mr. *Bol.* No I did not, if it was not in the Information I gave to the Council, believe not one word that I have ſaid.

Mr. *J. Dolb.* Its poſſible it might be in the ſecond Information to the Council that you accuſed Sir *Miles:* Was Sir *Miles Stapleton*'s name in the Paper you gave to him?

Mr. *Bol.* Yes my Lord.

Mr. *J. Dolb.* This was the 10th day of *Auguſt* 79. Had you then inform'd the Council of any thing before that time againſt Sir *Miles Stapleton*'s being at *Barmbow Hall* at the Conſult?

Mr. *Bol.* May it pleaſe your Lordſhip, I was called out when I was before the King and Council, and there was ſomething I did not deliver in.

Mr. *J. Dolb.* Then you did not do it at that time?

Mr. *Bol.* No my Lord, I did not.

Mr. *J. Dolb.* I ask you again, before the 10th of *Auguſt* 79, had you inform'd the Council of any thing againſt Sir *Miles?*

Mr. *Bol.* No my Lord, I had not.

Mr. *J. Dolb.* Then it could not be in the Information that you ſhew'd him.

Mr. *Bol.* No my Lord, it was at the ſecond time.

Bar. *Greg.* Was it before you had this diſcourſe with Sir *Thomas Yarbrough?*

Mr. *Bol.* No my Lord, it was not before that: I ſhall not ſpeak one word of a Lie.

Sir *Miles.* Every word you ſpeak is a Lie.

Mr. *Bol.* It is no Lie, before this honorable Court.

Mr. *J. Dolb.* Were theſe Informations incloſed in the Letter from the Council?

Mr. *Lowd.* Yes my Lord, your Lordſhip may ſee the Letter mentions it, (holding the Letter forth in his hand with the Informations) which Mr. Juſtice *Dolben* took and ſilently read them over, after which he made his report thereof to the Court.

Mr. *J. Dolb.* Mr. *Lowder*, I have read all theſe things over, and there is nothing of any Conſult in them: How ſhould then the Accuſation of Sir *Miles* be mentioned in them?

Bar. *Greg.* I do believe Sir *Thomas* you miſtake times.

Sir *Tho. Yarb.* No my Lord, I do not.

Mr. *J. Dolb.* In the bringing of this Order of Council to you, did you ask Mr. *Bolron* if he knew any thing againſt Sir *Miles Stapleton?*

Sir *Tho. Yarb.* Yes my Lord I did, and he ſaid he believed he was innocent.

Sir *Tho. String.* Pray Sir *Thomas* why did you ask him that about Sir *Miles?*

Sir *Tho. Yarb.* Becauſe I knew Sir *Miles* was related to Sir *Thomas Gaſcoyn*, and was often there.

Sir *Tho. String.* It ſeemed Sir *Thomas* you fear'd it.

The Lady *Yarbrough* call'd and examin'd.

Sir *Miles.* Madam pray acquaint the Court what you heard *Bolron* ſay when he diſcourſed your Husband.

Lady *Yarb.* All I can ſay is, that I was in bed then, and heard him ſay all theſe things, and I heard the Order read, and there was mention of ſeveral at the Conſult, among whom there was no mention of Sir *Miles Stapleton.*

Mr. *J. Dolb.* Does your Ladyſhip very well remember that Sir *Thomas Yarbrough* ask'd him if Sir *Miles* was concern'd, and he ſaid not that he knew of?

Lady *Yarb.* Yes my Lord, and he ſaid more than that, for when he returned from taking Prieſts in the Afternoon, there was a great deal

of Company in the Houſe, and when he came he brought one of the Sons along with him, and they came into the Hall, there Mr. *Bolron* was with them, and among the reſt there was one Mr. *Anby*, who being a little merry, he takes him by the Arm, and comes and brings him to us as we were ſitting in the Porch, and ſaid, Heark you Mr. *Bolron*, I hear you are a Diſcoverer of the Plot? Yes I am, ſaid he: Then I pray you, who are they that are concerned? But he would not tell him. So ſaid he, is Sir *Miles Stapleton* in it? He anſwer'd he had nothing to ſay againſt Sir *Miles*, but he was an honeſt Gentleman for ought he knew, excepting that he had made a colluſive Conveyance of his Eſtate.

Mr. *Normanton* call'd and examin'd.

Mr. *Norm.* In *June* 79, came *Rob. Bolron* to me, and ſaid, that Sir *Tho. Gaſcoyne* would give 1000 *l.* for killing the King, and Lady *Tempeſt* would have hang'd him for breaking a Trunk, but now he would be even with her; and that Sir *Miles Stapleton* kept Prieſts in his Houſe, but he would apprehend them preſently, for he might have twenty pound a piece for taking of them.

Bar. *Greg.* You ſay *Bolron* told you this?

Mr. *Norm.* Yes my Lord, he told me this in my own Houſe, and I told him he might go to Eſquire *Tindal*, and I lent him eighteen pence, and borrowed him a Horſe in the Town.

Richard Pears, Sir *Miles*'s man, call'd and examin'd.

Richard Pears. My Lord *Bolron* came to *Carleton*.

Mr. *J. Dolb. Carleton*, what is that?

Rich. Pears. To my maſter's houſe.

Mr. *J. Dolb.* Who is thy maſter?

Pears. Sir *Miles Stapleton*.

Mr. *J. Dolb.* What then?

Pears. I going to an Ale-houſe where *Bolron* was, he ask'd me how I did, I thank'd him.

Mr. *J. Dolb.* Did you know him then?

Pears. Yes my Lord, and he called for a Pot of Ale, and wiſhed me to drink with him, and he ask'd me if they did not blame him for accuſing my maſter Sir *Miles*? and I ſaid I did not hear him named; he ſaid it was not him, but he might not tell who it was.

Mr. *J. Dolb.* When was this?

Pears. Three or four days after my maſter was taken into Cuſtody; and he ſaid he would have gone to have ſeen Sir *Miles*; but I think, (ſays he) he does not know me: and he ask'd me if Mr. *Legget* would be at our Houſe and he deſired me to give him a Letter; and I ſaid I ſhould not ſee him; then he ſaid I might burn it, and I did burn it my Lord.

Sir *Tho. String.* How came you acquainted with *Bolron*?

Pears. At the Cole-pits, my Lord.

Sir *Tho. String.* Did you never ſee him at Sir *Thomas Gaſcoyn*'s?

Pears. No my Lord.

Stephen Thompſon called and examined.

Mr *J. Dolb.* Have a care you ſpeak nothing but truth, tho' you are not ſworn, yet we can puniſh you, and God Almighty will puniſh you if you ſpeak falſe.

Steph. Thompſon. An't like your Honor, *Robert Bolron* was ſervant to Sir *Tho. Gaſcoyn*, as ſteward of his Cole-pits; Sir *Thomas* put him out of his Cole-pits, and there was a great deal of mony due, and he knew not how to get it, and therefore he would take threeſcore Pounds for it, becauſe he knew not how to get it, and he would take thirty two Pounds at one time, and twenty eight at another, and he came to me to be bound with him, which I was unwilling to; ſaith he, here is thirty eight Pounds good Debt, and I ſhall take care to get the other, and if Sir *Thomas* be not kind, I ſhall do him an ill turn.

Mr. *J. Dolb.* What is this to Sir *Miles Stapleton*?

Thomp. He did ſwear, this Plot being diſcovered, they thought he knew ſomething of Sir *Tho. Gaſcoyn*, and he ſaid before the Plot broke out, there was never a Catholick in *Yorkſhire* was concerned in it, if there were any it was above.

Bar. *Greg.* This was before his Information, I'll lay a Wager.

Mr. *J. Dolb.* How could he do him an ill turn?

Thomp. My Lord this is the ill turn, Mr. *Legget* ſaid he did it not for need: O *Rob. Bolron* ſaid I, do you thus requite Sir *Tho. Gaſcoyn*'s kindneſſes?

Bar. *Greg.* Did he ſpeak any thing to you concerning Sir *Miles*?

Sir *Miles.* I conceive when they reflect upon Sir *Thomas*, they reflect upon me.

Mr. *J. Dolb.* No, not ſo, you might be guilty, and Sir *Thomas* innocent, or you might be innocent and Sir *Thomas* guilty.

Sir *Miles.* My Lord I think that as there was a Conſult at Sir *Tho. Gaſcoyn*'s, certainly if any one was guilty, we were all guilty.

Bar. *Greg.* There are ſome that conceive, and I think not without grounds, that there are no conſiderable Catholicks in *England*, but they are concerned in the Plot.

Mr. *J. Dolb.* There was one *Dixon* came at Sir *Tho. Gaſcoyn*'s Tryal, and ſaid he heard *Bolron* and *Mowbray* down a pair of ſtairs, ſpeaking of Revenge againſt Sir *Tho. Gaſcoyn* and my Lady *Tempeſt*, and thinking theſe Witneſſes might now be produced, we called at *Leeds* to view the ſtairs, and I am ſure neither my Brother nor I could ſee any probability in it.

Bar. *Greg.* For ſatisfaction we made two go up into the Chamber and ſtand where the Witneſſes were, and they ſpoke as loud as People do uſually when they diſcourſe, and I am ſure I could neither perceive what they ſaid, nor ſee them, unleſs I went three or four ſteps up.

Mr. *J. Dolb.* This is but occaſioned by your jeſting upon the matter.

Nathaniel Wilſon call'd.

Mr. *J. Dolb.* Sir *Miles* I would put you in mind of one thing; produce thoſe two Witneſſes that were produced at Sir *Tho. Gaſcoyn*'s Tryal.

Sir *Miles.* I have none of theſe Witneſſes.

Mr. *J. Dolb.* Certainly theſe Witneſſes would be as material as any you can have to do it.

Sir *Miles.* I have them not here my Lord.

Mr. *J. Dolb.* Nay, that is becauſe you dare not; the King's Council will prove that what they ſpoke they were hired to, and had mony from Sir *Tho. Gaſcoyn*, which they confeſs'd.

Sir *Miles.* My Lord they made Affidavit of it.

Mr. *J. Dolb.* Tho' they did, yet they confeſs'd they were hired to it.

The

The Lady *Vavaſour* called and examined.

Sir *Miles*. My Lord, I call my Lady *Vavaſour* to tell whether Sir *Walter* was there at the Conſult they tell us of at *Barnbow*.

Mr. *J. Dolb*. That will be hard for her to do, but call her then. Who was called: But ſpeaking ſo low ſhe could not be heard by the Court, and ſtanding beſides Mr. Juſtice *Dolben*, he repeated her words to the Court. My Lady ſaith this, Gentlemen, ſhe believes her Husband was not there in any part of the Year, becauſe he was infirm at *York*. Now Gentlemen, I would only know whether that be concluſive Evidence when it is only poſſible.

Mr. *Legget* called and examined.

Sir *Miles*. Mr. *Legget*, pray what mony would Mr. *Bolron* have given you when I was taken?

Legget. Mr. *Bolron* deſired me to lend his Wife ſome mony to go to market with, and I did: The ſame day between *Tadcaſter* and *York*, Mr. *Bolron* ask'd me what Allowance Dr. *Oats* had, I told him I heard he had five hundred Pounds a Year; and he anſwered I deſerve as much, for I have done as much good as he: As I was going for *York*, I met with Mr. *Mowbray*, and it raining I put in at *Tadcaſter*; when the Rain was over, we ſet forward for *York*; ſaid Mr. *Mowbray*, Mr. *Bolron* hath ſent for me; ſo I went to Mr. *Bolron* to the *George*, and he ſent for Mr. *Mowbray*, and he pulls out his Information, and after he had read it, he ask'd nim if he knew any thing of that, and he ſaid he did not know of it.

Mr. *J. Dolb*. Well, what is this to the purpoſe; Did you hear him ſay any thing againſt Sir *Miles*?

Legget. I have heard Mr. *Bolron* ſay that he had nothing to ſay againſt Sir *Miles Stapleton*, but only he had made over his Eſtate to Sir *John Daney*.

Mr. *J. Dolb*. How came he to name Sir *Miles* to you?

Mr. *Leg*. He voluntarily told me of it, when we went to *Allerton* to apprehend ſome Prieſts, and when I returned, I told him I took but one of theſe Perſons, old Mr. *Metcalf*, and he ſaid he cared not if I had but taken one *Addy*.

Mr. *J. Dolb*. You muſt not talk of this faſhion.

Sir *Miles*. It ſhews but what a kind of a man he is.

Mr. *J. Dolb*. So may we examine to the end of the Chapter. Do you ſay *Bolron* read over his Information to *Mowbray*, and he ſaid he knew nothing of it as to Sir *Miles Stapleton*?

Leg. No my Lord, but of Sir *Tho. Gaſcoyn*; he ask'd him nothing my Lord but againſt Sir *Tho. Gaſcoyn*; after they went out and had been together, Mr. *Bolron* told me Sir *Miles Stapleton* was to be taken into Cuſtody, and he ſaid you may as well have it as another, but I'll go half Snips with you: At laſt he told me if I have an hundred Pounds of Sir *Miles*, you ſhall have Twenty of it.

Mr. *J. Dolb*. Had you any Warrant at that time to take Sir *Miles*?

Leg. No my Lord.

Bol. I know nothing of any ſuch thing.

Mrs. *Eliz. Holmes* Called and Examined.

Mrs. *Holmes*. An't pleaſe you my Lord, at Sir *Tho. Gaſcoyn*'s Tryal, Mr. *Bolr*. and his Wife they were at our Houſe at Dinner, after Dinner they askt me if I would go to Sir *Thomas*'s Tryal, I anſwer'd yes, ſo Mrs. *Mowbray* came and called her Husband out of door, and I askt her about Sir *Tho. Gaſcoyn*, and ſhe ſaid———

Mr. *J. Dolb*. Tell us what ſhe ſaid.

Holmes. She ſaid they were hard People, but ſhe thought they were innocent to the Plot, and ſhe had nothing to ſay againſt them, as God ſhall judge her Soul. Then another time, my Lord, after *Bolron* came from *York*, he met me, How now Siſter, I underſtand you are to be a Witneſs againſt me at *York*, but if you'll be kind to me I'll be kind to you, and ſpeak as favourably as I can; and he ſaid if he had known he ſhould have been no better rewarded, he would never have been a Witneſs; the Devil ſhould have been a Witneſs as ſoon as he.

Mr. *J. Dolb* Againſt whom?

Holmes. Againſt Sir *Tho. Gaſcoyn* and Sir *Miles* my Lord, and he bid me be careful what I ſwore; for if we did ſwear falſe he would have us at the Pillory, and unleſs I would unſay what I had ſaid in my Ladies Tryal, he would puniſh me ſufficiently.

Mr. *J. Dolb*. Who ſaid this, know you?

Holmes. Mr. *Bolron*, my Lord.

Bar. Greg. Where do you live?

Holmes. I live, my Lord, in *Baldwin*'s Garden.

Sir *Tho. Stringer*. Did you ever tell any that if they would come and ſwear againſt the Evidence againſt Sir *Miles Stapleton*, they ſhould be ſufficiently rewarded.

Holms. No, never in my Life.

Sir *Miles*. When did you ſee me laſt, *Bolron*?

Bolr. I have ſeen you in 78. ſeveral times.

Mr. *J. Dolb*. He hath ſeen you in Priſon.

Bolr. My Lord, I have ſeen him at *Barnbow* Hall in 78.

Sir *Tho. Stringer*. You know Sir *Miles Stapleton*?

Mr. *Bolr*. Yes, very well; and I have ſeveral times talked with him.

Sir *Miles*. I deſire to know whether he hath ſeen Sir *Tho. Gaſcoyn* and me diſcourſe about any thing?

Mr. *Bolr*. No not ſince the Plot broke out.

Sir *Miles*. He ſwore in Sir *Tho. Gaſcoyn*'s Tryal he heard me and Sir *Thomas* diſcourſe about *Oats* and *Bedloe*.

Mr. *J. Dolb*. Well, how material will that be?

Sir *Miles*. I ſhall prove that he ſwore falſe, for Sir *Thomas* and I was never together ſince the Plot broke forth.

Mr. *J. Dolb*. That is hard to do.

Mr. *Baron Greg*. You have an excellent Witneſs that can ſwear that.

Sir Miles. In all probability I can do it.

Mr. *J. Dolb*. But that muſt not go before a poſitive. Well, have you done?

Sir *Miles*. There is another Witneſs or two if it be not too tedious.

Mr. *J. Dolb*. No, we will ſtay here all day if you pleaſe.

Edward Cooper called and examined.

Cooper. My Lord, all that I can ſay is, we having been at *Autherton* Fair, we met with Mr. *Mowbray*, knowing him and being acquainted with him, pray, ſaid I, whether there is any thing of a truth in this that *Bolron* ſwears againſt

Sir

Sir *Thomas Gaſcoyn*, or no? No ſaith he, he might as well have ſworn it againſt you or another Perſon; for I have been in the houſe as he, and I never knew any ſuch thing.

Mr. J. Dolb. This was before *Mowbray* had diſcover'd any thing, for *Mowbray* was then a Papiſt, and had taken the Oath of Secrecy; beſides 'tis not much what *Mowbray* ſaid he was going on a high-way: If it had been before a Juſtice of Peace, or if he had been upon his Oath, then it had been more material.

Madam *Shereburn* called and examined.

Sir *Miles.* Madam *Shereburn*, pray declare what *Bolron* ſaid at your houſe.

Madam *Shereburn.* *Mr. Bolron* and *Mowbray* came to our houſe under the pretence of ſearching for Prieſts, and *Bolron* took ſeveral Parcels of Silver away with him.

Judge *Dolb.* Away, away, if you have any thing againſt him on the behalf of this Gentleman, Madam, ſpeak it; but you would prove him a Thief, and ſay he went to ſeek for Prieſts, and he ſtole money from them.

Mowbray. We went to ſeek for Prieſts, and we took ſome Chalices and other Popiſh Trinkets away.

Mr. J. Dolb. Do not ſpend your and our time in ſaying that *Bolron* and *Mowbray* were knaviſh Boys; we it may be are guilty of Extravagances in that particular.

Mr. Bar. Greg. They themſelves confeſs they have been very bad; They took the Oath of ſecrecy, and it is as ill as ever was ſpoke or writ in ſo few words.

Mr. J. Dolb. I know they have been very bad Men. Well, have you any more Witneſſes?

Sir *Miles.* I can produce my Neighbours and thoſe of the Church of *England*, that can ſay no otherwiſe than that I have been of good behaviour.

Sir. Tho. Stringer. It is generally concluded by all that Sir *Miles* hath been a very good man until he fell into this great Action.

Mr. J. Dolb. Brother, have you any thing more to ſay? if not I'll proceed.

Sir *Tho. Stringer.* Only I deſire that *Dixon* and *Wilſon* may be called in to ſwear that they were hired at Sir *Thomas Gaſcoyn*'s Tryal.

Mr. *J. Dolb.* Call them then.

Dixon *call'd and ſworn.*

Sir *Tho. Stringer.* Pray tell my Lord and the Jury what Witneſſes were hir'd, and whether you were hired to teſtifie for *Sir Tho. Gaſcoyn*, or no?

Dixon. My Lord in *November* 79. *John Bayly* ſent *John Wilkinſon* for me, and when I came there, *Batley* was there; and they deſir'd me to go and there call'd me into the Garden, and ask'd me if I would be a Witneſs for *Sir Thomas Gaſcoyn*, and would give me forty Shillings.

Wilſon *call'd and ſworn.*

Sir *Tho. Stringer.* Were you offer'd any thing by Mr. *Babbington* to be a Witneſs for *Sir Miles?*

Wilſon. I was, my Lord.

Sir *Tho. Stringer.* Pray, tell my Lord what you were offer'd, and what he would have you to ſay?

Dixon. *Batley* would have him to be a Witneſs.

Mr. *J. Dolb.* Well, but what was he to ſay?

Dixon. He was to ſay he never ſee *Bolron* nor *Mowbray* at his houſe. Saith *Batley*, I ſaw them at the door. Thou never didſt ſee them in my houſe. Yes, ſaith he, I ſee them once, and my Lord, the third time before they departed he might ſay that in 79. he came in and found them there. This he preſt on me, telling me it was but telling a Lye, for no Oath was required in this caſe.

Mr. *Bar. Greg.* Did Mr. *Babbington* offer you money, what would he have you to teſtifie for it?

Mr. *J. Dolb.* What money would he have given you?

Wilſon. He would have given me 10 *l.* and *Hickeringill* proffer'd me 10 *l.*

Mr. *J. Dolb.* Is *Babbington* a Solicitor for Sir *Miles?*

Bolr. Yes, my Lord, here he is.

Dixon. *Batley* did preſs me to ſay again, that he never did ſee *Mr. Bolron* and *Mowbray* in his houſe, and he made a Contrivance of that.

Chriſtopher Langley and *Richard Cocker* called and ſworn.

Sir *Tho. Stringer.* Pray tell my Lords and the Jury what you have been proffer'd, and by whom to give Evidence for Sir *Miles.*

Chr. Langley. My Lord an't pleaſe you, I kept a publick houſe, ſo *William Batley* and *John Roſs* came and called for a quart of Ale, and this *Richard Cocker* was with us, and he ſaid if you'll go and be a Witneſs for Sir *Miles* in thoſe things we ſhall direct you, you ſhall have a couple of Oxen and half a ſcore of Sheep.

Sir *Tho. Stringer.* Who profer'd you this?

Langley. Will. Batley and *John Groſs.*

Cocker. Well, it is the ſame my Lord. I went with him into his houſe, and he proffer'd him a couple of Oxen, and half a ſcore of Sheep, if he would be a Witneſs for Sir *Miles.*

Mr. *Bayns* called and ſworn.

Sir *Tho. Stringer.* Speak whether Mrs. *Holmes* would have had you to have recanted any thing againſt *Sir Miles.*

Mr. *Bayns.* She proffer'd me ſince I came into the Kingdom of *England* threeſcore Pound a year to have holden my Tongue, if I had any thing to ſay againſt Sir *Miles*: I told her not whether I had any thing or no, and ſhe profer'd me 60 *l. per Annum. Mrs. Hewit* ſaid ſhe would give me more if I would ſay nothing againſt *Sir Miles.*

Mr. *J. Dolb.* Did they make an aſſurance?

Bayns. I askt them, do you know another Gentleman's Purſe? they ſaid they knew it very well that he would give it.

Mr. *Miles.* Pray let *Mrs. Holmes* be call'd again.

Mr. *J. Dolb.* Well, ſhe denies it. What is that *Hewit?*

Bayns. He married another of my Daughters, my Lord.

Mr.

Mr. *J. Dolb.* She only appear'd zealous for *Sir Tho. Gaſcoyn*, and ſhe would be the ſame for *Sir Miles Stapleton*. Have you any thing more *Sir Miles*?

Sir *Miles.* No, my Lord; only *Mrs. Holmes* denies it.

Mr. *J. Dolb.* She does ſo.

Sir *Miles.* I heve not ſo much to ſay againſt Mr. *Bayns.*

Mr. *J. Dolb.* I do not hear he ſaith much againſt you.

Mr. *Bar. Greg.* He had got his Money pretty eaſily if he ſaid nothing more againſt you; he had ſcarce earn'd his Money.

Sir *Miles.* I deſire the Jury may conſider what Credit was given to their Evidence formerly in the former Tryals; for I ſpeak ſeriouſly, I never ſpoke any ſuch thing, nor was ever at any Conſult about any ſuch thing; I believe there is none that knows me will believe it.

Mr. *J. Dolb.* Is that all?

Sir *Miles.* The Evidence is very improper; I never thought ill againſt the King in my life; what reaſon was there for it?

Mr. *J. Dolb.* No reaſon at all that either you or any Papiſt ſhould do it, but only through the mad fiery Zeal of the Jeſuits; for ever ſince the Reformation you have enjoy'd your Eſtates and Religion without any moleſtation, but you could not endure we ſhould quietly enjoy ours. But if you have any matter on Record againſt them we will hear it; It may be you will ſay he is an idle fellow and the like; there will be no end of ſuch reflections.

Mr. *Baron Greg.* You ſee what is produc'd on your behalf, Sir *Miles*, though not by your Direction, yet on your behalf, and they ſaid it was but telling a lie.

Sir *Miles.* No, my Lord, not I; I never gave any ſuch Directions.

Mr. *J. Dolb.* Gentlemen of the Jury, Sir *Miles Stapleton* ſtands indicted for a very foul Treaſon, for endeavouring to ſubvert the Government, change the Religion, and to bring in Superſtition and Idolatry; which he could never do, without compaſſing the Death of the King, he being the only obſtacle in the way. This is his Charge. The Proof of this depends upon *Bolron* and *Mowbray*; Mr. *Smith*, the firſt Witneſs, he only relates he hath been in *Rome* and *France*, and among all the Prieſts he convers'd with there was ſuch a Deſign on Foot; But againſt Sir *Miles* he knows nothing, but things told him by Mr. *Thwing*, which I muſt tell you is no Evidence againſt Sir *Miles Stapleton*. *Bolron* and *Mowbray*, do poſitively ſwear the thing as plain as any thing can be; they both ſwear they were preſent at ſeveral Conſults, where it was reſolv'd the King ſhould be kill'd, and that Sir *Miles* did agree to it, and did agree to contribute 200 *l.* to carry on this Deſign. Captain *Bayns*, being Examined, he ſaith he did really ſee Sir *Miles* at *Barmbow*-Hall at that time, but he doth not know whether it was about that or no.

Againſt this, Sir *Miles* ſaith it cannot be, but this is an Invention of *Bolron* and *Mowbray*, and to prove this, he produceth ſeveral Witneſſes, that *Bolron* ſhould deny, and that he ſhould ſometimes ſay that Sir *Tho. Gaſcoyn* knew nothing of it; ſometimes that Sir *Miles* knew nothing of it: I muſt tell you at this time, that they were then diſcours'd withal, they at that time were Papiſts themſelves, and lay under the Oath of ſecrecy. But now here are three Witneſſes, Sir *Tho. Yarbrough*, my Lady *Yarbrough*, and Mr. *Lowder*; and they do ſpeak as much as any of the other doth concerning *Bolron* and *Mowbray*, and they ſpeak it when it was a time pertinent; for what they ſpoke to a Juſtice of Peace at that time ſeems ſomewhat probable: You heard what Mr. *Lowder* ſaith, they came to him to accuſe them the 25th. day of *January* 79, and he put them off for that time, and he gives you Reaſons why he did it; and then he brings an Order of Council to examine *Mowbray*, and he tells him what *Mowbray* would ſwear, and he tells him he would ſwear againſt Sir *Miles Stapleton*, that he was at the Conſult at *Barmbow*-Hall; you have heard him often deliver this, and becauſe it was ſomewhat material, we deſir'd him to ſpeak it again and again: *Bolron* denies it, he never told what *Mowbray* could ſwear; ſo that depends upon the Credit of the Witneſſes.

Sir *Thomas Yarbrough* tells us that *Bolron* came to him, and knocked him up out of Bed, for his Warrant to ſearch for *Ruſhton* a Prieſt, who he ſaid was at Sir *Miles's*, and thereupon he asked him if he could tell any thing of Sir *Miles Stapleton*, and he ſaid no, with many Aſſeverations; now if that Information were the ſame that was ſent to Mr. *Lowder*, then 'tis of no ſuch weight, and it hath been preſuppos'd by the King's Council, that Sir *Thomas* might forget himſelf, neither was there any thing in theſe Papers relating to Sir *Miles.*

And my Lady *Yarbrough* being in Bed in the ſame Chamber, ſhe ſaith ſhe heard the Papers read, and her Husband ask'd him of Sir *Miles Stapleton*, but he deny'd that he was concern'd in the Plot: And ſhe ſaith further, in the Afternoon, a Gentleman brought him into the Porch where they were ſitting, and the Gentleman ask'd him who was Plotters, but he would not tell him; then he ask'd him if Sir *Miles Stapleton* was concern'd, and he poſitively deny'd it. Theſe things hang not well together, I know not how to make any Obſervations upon it; he denies that he ſaid ſo, they ſay he did. The reſt of the Witneſſes are not very much material, only as I told you before, what Talk they would have talked before they changed their Religion: There is nothing proved againſt them, but they are good Witneſſes in the Law; there is no Records, nor Perjuries, nor any thing elſe that takes off their Evidence, they have ſworn it ſeveral times, and ſtand to it. Now you have heard and taken notice what Objections have been made againſt it.

Mr. *Bar. Greg.* My Brother has open'd it ſo fully, I ſhall trouble you with very little, only to let you ſee that my Obſervations were the ſame, and that I concur in the Evidence with my Brother; for there is full Evidence againſt the Priſoner at the Bar. The matter they ſwear is Treaſon of the higheſt Nature imaginable: There are but two that ſwear poſitively, but they ſwear of ſeveral Conſults, and of the particulars that were agreed on by Sir *Miles Stapleton* for the carrying it on; and there is no material Witneſſes againſt them. For the latter Witneſſes of their denying it, it muſt be before they were of the Proteſtant Religion; when they were concern'd as much to conceal it, as any Perſons that were guilty of it: Beſides in a Diſcourſe a Man is not bound to tell a Neighbour all things that he doth know, he cannot be ſafe

to

to tell it to a private Perſon at that time. It is very true, as my Brother hath told you, they were reſolved when they diſcover'd it they would have ſecurity for themſelves: I ſuppoſe they needed not have fear'd Sir *Miles* flying from being apprehended, but if Sir *Miles* was at large they might have fear'd it. But when they came to be examin'd upon their Oaths before Mr. *Lowder* and Mr. *Tindale*, there could not be any thing to excuſe them; It is true, to my apprehenſion, there was no probable Reaſons why theſe two Gentlemen ſhould ask them if Sir *Miles* were concern'd in the Plot; for in the Information they ſaw his Name was not mention'd; thus they were as much afraid as Sir *Miles* was, it may be, it was their care of him knowing what Religion he was of, and knowing him to be related to Sir *T. Gaſc.* Now, it doth depend upon the Credit of what they have ſworn, they deny what is charged upon them by theſe Gentlemen; by Sir *Thomas Tarbrough* and by my Lady; and 'tis true, Mr. *Lowder* was as a Magiſtrate too, and Sir *Thomas* was as a Magiſtrate too; it is true, he was not upon the Examination of them upon Oath at that time, therefore that was not as before a Magiſtrate; but Mr. *Lowder* they came to him as a Magiſtrate; therefore it muſt be for you to conſider whether or no there might be a forgetfulneſs of them in their ſpeaking, or a miſunderſtanding of them; there is nothing elſe that I know can tend to the reconciling of it: For if there were a miſtake by the one, or a forgetfulneſs in the other, then it might alter the underſtanding; but if they heard well and remembr'd true, then it will be, as I have ſaid before, more difficult to be reconciled. But Gentlemen, upon the whole matter, it will depend upon the Conſtruction and Reputation of what they ſwear, and theſe Gentlemen ſpeak, which you are to conſider.

Having Sworn a Bailiff, *the Jury withdrew for about half an hours Conſultation together, and then return'd into Court, and gave in their Verdict* NOT GUILTY.

The TRYAL *of* George Busby, *July* 25.

33 Car. 2. 1681.

THE Court being ſate, and the uſual Formalities preceding Buſineſs over, the Pannel of the Grand Jury was called over, and nineteen of them ſworn. The Names of which Gentlemen of the Grand Jury, which found the Bill of Indictment, *&c.* againſt *George Busby*, were as follows.

1. Sir *Henry Every* of *Eggington*, Baronet.
2. Sir *Robert Coke* of *Langford*, Baronet.
3. Sir *William Boothby* of *Aſhborn*, Kt. and Bar.
4. Sir *Robert Clark* of *Chilcote*, Knight.
5. *William Fitz Herbert* of *Tiſſington*, Eſq;
6. *Henry Cavendiſh* of *Douebridg*, Eſq;
7. *William Mundy* of *Darley*, Eſq;
8. *John Lowe* of *Denby*, Eſq;
9. *William Berriſford* of *Bently*, Eſq;
10. *John Allen* of *Greſely*, Eſq;
11. *William Hopkinſon* of *Bonſall*, Eſq;
12. *William Lees*, Gent.
13. *Lionel Parſhaw* of *Dionfield*, Gent.
14. *Joſeph Harpur* of *Yeavely*, Gent.
15. *John Stuffin* of *Hopton*, Gent.
16. *Matthew Smith* of *Denby*, Gent.
17. *John Whigly* of *Cromford*, Gent.
18. *Paul Jenkinſon*, Gent.
19. *George Birds* of *Stanton*, Gent.

The Indictment being brought into Court, *Billa vera.*

Clerk of the Aſſizes. Goaler, ſet *George Busby* to the Bar. (Which was done.)

Clerk of the Arraignments. George Busby, hold up thy hand. (Which he delayed to do.)

Clerk again. *George Busby*, hold up thy hand.

Which he did not do, but inſtead thereof, preſented a Petition to the Court to this effect; That he was committed to the Goal in *March* laſt, for being a Popiſh Prieſt, and that great Induſtry has been uſed to procure Witneſſes to ſwear againſt him, and that having obtained his *Habeas Corpus* to be removed to *London*, the Under-ſheriff falling ſick, and being ſince dead, the *Habeas Corpus* was not executed; he prays he may be removed to the *King's Bench*, that he may have time to make his defence, he depending upon his *Habeas Corpus*, his moſt material Evidence to clear him, and to prove his being an Alien, being then in *London*, &c.

Baron *Street.* Mr. *Busby*, notwithſtanding I muſt proceed to try you, the Grand Jury having found the Bill *Billa vera*; you ſay you are an Alien; if that be ſo, then you are without this Law of the 27th of *Eliz.*

Busby. I had not my *Habeas Corpus*, and ſo am deprived of my Witneſſes to prove that I am an Alien born.

Baron *Street.* If they prove you not a Native, then the Indictment falls.

Then the Clerk of Arraignments proceeded to arraign the Priſoner.

Clerk. George Busby, hold up thy hand, (which he did.) 'Thou ſtandeſt indicted by the Name 'of *George Busby*, late of *Weſt Hallam* in the Coun-'ty of *Derby*, Clerk, for that thou being a Sub-'ject of our Soveraign Lord the King that now 'is, and being likewiſe born within this King-'dom of *England*, was made and ordained a Prieſt 'by the Authority derived and pretended from 'the See of *Rome*, after the Feaſt of the Nativity 'of St. *John Baptiſt*, in the firſt Year of the Reign

'of

' of our Lady *Elizabeth* late Queen of *England*, &c.
' and before the 16th day of *March*, in the 33d
' Year of the Reign of our Sovereign Lord
' *Charles* the ſecond, of *England*, *Scotland*, *France*
' and *Ireland* King, Defender of the Faith, &c.
' the Laws and Statutes of this Kingdom of *Eng-*
' *land* little weighing, nor the Puniſhments in the
' ſame contained not at all regarding; with
' Force and Arms, &c. at the Pariſh of *Weſt-*
' *Hallam* aforeſaid, in the County of *Derby* afore-
' ſaid, being within this Kingdom of *England*,
' voluntarily, freely and treaſonably, the 16th
' day of *March*, in the 33d Year of the Reign
' aforeſaid, hath been and remained, contrary to
' the form of the Statute in that Caſe made and
' provided; and againſt the Peace of our Sove-
' reign Lord the King, his Crown and Digni-
' ty, &c.

Baron *Street*. How ſayeſt thou *George Busby*, art thou Guilty of this Felony and Treaſon whereof thou ſtandeſt indicted, or Not Guilty?

Busby. This Indictment, my Lord, is not full; it recites not the particular Caſe in the Statute of Queen *Elizabeth*, *viz.* that I took Orders beyond Sea; and another point, that I am a Native of the King's Dominions.

Baron *Street*. You may be made a Prieſt in *England* by the Authority of the Biſhop of *Rome*, as well as at *Rome*.

Busby. How can I be made a Prieſt in *England* by the Authority of the Biſhop of *Rome*, where there is no ſuch Authority?

Baron *Street*. You muſt plead to your Indictment as it ſtands.

Busby. Then my Lord, I humbly beg I may be allowed Council.

Baron *Street*. If any point in Law ariſe you ſhall be allowed Council.

Busby. The time and place is not ſpecified in the Indictment.

Baron *Street*. If that be ſo, 'tis material. But upon View of the Indictment, 'twas found right.

Clerk of Arraignments. *George Busby* hold up thy hand; Art thou Guilty of this Indictment, or not Guilty?

Busby (then holding up his hand) ſaid, Not Guilty.

Clerk of Arraign. *Culprit*, How wilt thou be tried?

Busby. By God and my Country.

Clerk. God ſend thee a good Deliverance.

Baron *Street*. Now we will ſee if your Objections be of any weight; you hear the Indictment read, which was *ut ante*, being a Subject of the King's, born within this Realm; you may be made a Prieſt by the Authority of *Rome*, in *England*, *Ireland*, or *Germany*, or any where elſe, and that will make you a Prieſt within this Law.

Busby. I am no Native, I was born beyond the Sea.

Baron *Street*. Your being a Native, is matter of Fact, and muſt be proved.

Busby. My Lord, I move I may have right of challenging the Jury.

Baron *Street*. Sure we muſt have the Jury before us firſt, before you can challenge any of them.

So the Jury being called, *Busby* challenged peremptorily near the number allowed by the Law, *viz.*

John Burrows, Gent.
Henry Goodyer Gent.
John Hawkſworth Gent.
Thomas Cockayn Gent.
Cornelius Dale Gent.
Thomas Wetton Gent.
Thomas Wingfield Gent.
William Kirkland Gent.
John Agan Gent.
Henry Wild Gent.
Thomas Coxon
James Dawſon.
John Roſe.
William Salt.
John Hurd.
John Stone.
Robert Rowland.
Robert Cooper.
Edward Ridge.
William Alſop.
James Cooper.
John Wallat.
Gregory Seele.

The King's Council did except againſt two perſons only, *viz.* *Robert Doxey*, *Chriſtopher Holmes*.

Baron *Street*. Have a care, Mr. *Busby*, at your Peril, if you challenge peremptorily above the number of 35.

The Names of the Petty-Jury ſworn.

1. *Samuel Ward* Gent.
2. *Tho. Wilſon* Gent.
3. *John Steer*.
4. *John Ratcliff*.
5. *Ed. Wolmeſly* Gent.
6. *William Horn* Gent.
7. *George Tricket* Gent.
8. *Jeremiah Ward*.
9. *John Roper*.
10. *John Creſwel* Gent.
11. *Edmund Woodhead*.
12. *Anthony Bowne*.

Then Mr. *Bridges*, Council for the King, opened the Indictment.

Mr. *Bridges*. May it pleaſe your Lordſhip and the Gentlemen of the Jury, the Priſoner at the Bar *George Busby*, ſtands indicted for High Treaſon, as it is alledged in the Indictment, that he being born within the King's Dominions and made a Prieſt, and having received Orders by pretended Authority from the See of *Rome*, did the 16th day of *March* laſt come into the Realm of *England*, as 'tis laid in the Indictment, to *Weſt-Hallam* in the County of *Derby*, and there he did abide, contrary to the Form of the Statute; and this is laid to be traiterouſly done. To this he hath pleaded Not Guilty; and we are to prove it upon him, by the King's Evidence, whom we are now to call.

Mr. *Coombes*. Gentlemen of the Jury, you have heard the Indictment read and opened, you will preſently have it fully proved, and highly aggravated by our Evidence; for, Gentlemen, we ſhall prove that the Priſoner at the Bar is not only a Popiſh Prieſt, but a Jeſuit, and this by his own Confeſſion; and that his Name was inſerted in Sir *William Waller*'s Warrant, when he came down into this Country to ſearch for Jeſuits: That he has held a ſecret and dangerous Correſpondence with *Harcourt*, *Ireland*, and other Popiſh Traytors: That he has been their Procurator, and disburs'd and received great ſums of mony for them.

Gentlemen, the Priſoner hath been a perſon highly ſuſpected, as well as dangerous to the Government for ſome Years; for treaſonable matters of another nature than he ſtands indicted of, have been depoſed againſt him upon Oath at the Council Board, and thereupon a ſtrict Warrant to apprehend him was directed to Mr. *Gilbert*, (a worthy Gentleman and Juſtice of Peace of this County) Mr. *Gilbert*, Gentlemen, will preſently tell you the manner of his taking him in an obſcure place in the Roof of one Mr. *Powtrel*'s Houſe at *Weſt Hallam* in this County. But

here I muſt beg leave to digreſs, for I cannot but take notice of the malicious Temper and baſe Practices of this ſort of Men; for tho' Mr. *Gilbert* acted by vertue of a Warrant from the Lords of the Council, and has ſince received an approbation from his Majeſty of what he did, under the hand of a Secretary of State, yet could not thoſe people forbear to raiſe falſe and ſcandalous Reports of, and make falſe Accuſations againſt him, upon this very account; but what is it they will not do to diſcourage Proteſtant Magiſtrates from doing their Duty againſt them? I confeſs nothing is to be wonder'd at, ſince the barbarous Murder of Sir *Edmundbury Godfrey*. But to proceed, Gentlemen, we ſhall alſo prove to you that the Priſoner is ſo little a friend even to the Civil Government of this Nation, that he would not ſuffer his Nephew Mr. *Powtrel* to take ſo much as the Oath of Allegiance, which is ſcrupled only by the Jeſuits, for I think their ſecular Prieſts will generally take it. Gentlemen, the things I have already opened, are matters of high Aggravation, and come in by way of Indictment. But that which in this caſe we rely upon is this, that the Priſoner has baptized, married, confeſs'd and abſolved in the Popiſh way, that he has given the Sacrament, and ſaid Maſs very frequently in his Popiſh Veſtments; and for proof of this we have a Cloud of Witneſſes.

Gentlemen, you hear the Priſoner is indicted upon a Statute made in the 27th *Eliz.* which makes it Treaſon for any Subject born to take Orders from the See of *Rome*, and afterwards to remain in *England*; which Law I conceive was not only made for the ſecurity of the Government, but alſo in favour of the Lay Papiſts themſelves; for tho' ſeveral Statutes were made to keep them within the bounds of their Allegiance, and to ſecure the Government from their villainous Deſigns; yet it was experimentally found true, that no Dangers or Penalties whatſoever, could deter or hinder them from plotting againſt the State, in order to bring us back again to the ſlavery of *Rome*; whilſt thoſe juggling managers of their conſciences were ſuffer'd to come amongſt us: and therefore I may well call this Statute, upon which the Priſoner ſtands indicted, an Act of Charity to the common Papiſts; for it was made to prevent the dangers they would otherwiſe run themſelves into, as well as the Nation. 'Tis true indeed, Gentlemen, that the lively execution of this Law has (by the Clemency of our Princes, and good nature of the Government) been many times ſuſpended, and might yet have continued in the ſhade, had not the Popiſh Prieſts and Jeſuits rouſed up this ſleeping Lyon againſt themſelves by a damnable and helliſh Plot againſt his Majeſty's Life, the true Religion and well eſtabliſh'd Government of this Nation; the reality of which has been confirmed to us, not only by the unanſwerable evidence of *Coleman*'s Papers, and other loyal Proofs, but alſo by frequent Proclamations, and the uniform Votes and Reſolutions of ſeveral Parliaments. I may therefore very well borrow the words of a great man upon the like occaſion, and ſay, That at this time of the Day its much better to be rid of one Prieſt than many Felons: And therefore Gentlemen, if our Evidence ſhall make good the Indictment, I hope you will do your King, your Country, and yourſelves the right to find the Priſoner guilty.

Mr. *Coombes*. We ſhall call our Evidence.

Call Mr. *Gilbert*, (who was ſworn.)

Pray tell my Lord and the Jury what you can ſay concerning the Priſoner at the Bar.

Mr. *Gilbert*. My Lord, I dwell within two miles of Mr. *Powtrel*'s Houſe at *Weſt Hallam*, the place where the Priſoner was taken, and have heard that he hath been a Prieſt in that Family ſix or ſeven Years, tho' I did never know him perſonally, nor to the beſt of my knowledge, ever ſaw him till I apprehended him, which was the ſixteenth of *March* laſt, the very day on which the Judges went out of *Derby* the laſt Lent Aſſizes; the firſt enquiry I made after him was occaſioned by a Letter and a Meſſenger from Sir *Simon Degg* about *November* 1678, at which time I ſent a Warrant to the Conſtable of *Weſt Hallam* to ſearch for the ſaid *George Busby*, but he could not then be found; at that time it was reported that he was a Jeſuit, and concerned in the Plot, which I had reaſon to believe, becauſe when Mr. *Gray* came to ſearch Mr. *Powtrell*'s houſe for ſome Jeſuits the *January* following, by Order from the Lords of the Council, (in which ſervice he commanded me to attend him) we perceived Mrs. *Powtrel* (who is *Busby*'s Niece) to be much troubled, and in a great paſſion, the cauſe whereof Mr. *Powtrel* declared to be for fear the ſaid ſearch was made for her Uncle *Busby*, who, as I heard afterwards, was then in the houſe, tho' at that time he was reported to be fled.

However the Government had a jealous eye on this *Busby* above two Years ago, as may appear by a Warrant from the Lords of the Council, which Warrant I have ready, and humbly pray your Lordſhip it may be read openly in Court.

Baron *Street*. Let it be read.

Clerk. 'Whereas Information hath been given 'to his Majeſty in Council upon Oath, that 'George *Busby* late of *Weſt Hallam* in the County 'of *Derby*, is a reputed Prieſt and Jeſuit, and has 'had a conſiderable part in the late Conſpiracy 'againſt the Life of his ſacred Majeſty, and the 'peace of the Government; theſe are therefore 'to will and require you to repair to the place 'aforeſaid, or where-ever elſe the ſaid *George* 'Busby ſhall be found, and him to ſeize and ap'prehend, and convey to the next County Gaol, 'there to remain in cloſe Cuſtody, until he ſhall 'be delivered by due courſe of Law. And all 'Mayors, Sheriffs, Juſtices of the Peace, Con'ſtables, and other his Majeſty's Officers and 'loving Subjects are to be aſſiſting unto you in 'the Execution hereof, as they will anſwer the 'contrary; for which this ſhall be your Warrant. 'Dated at the Council-Chamber in *White-Hall*, 'the 19th day of *March*, 1678.

Indorſed to *Henry Gilbert* Eſq; at *Lockco* in the County of *Derby*.

Worceſter, *Clarendon*, *Ailsbury*, *H. London*, *Sunderland*, *Eſſex*, *Folconbridge*.

John Nicolas.

(Then Mr. *Gilbert* proceeded.)

Mr. *Gilbert*. My Lord, I received this Order on *Saturday* the 22d day of *March*, 1678. And on *Sunday* Afternoon I ſent to Mr. *John Bagnall* of *Derby*, who was then Under-ſheriff, requiring him to meet me early on *Monday* the 24th, at Mr. *Powtrell*'s houſe at *Weſt Hallam*, about ſome earneſt buſineſs lately ſent down from the Lords of

of the Council, wherewith I would acquaint him at our meeting: As ſoon as he came I ſhewed him the Warrant, after which we ſearched very diligently in every place we could ſee, but could not find him; tho' afterwards I was informed he was in the Houſe at that time alſo.

About *Auguſt* 1679. Mr. *Powtrel* obtained a Licenſe from his Majeſty to travel beyond Sea, and it was confidently reported by the Papiſts, that this Mr. *Busby* was gone over too, inſomuch that when Sir *William Waller* came into theſe parts in *January* 1679. with Warrants to ſearch for Jeſuits, (in one whereof I ſaw *Busby*'s name) and would have ſearched at *Hallam*, I diſſwaded him, and did aſſure him I believed he was gone beyond Sea, and told him how often I had ſearched for him in vain; whereupon Sir *William Waller* diverted to another place, tho' I have been informed ſince, that *Busby* was never out of *England*, ſince the diſcovery of the Plot.

But about *Chriſtmaſs* laſt, and ſince, I having had notice that *Busby* was in *England*, and particularly at *Weſt Hallam*, and had been ſeen laſt Corn-Harveſt to walk in Mr. *Powtrel*'s Garden with one *Ann Smally* a Widow. I thought it my Duty to make ſome further enquiry after him, which I did on the firſt day of *March* laſt, and came to the Houſe to buy ſome Wood for my Cole-pits, and then brought five or ſix perſons with me, and ſent for the Conſtable to help me to ſearch for him, which we did moſt part of the Afternoon, but could not find him, tho' he was ſeen to be walking in the Garden with the ſaid *Ann Smally* when I came firſt into the Houſe, as I was afterwards informed; but when I ask'd the ſaid *Ann Smally* for him, ſhe affirmed with many Proteſtations, that he was in *Flanders*, and not in *England*, and that if I had any buſineſs with him, I muſt go beyond Sea to him, for ſhe had not ſeen him for above two Years; tho' ſhe had helped to convey him out of the Garden into his hiding-hole, but a few minutes before: However, I proceeded in my ſearch, and found in the Chamber where *Busby* lodged, a Crimſon-Damask Veſtment, wherein was pack'd up a Stole and Maniple of the ſame, (as the Papiſts call them) an Altar, Stone, Surplice, and a Box of Wafers, Maſs-Books, and divers other Popiſh things: Then I told Mrs. *Braylsford*, (a Kinſwoman of Mr. *Powtrel*'s) and the ſaid *Ann Smally*, thoſe things did ſignify that a Prieſt belonged to the Houſe, for the Book had lately been uſed, as was apparent by the String which was put betwixt two Leaves, whereof *Feſta Februarij* was on the one ſide, and *Feſta Martij* was on the other ſide; but they ſtiffly affirmed that no Prieſt had been there of above two Years before, and jeer'd me when I could not find him, and ſaid if there was a Prieſt in the Houſe, why did I not take him?

When I had done ſearching, and could not find him, I took away the Veſtment, and other things which I brought to the Aſſizes a Fortnight after, and did ask Mr. Juſtice *Charlton* (who came that Circuit) his Opinion what I ſhould do with them; he told me they muſt be burnt according to Law; I intreated his Favour, that I might ſend them again to the ſame place, for two or three days to make the Prieſt more confident, that I might better apprehend him; he told me he could give no ſuch permiſſion, but inſiſted, that they ought to be deſtroyed.

When all the buſineſs was done at the Aſſizes on the Crown ſide (where I was obliged to attend) on *March* the 15th day at night, I went to the Judge again, and craved his Lordſhips Pardon for preſuming to ſend back the Popiſh things contrary to his Opinion, but acquainted him that I intended to go after them to *Weſt-Hallam* that night, and if I could not catch the Prieſt, I reſolved to bring the ſame things again; and after I had asked his Lordſhip ſome Queſtions, and received his Directions, I came to my own houſe, and went about eleven of the Clock at night (with ſome Company to aſſiſt me) to *Hallam*, and ſet two Men to watch in the Garden, and one in the Church-yard (joyning to another ſide of the Houſe,) to ſee if they could ſpy any Light, or hear any Walking, in the Lofts or falſe Floors, when I made a noiſe on the other ſide of the Houſe. I ſent a Man before to call up the Conſtable, and when he and two or three more came, I knock'd at Mrs. *Anne Smally*'s Window, about twelve of the Clock in the night, and ſaid aloud, *Mrs.* Smally, *open the Doors, I am come to ſearch for a Popiſh Prieſt*; ſhe ſtarted up, and ſaid *Who was there?* I told her, *It was I, ſhe knew me well enough, I dwelt at* Locko. Then I ſtaid a pretty ſpace of time, and called aloud to her again, and ſpoke the like Words, but by that time, I ſuppoſe ſhe and her Bedfellow Mrs. *Braylsford*, were gone to give the Prieſt Notice, and to help him to his hiding hole for no body anſwer'd me; then after a pretty ſpace, I called to her a third time, *And required her in the King's Name to open the Doors, for I was come to ſearch for* Busby *the* Jeſuite, *who was a Traytor by Law, and if ſhe would not open the Doors, I would cauſe the Conſtable to force them open*; and when I could have no Anſwer from her, I went to *Joſeph Dudley*'s Chamber Window, and called there, charging him in the King's Name to open the Doors, but no Anſwer at all was returned; for he alſo was gone into the Prieſt's Chamber, and found *Anne Smalley* buſy in helping *Busby* to ſecure himſelf, as the ſaid *Joſeph Dudley* did afterwards inform me.

After I had ſtayed about a quarter of an hour, I commanded the Conſtable, in the King's Name, to break the Doors open, which was done; and when we came into the Prieſts Chamber, I found the Fire had been lately extinguiſhed, the Counterpain and the Blankets laid in confuſed heaps on the Bed, and ſome part of them warm and ſome part cold; the upper part of the Feather-bed was cold, which I wondred at, then I put my hand underneath, and the Bed was warm; for they had turned it. I looked for the Pillow, Sheets, Cap, *&c.* but *Anne Smally* (as I was afterwards informed) had taken them into the Chamber where ſhe lay. I asked her divers Queſtions about the Perſon, that had lain in that Bed that night, and particularly, Whether or no it was not *Busby*? She told me, no body had lain in that Bed that night, I told her I was ſure ſome Perſon had lain there; for the Feather-Bed was warm on the under ſide: She took many Proteſtations, That no Body had lain there of divers Nights before: I replyed, if ſhe would diſcover the Perſon who had lain there, it would ſave her and me much trouble: But when all I could ſay would not prevail, I told her, I muſt ſearch, for I was confident, That *Busby* was in the Houſe, becauſe ſhe would not declare who it was that lay there.

I began to ſearch about one of the Clock, and

continued till after ten next Morning before I could find him: And tho' the Watchers in the Garden told me, They heard his Paces and Steps very plainly amongst the Lofts and false Floors, and described on the out-side of the House the place where they last heard him, within the space of nine and ten Foot where he was hid; yet were we almost so many hours before we could find him.

At last when the Searchers were almost all tyred, *Anne Smally*, and others of the Family scoffed at us, and asked, *What have you not found him yet, you said there was a Priest in the House, why do you not find him then? Why do you not take him?* I said, *All in good time; I was resolved to find him, or starve him out:* Nay, the Foot-boy of the House, seeing my Servant look within the Kitchin-Chimney, where there hung a Port-Mantua, said, jeering to my Man, *Look if he be not in the Port-Mantua.*

After those Persons had pleased themselves a good while with mocking us for our disappointment, I perswaded two or three of the Searchers once again to climb upon the Lofts (which I could not do my self, by reason of a Lameness in my Shoulder,) and look well near the place where *Busby*'s last steps were heard. Which when they had done some while, and found nothing, I took my Sword and Scabbard, (being in the Room underneath) and knocked on the Plaister-floors over my head, and caused them to answer me with the like knocking as near the same Place as they could, and when we had examined the Floors in this manner, I knocked near unto a stack of three Chimneys, but they could not answer within a Yard; I knock'd again in two or three places near the Chimneys, yet still they could not answer near those places, but told me there was nothing but Tiles and Roofing, I bid them break open those Tiles, which they did, and espied under them a wooden Door, and a little Iron Hinge, I bad them break the Door, then one of the Searchers put in his hand into a little hole that was broken in the Door, and felt a Hat, then he told me some body was in that place, for a Man had thrown his hand off the Hat, then I caused them to break open the entrance, which when they had done, *Busby* spoke to them, and desired them to be civil; when they told me what he said to them, I charged them to be civil to him, and bring him to me, which they did. Then I arrested him in his Majesty's Name, for High-Treason, and after he had refreshed himself a little, I told him he must get on his Boots, and prepare himself to go to *Derby*.

Soon after his Apprehension, (I perceiving him to be a little dismay'd) I encouraged him, and said, he should have all the Favour a Person in his Circumstances could expect, for I told him I understood he was a Gentleman of a good Family in *Buckinghamshire* or *Oxfordshire*, and that his Brother lived at *Coddington* in *Oxfordshire*, which he acknowledged, and thanked me for my Civility.

I was so well satisfied that we had apprehended him, after much tedious watching and searching, that I never thought of sending any Man to look what was in the hiding hole with him, but after an hours stay, or thereabouts, I took him away from *Hallam* between eleven and twelve a Clock on the 16th of *March* last, and brought him to *Darby* between one and two of the Clock where, after I had taken his Examination, I made a Mittimus and committed him to *Derby*-Goal.

On Saturday following, I writ a Letter to *Oxford* to the Right Honourable the Earl of *Conway*, one of his Majesties principal Secretaries of State, informing his Lordship of the Apprehending and Commitment of *Busby*, and inclosed a Copy of his Examination, to which his Lordship writ me a Letter in Answer, that he had acquainted his Majesty with my Proceedings, who did very well approve of what I had done.

Busby. My Lord, I am an Alien, born at *Brussels*.

Bar. *Street*. Was your Father of that place? It is a very good Family.

Busby. My Father lived at *Coddington*, my Mother was an Heiress, and here is an *Affidavit* ready to be produced of what Children my Father had before he went beyond-sea, born at *Coddington*, out of the Register of that place; I have had no time to bring a particular Certificate where I was born, and what other Children my Father had beyond sea; my Father went over about the beginning of the Troubles, and I am about forty years of Age.

After the Judge had told *Busby* of the Act for Naturalization.

Mr. *Busby*. I suppose (my Lord) that Act may stand good as to Priviledges of the Subject, but not as to Penalties.

Baron *Street*. Yes as to all Intents and Purposes.

Anno XXIX Caroli II. Regis.

An Act for the Naturalizing of Children of His Majesties English Subjects, born in Foreign Countries during the late Troubles.

'WHereas during the late unhappy Troubles in *England*, which began in the year of our Lord, One thousand six hundred forty one, and continued until the time of His Majesties most happy Restauration, divers of His Majesties English Subjects, as well of the Nobility as others, did either by reason of their Attendance upon His Majesty, or for fear of the then usurped Powers, reside in parts beyond the Seas out of His Majesties Dominions, and it may hereafter become difficult to make proof of the occasion of such their residence; Now for preventing of all Disputes and Questions that may arise, whether the Children of such His Majesties Subjects of this Realm are Natural born Subjects of our Sovereign Lord the King, and to express a due sense of the merit of all such Loyal Persons, as out of their Duty and Fidelity to His Majesty and his Father of blessed Memory, did forego, or were driven from their Native Country.

'Be it Declared and Enacted by the King's most Excellent Majesty, by and with the Consent of the Lords Spiritual and Temporal, and

'the

'the Commons in this preſent Parliament aſ-
'ſembled, and by the Authority of the ſame,
'That *Charles Gerard*, and *Elizabeth Gerard* Chil-
'dren of the Right Honourable *Charles* Lord
'*Gerard* of *Brandon*, *Trever Wheler*, and *Dorothy*
'*Elizabeth Wheler* Children of Sir *Charles Wheler* Ba-
'ronet, *Anne Ravenſcroft* the Wife of *Edward*
'*Ravenſcroft* of *Bretton* in the County of *Flint*
'Eſq; one of the Daughters of Sir *Richard Lloyd*
'Knight deceaſed, born at *Calice* in *France*, and
'all other Perſons who at any time between the
'Fourteenth day of *June* in the ſaid Year of
'our Lord One thouſand ſix hundred forty one,
'and the Four and twentieth day of *March* in
'the Year of our Lord One thouſand ſix hundred
'and ſixty, were born out of His Majeſties Do-
'minions, and whoſe Fathers or Mothers were
'Natural born Subjects of this Realm, are here-
'by declared and ſhall for ever be eſteemed and
'taken, to all intents and purpoſes, to be and
'to have been the Natural born Subjects of this
'Kingdom; and that the ſaid Children, and all o-
'ther Perſons born as aforeſaid, and every of them,
'are and ſhall be adjudged, reputed, and taken to
'be and to have been in every reſpect and degree,
'Natural born Subjects, and Free to all in-
'tents, purpoſes and conſtructions, as if they
'and every of them had been born in *Eng-*
'*land*.

'And be it further Enacted and Declared by
'the Authority aforeſaid, That the Children,
'and other perſons as aforeſaid, and every of
'them, ſhall be, and are hereby enabled and
'adjudged able, to all intents, conſtructions
'and purpoſes whatſoever, as well to demand,
'as to have and enjoy any Titles of Honour,
'Manors, Lands, Tenements and Hereditа-
'ments, and all other Privileges and Immuni-
'ties belonging to the Liege People and Natu-
'ral Subjects of this Kingdom, and to make his
'or their reſort or pedigree, as heir to his, their
'or any of their Anceſtors, Lineal or Collate-
'ral, by reaſon of any Deſcent, Remainder,
'Reverter, Right or other Title, Conveyance,
'Legacy or Bequeſt whatſoever, which hath,
'may or ſhall deſcend, remain, revert, accrue,
'come or grow unto the ſaid Children, or
'perſons born as aforeſaid, or any of them, as
'alſo to have and enjoy all Manors, Lands and
'Tenements, or other Hereditaments, by way
'of Purchaſe or Gift of any perſon or perſons
'whatſoever; as alſo to proſecute, purſue,
'maintain, avow and juſtifie all and all man-
'ner of Actions, Suits and Cauſes, and all other
'things to do as lawfully, liberally, freely and
'fully, as if the ſaid Children, and the perſons
'born as aforeſaid, and every of them, had been
'born of Engliſh Parents within this Kingdom,
'or as any other perſon or perſons born within
'this Kingdom may lawfully in any wiſe do;
'any Law, Act, Statute, Proviſion, Cuſtom,
'or other thing whatſoever, had, made, done,
'promulged, proclaimed, or provided, to the
'contrary thereof in any wiſe notwithſtanding;
'Provided always, That no perſon, other than
'the perſons expreſly named in this Act, ſhall
'have any benefit thereby, except ſuch perſon
'ſhall within ſeven Years next enſuing, receive
'the Sacrament of the Lords Supper, and within
'one Month next after ſuch Receiving the Sa-
'crament, take the Oaths of Allegiance and Su-
'premacy in ſome of His Majeſties Courts at
'*Weſtminſter*, and deliver into the Court at the
'ſame time, a Certificate of ſuch his Receiving
'the ſaid Sacrament, and then make proof
'thereof by Witneſſes to be examined *viva voce*
'upon Oath.

'And be it further Enacted, That no perſon
'or perſons, other than the perſons expreſly
'named in this Act, ſhall have any benefit there-
'by, until he or they ſhall have received the
'Sacrament, and made proof thereof by Certi-
'ficate and Witneſſes, and taken the ſaid Oath
'in manner aforeſaid.

'And for the better manifeſtation and proof
'of ſuch qualifications as may entitle any per-
'ſon to the benefit of this Act, which in pro-
'ceſs of time may be very hard to be proved;
'Be it futher Enacted, That any perſon having
'received the Sacrament, and made proof
'thereof by Certificate and Witneſſes, and taken
'the ſaid Oaths within the time aforeſaid, in
'any of His Majeſties Courts, in manner afore-
'ſaid, ſhall and may be admitted to make proof
'of ſuch his qualification in the ſaid Court by
'Witneſſes *viva voce* to be examined upon Oath;
'and if he ſhall make proof thereof to the ſatis-
'faction of the ſaid Court, he ſhall thereupon
'have a Certificate thereof under the Seal of
'the ſaid Court, to be likewiſe Enrolled in the
'ſaid Court, and for ever after upon ſhewing
'ſuch Certificate or Enrollment thereof, every
'ſuch perſon ſhall have full benefit of this
'Law, as if he had been therein expreſly
'named.

Bar. *Street*. Then you are a Natural born Subject by the late Act of Parliament; whereby it appears that all Perſons born abroad in the late Troubles, who went out of this Kingdom by reaſon of their ſufferings for the King, are made Natural born Subjects, as if born here.

[*Then* Joſeph Dudley *was called and Sworn.*]

Bar. *Street*. *Joſeph Dudley*, do you know the Priſoner at the Bar? Look upon him.

Joſeph Dudley. I have known him theſe ſix years and more, to belong to Mr. *Powtrells* at *Weſt-Hallam*, to whom I was at that time a Servant, where he officiated as a Prieſt, and was kept to do that Office; where I have heard him ſay Maſs, Preach, Pray, and have ſeen Ten, Twenty, or Thirty, or more at a time before him in the Chappel there, when he hath officiated with his Prieſtly Robes upon him; and likewiſe ſeen Children brought to be chriſtened by him, others to be catechiſed, which he frequently did, as if he had been a Pariſh Prieſt, but with what Privacy he could: and I my ſelf have taken care of the doors at ſuch times, which care they left to me, tho' I was not of their Opinion; yet upon my promiſing to be ſo, they did repoſe that truſt and confidence in me.

Bar. *Street*. Tell us what you know concerning Mr. *Busby*'s being an Alien, as he pretends, which I cannot believe.

Joſ. Dudley. He tells you that when the Civil Wars were here in *England*, his Father and Mother, with their Family, went beyond-ſea, where he was born; but my Lord, in diſcourſing with my Maſter and others of the late Wars, I have heard Mr. *Busby* relate what hapned to their Family in thoſe times, and that their houſe was often plundred, and his Father and Mother living at *Coddington* in *Oxfordſhire* (as he

tells

tells you) the first time the Soldiers came to plunder the house, he was about two years old or more, and being frighted at the Soldiers, he hid himself behind the Bed in the Curtains, so that while they were there, none of the house knew where to find him, which made them believe thatthe Soldiers had taken him,or made him away, but when the Soldiers were gone, his Mother and some of the Family lamenting for him in her Chamber, he hearing them, appear'd; so that with great Joy they receiv'd him. My Lord, I think the place was *Coddington*, where he tells you his Mother lived, and that it was hers, she being an Heiress. At least I am very certain I have heard him speak of the place where he was born, to be in or about *Oxfordshire*, I think it was *Coddington*; for it is the place where Mr. *Charles Busby* his eldest Brother now liveth, and he saith, that from thence his Father and Mother went beyond-sea.

Busby. When did you hear me discourse any such thing as you have related, and with whom; you speak this by hear-say, do you not?

Jos. Dudley. Several times with my Master and others, as I said before, when they have been talking how some Families have been ruined by the great Oppressions of those times, some being plundered, other sequestered, and forced to leave their Estates and Friends, which you have said was your Mothers case; for their great Sufferings forced them to go from their own house: And my Lord, when he was about five years old, he did also say that he could remember Soldiers coming again to plunder, and he being at that time in the Garden or Orchard, he did hide himself in the Hedge, where he did continue till they were gone, and then he came forth when it was late in the Evening, but his Mother nor any of the Family knowing where he was, did very much fear they had lost him; but when he came to them they were not a little joy'd: but after this they went immediately beyond-sea, and took him with them, where his Mother continued several years, and had several Children there, the which I have heard her say of her self, and of her being at *Brussels*.

Bar. *Street.* Mr. *Busby*, the Evidence says that you told a Story of your Mothers house being plundered, and how you hid your self in the Curtains, when you was two years old, and in the Garden-hedge, when five years old, for fear of the Souldiers, and that soon after your Mother went beyond-sea, where she had several Children, which your self told, from your own mouth, and he had it not from other people.

Bar. *Street.* But Mr. *Dudley*, What can you say as to his being a Priest or Jesuit?

Jos. Dudley. My Lord, my Master and his Family, and all Papists that were acquainted with him, ever owned him to be a Jesuit; and several of them have many times told me so: Besides he himself hath owned that he was of the Society of *Jesus*, particularly one time, when I should have been his Convert; telling me, *While I was out of the True Faith, I could not be saved; and there was no way to be saved, but by believing the Catholick Church, which was the Roman Catholick, as Tradition makes appear; for God help me, I was a poor Heretick, and led by weak and blind Pastors; for they had their Religion only from* Calvin *and* Luther, *and every silly Fellow was made now a Preacher of the Gospel before he understood it: but that he and all Jesuits were Fifteen years labouring in their Studies and Degrees before they came to be Ordained.*

Busby. I pray you where and when was it it I said all this to you?

Jos. Dudley. In the Gardens at *West-Hallam*, where my Master Mr. *William Powtrell* and Mrs. *Anne Smalley*, after great perswasions, sent me to you; and told me they had sent you before: and that I should find you there where I did. And your first Discourse was of the Gardens, withal giving me a Description of the Jesuits College in *Liege*, where you did (as I remember) own your receiving Orders. Besides I have heard my Master, Mrs. *Smalley*, Mrs. *Winifred Attwood*, and *George Harrison* (who lived in the Colleges beyond-sea) own it. And your self said. *That Mr.* Evers, *my Lord* Aston's *Priest* (*who hath been with you at* West-Hallam) *was your Master and Tutor*, when as I think you were a Scholar at St. *Omers*.

Busby. How long do you say you have lived at *West-Hallam*?

Jos. Dudley. Betwixt six and seven Years.

Busby. When was that I talked of the Gardens at the College of *Liege*? And whether I told you I was a Jesuit when I spoke of *Liege* Gardens? What time was it, what year?

Jos. Dudley. I cannot say the time, but twas since I lived at *Hallam*, and 'twas when you perswaded me to be a Catholick.

Busby. You take a compass of six years, this is a meer Story? pray what were my Arguments?

Bar. *Street.* You were about to convert him, and then you told him this; 'tis enough you have endeavoured to make him change his Religion, but it seems your Arguments were not of so much weight as to be remembred.

Busby. I pray you, was I ever with you alone to tell you I was a Jesuit? Let me know the year and time, and what induced me to say so?

Jos. Dudley. I cannot satisfy you when the Discourse was, but I have been alone with you in the Garden a hundred times and more; when you did satisfy me that you was a Jesuit, was the time when you did move me to be of your perswasion; the which I did so far condescend to, that ever since there was none of the Family more trusted than I; for, my Lord, I did give them all the Assurance that might be of being of their Religion, but the times being troublesome, and the fear of disobliging my Friends, particularly one or two, who had the care and management of a house of mine (which was then in trouble) then I durst not consent, yet my seeming Inclination did ever much please them, and they did so far credit me that my Master did intend (as he told me) to take me beyond Sea with him, nor did I know the contrary, till I was upon the Road for *Dover*, and then he told me that his Uncle *Busby* was inserted in the Pass (by the Name of *Thomas Jackson*) which he shewed me; but he having no mind to go, stayed in *England* (and for the most part at *Hallam*) so that my Master commanded me back, to look after his Affairs there: And for some time before he was to return, he said he would send for me over. Ever since he left *Hallam*, Mr. *Busby* hath continued privately there,

for

none beſides Mr. *George Brent* and my ſelf and the Women of the houſe, were ſuffered to know of him; nay ſome of his Relations who have lain in the houſe, have not known but that he was beyond Sea, tho' they were Papiſts, yet he would not ſuffer them, but concealed himſelf.

Busby. I pray will you tell me what day, month, or year it was, you and I had this Diſcourſe you ſpeak of; and tell me how it came that I was ſo familiar with you?

Bar. *Street.* What need you impoſe it upon him, when he ſaith he hath lived with you ſix years and more? he cannot remember it, but he tells you that it was in the Garden, where he has been with you an hundred times and more, not thinking further of it; 'tis impoſſible to ſatisfy you the particular time; therefore why do you ask him ſuch a fooliſh queſtion?

Busby. I deſire you will let me know how you (as you pretend) come to know I was a Jeſuit.

Joſ. Dudley. Sir, it is what you know to be truth, and I am ſure you cannot but remember, it was in the Walk at the head of the Orchard, where you was before me expecting my coming to you, and did then uſe all the perſwading means that might be to confirm me in your Opinion; in which I ſeemed ſo well ſatisfied, that you told me you would leave me to conſider of it, but that I ought to forſake my Friends, and whatever elſe, to come to God Almighty, of which you did not doubt; but bid me be careful, for delays were dangerous: And my Lord, as to his being a Jeſuit, he did own it when my maſter was committed to Priſon for refuſing the Oaths of Supremacy and Allegiance; (for he was then private at *Weſt Hallam*) withal ſaying, in his Conſcience he ought not to take them, for their Church would not allow it, but on the contrary did expreſly forbid it: Nevertheleſs Mrs. *Powtrel*, Mr. *William Powtrel*, and divers of the Family did argue for his ſo doing, eſpecially after Mr. *Thomas Cannynge* came from St. *Thomas* in *Staffordſhire*, and ſaid that his Uncle *Fowler*, he, and all belonging to him, had taken the Oath of Allegiance: And that it was the Opinion, and with the conſent of Mr. *Fitter* their Prieſt, that they might do it; and for that reaſon Mr. *Cannynge* came to adviſe my maſter the like: But Mr. *Busby* did reject the motion, and ſaid no ſecular Prieſt could give leave ſo to do, and for his part he was abſolutely againſt it, and ſo was all the Society: But if Seculars gave too much liberty, he would not be guilty of their fault; ſo when all would not prevail with him, then Mrs. *Powtrel* and I went to Mr. *William Brent* at *Fox Coat* in *Warwick-ſhire*, her Grand-father, and Mr. *Busby*'s Father-in-Law, a Councellor, to have his advice; and upon his writing ſeveral Letters to my maſter, and Mr. *Busby*, that it was proper for my maſter ſo to do, nor could he avoid it; then in compliance to Mr. *Brent*, he did not much oppoſe the taking of the Oath of Allegiance: And thoſe Letters, the next night after Mr. *Gilbert* had taken Mr. *Busby*, Mrs. *Smally* (for fear he ſhould find them) did burn, but ſhewed them to me as ſhe was looking over many papers more, the moſt of which ſhe did likewiſe burn.

Mr. *Gilbert.* For your Lordſhips and the Juries further confirmation, that the Priſoner is a Jeſuit as well as a Prieſt, and that he held a dangerous Correſpondence with ſome of his Order, which have been executed for their Treaſons in relation to the Plot; I muſt acquaint your Lordſhip that this *Busby* was Procurator for the Jeſuits, and that he received the Rents of their Lands, from 1673 till 1677, and that he diſburſed and returned ſeveral great ſums of mony to divers Jeſuits, as may appear by Letters, and his Account-Book, which I took; where may be ſeen what Dealings and Tranſactions he had with *Gawen*, *Harcourt*, *Turner*, *Ireland*, *Pool*, *Bennet*, *Heaton*, *Tomſon*, and others of his Tribe: He could not deny it to be his own hand-writing.

My Lord here is the Book.

(*Which was preſented to the Judge and peruſed by him.*) *Then Mr.* Gilbert *proceeded.*

My Lord, I did alſo ſearch at *Weſt Hallam* Houſe for Popiſh Prieſtly Garments, (being well informed that there were ſuch in the Houſe) and found divers Suits of Veſtments and other Popiſh Trinkets, which I brought away; together with thoſe I formerly ſent back from the laſt Aſſizes; all which I have ready in Court to be produced, and have alſo a Miniſter here, (who has formerly been a Popiſh Prieſt himſelf) to inform your Lordſhip the names and uſe of all the particulars; here are alſo (my Lord) a Box of Wafers, which I ſuppoſe they uſe for the Sacrament at the Maſs; the larger ſort I am told are for the Prieſts uſe, the leſſer for the People; and here are the Wafer Irons which made them.

Mr. *Sheppey*, pray tell my Lord and the Jury the Names of all thoſe things, and how the Prieſt uſeth them at Maſs.

Mr. *Sheppey* taking up the things, ſaid, *My Lord, this is a Veſtment uſed when the Maſs is ſaid, this is a Stole, and this is a Maniple, and this an Antipendiana:* And ſo gave an account of the reſt of the Trinkets.

(*Then* Thomas Houis *was called and ſworn.*)

Bar. *Street.* What can you ſay, Friend, of the Priſoner? See if you know him, look upon him.

Thomas Houis. I know him well enough, he perſwaded me to be a Roman Catholick, when I was about to marry a man's daughter that was a Papiſt; whom I could not have, until I turned to their Religion. Mr. *Busby* perſwaded me, and when he had converted me, bound me to believe that Matrimony was a Sacrament; he gave me Abſolution, and made me do Pennance; the words of the Abſolution I cannot pronounce, but I have been ſeveral times at Maſs when he ſaid it, when I had Abſolution from him; after Confeſſion I was to ſay theſe words:

'For all which, and whatever elſe I cannot at 'this preſent call to mind, I am heartily ſorry 'for, for the Love of God; and purpoſe by 'God's Grace to amend, beſeeching you my 'Ghoſtly Father to pray to God for me, and to 'give me Abſolution and Pennance.

Afterward you know you married me, and I was cited to *Lichfield* Court for being married privately by you. My Lord, I have been preſent when Mr. *Busby* ſaid Maſs at *Weſt Hallam*, and have heard and ſeen him ſay Maſs ſeveral days in his Prieſtly Robes: I never knew any other Prieſt but him at *Weſt Hallam*; moſt Sundays and Holydays he ſaid Maſs, where were preſent moſt of the Roman Catholicks in thoſe parts; I have heard him preach three times, and no more.

Busby. Did I come to you, or you to me?

Tho. Houis. I came to you.

Busby. Then I did not perſwade you to turn Catholick, you was ſatisfied upon the firſt perſwaſion

ſwaſion before you came to me, and declared you would turn Catholick.

Tho. Houis. I was perſwaded by Mr. *Shirborn* of *Standly Grange*, yet not fully convinced but by you.

Mr. *Gilbert.* My Lord, this *Shirborn* he ſpeaks of, was one Captain *Shirborn* a great Papiſt, who lived near me, a Letter Carrier (as was reported) and one that ſold them Books and Trinkets.

Tho. Houis. For I was fully ſatisfied then in all things by your inſtructions, and hearing your Sermons; as for Maſs, I did not underſtand it, but you ſaid it was Maſs; beſides, others called it ſo.

Busby. How can you ſwear to a thing you do not underſtand?

Tho. Houis. If I did not, you told me ſo, and I believ'd you, becauſe you did the Office of a Prieſt.

Bar. *Street.* It ſeems this is the matter, you courted a Papiſt for your Wife, and *Busby* told you the way to have her was to be a Papiſt, and you did hearken to *Busby* to perſwade you; he told you Matrimony was a Sacrament, and before you were married, you muſt be confeſs'd, and have Abſolution; and Mr. *Busby*, you put words into his mouth to deſire Abſolution, but gave it in ſuch Language as he underſtood not: he ſays he has heard you ſay Maſs frequently; but preach only three times.

Busby. It is an eaſie matter for him to ſay ſuch things, but how does he prove it to be Abſolution or Maſs, when he ſays he underſtands not the Language?

Tho. Houis. My Lord, I have not only been preſent at that which they call their Maſs, but I have alſo receiv'd the Sacrament from Mr. *Busby* then, and have ſeen him give the Sacrament to divers other perſons too; and beſides, my Lord, I did ſend my eldeſt Child to the Chappel at *Standly Grange*, to have it chriſten'd by Mr. *Busby*: This Woman (pointing to *Sarah Clark* who ſtood by) carried it: When we came there, Dr. *Richard Needham* (who lived there) ſaid to me, Are you the Father of this Child? I anſwer'd yes: Then ſays Dr. *Needham*, You ought not to be preſent when your Child is chriſten'd: whereupon, my Lord, I went into a corner of the Room, but could perceive well enough what was done, and Mr. *Busby* did chriſten my Child, and gave her the Name of *Ann*, Mr. *Peter Waldron* was Godfather, and Mrs. *Ann Smally* Godmother.

King's Council. We ſhall now call *Elizabeth Evans* for further proof of Mr. *Busby's* exerciſing his Prieſtly Office: (Who was alſo ſworn.)

Bar. *Street.* Come good Woman, what can you ſay of the Priſoner at the Bar, do you know him?

Eliz. Evans. Yes, I know the Priſoner at the Bar, its Mr. *Busby*, my Lord, and have ſeen him in his Prieſtly Habit ſay Maſs in the Chappel at Mr. *Powtrel's* Houſe at *Weſt Hallam*; I ſaw him chriſten *Henry Avery's* Child of *Stauton*, I was Godmother to the Child: He has confeſs'd me ſeveral times; and I have received Abſolution from him: I have received the Sacrament from him.

Bar. *Street.* What was it he gave you, when you received the Sacrament from him?

Eliz. Evans. I know not what it was Mr. *Busby* gave me.

(*Then the Wafers were called for; they were of ſeveral Sizes in a Box.*)

And being ſhewed to her, ſhe ſaid, Yes my Lord, theſe are what he gave us at Maſs for the Sacrament; I remember them, they were juſt ſuch.

Busby. Wafers are things uſually put under Biskets and Macaroons, therefore how can ſhe ſay thoſe are the Sacrament, for they are what I have ſeen given to Children to eat and play withal.

Bar. *Street.* They are things indeed to give to Children.

King's Council. Pray call *Dorothy Saunders.*

(*Who appeared and was ſworn.*)

Bar. *Street.* Well *Dorothy Saunders*, what ſay you?

Dor. Saunders. He has ſeveral times abſolved me, and given me the Sacrament, and has ſaid Maſs, where the company were ſometimes more, and ſometimes leſs; (and having a Wafer given her into her hand) and he held up the Wafer thus, (and ſhewed the Court and the Jury the manner of his Elevation of the Hoſt.) And being ask'd by the Judge whether ſhe knew Prieſtly Veſtments? (anſwered)

Dor. Saunders. Yes I know Prieſtly Veſtments when I ſee them; (which being ſhewed to her) ſhe ſaid ſhe had ſeen *Busby* in ſome of them; but for his chriſtening of Children, I know nothing of that.

Busby. Is that the Sacrament? Thoſe Wafers in the Box, is that the Sacrament?

Dor. Saunders. We took it at your hands for the Sacrament.

Bar. *Street.* Mr. *Busby* you are ſo impertinent in your Queſtions, you think you have weak perſons to deal with; I hope the Jury will take notice of it.

King's Council. Call *Sarah Clark.*

(*Who appeared and was ſworn.*)

Bar. *Street.* *Sarah Clark*, have you heard Mr. *Busby* ſay Maſs?

Sa. Clark. Yes my Lord, that which he told us was Maſs, but I did not underſtand it, for it was in another tongue, which they ſaid was *Latin.*

Bar. *Street.* But had he his Veſtments on, or how was it, tell us good Woman?

Sa. Clark. Yes my Lord, he had Veſtments on, and he did then give us the Sacrament as he called it, which was a Wafer, and that he put into our mouths after that he had elevated the Hoſt: and he himſelf told me it was the Sacrament.

Bar. *Street.* Well, and have you made Confeſſion to him, and has he abſolved you after you have done ſo?

Sa. Clark. I have been at Confeſſion before him upon my knees, and when I had done, he ſpoke ſomething to me in *Latin* (as I think) which he ſaid was Abſolution, and I did take it to be ſo; and I have ſometimes my Lord, heard him preach, and that I underſtood, becauſe it was in Engliſh. He told me what Abſolution was, and the Maſs, and the ſame was to be read in Engliſh, and thoſe that could read, at thoſe times ſaid the ſame.

Bar. *Street.* Several Witneſſes have ſpoken cloſely that he has exerciſed his Office in all things as a Prieſt: Have you known him marry any body, and chriſten Children; if you have ſpeak?

Sa. Clark. My Lord, he did not marry me, one Mr. *Gavan* married me; but I have heard that he did marry *Thomas Houis*, and I am ſure he did chriſten *Thomas Houis* his firſt Child, for I carried it

it to him, and Mr. *Waldron*, and Mrs. *Ann Smally* were Godfather and Godmother, and he did name it *Ann*; it was chriſten'd at *Standly Grange*, at Dr. *Needham*'s houſe, and ſeveral others were there at the ſame time, and afterwards I brought it home.

Busby. How do you know it to be Maſs and Abſolution, when you ſay you do not underſtand the Language I ſpoke in?

Sa. Clark. Tho' I did not underſtand what you ſaid, you told me what every thing meaned, and I did believe you, becauſe others told me ſo too; beſides all Papiſts thought it their duty (as you told us) to be there all Holydays and Sundays, to prevent a Venial Sin, which if we omitted we were liable to Pennance.

Mr. *Gilbert.* My Lord, we have three or four more Witneſſes, but we are loath to trouble your Lordſhip and the Court with any further Teſtimony of this nature; hoping the matter of the Indictment has been fully proved againſt the Priſoner, and if your Lordſhip pleaſe we will reſt here.

Bar. *Street.* I ſuppoſe the Jury will believe there has been ſufficient Evidence given to convict him; but Mr. *Busby* what can you ſay for yourſelf?

Busby. *Joſeph Dudley* tells your Lordſhip how I ſhould tell a Childiſh Story of hiding myſelf in the Curtains, when I was two years old; pray my Lord, conſider how I could remember what I did at two years old; I know not how I could. I have told your Lordſhip I was born beyond Sea, I am ſure I was bred there; I hope your Lordſhip will not take notice of an hear-ſay; my Mother went beyond Sea at the beginning of the Troubles, not after, 'twas before *Edge-Hill* Fight. As to what *Houis* ſays, he himſelf does acknowledge, that he does not underſtand what Language I abſolved him in, nor the Language of the Maſs, and therefore he cannot ſwear to it; and for ought I know, as to to his being married, it was in a priviledged place, and could not be cited to *Litchfield* Court; and for what the other Witneſſes ſays, their Evidence is only that they heard ſomething read in an unknown Language, uſually Women pray in an unknown Language, and thoſe publick Prayers were only Family Duties; they ſwear not what it was, becauſe they underſtand it not.

Bar. *Street.* I believe not one in a hundred underſtands your Prayers that hear them; elſe they would not be ſo juggled by you.

Busby. There are Veſpers and Mattins, and Even ſong; he does not diſtinguiſh what it was that was ſaid, by reaſon 'twas in an unknown Language to him; it was only Family Duty. I can produce a Witneſs to prove it, that Women do Family Duty in an unknown Language.

Bar. *Street.* I know Women do not Officiate in your Church.

Busby. He ſwears my Lord, to what he does not underſtand. As for *Elizabeth Evans*, ſhe ſwears concerning ſaying Maſs, and underſtands not one Service from another, and this proves not particularly my Prieſtly Office.

Bar. *Street.* Mr. *Busby*, you forget chriſtening *Avery*'s Child, and *Houis*'s Child, confeſſing and abſolving divers perſons, the material Evidence: You only offer ſome little Diverſions.

Busby. *Dorothy Saunders* knows not what ſhe ſwears, nor *Sarah Clark*, none of the Witneſſes can diſtinguiſh one ſervice from another, they cannot therefore ſwear what was, and what was not; giving of Bread is not the Prieſtly Office, they do not ſwear poſitively to my exerciſing the Prieſtly Office, other perſons wear thoſe Garments as well as Prieſts: Thoſe things are Monuments and Heyre-Loomes to the Family, they were taken out of Churches in former times at the Reformation: There are now to be ſeen in the Cathedral at *York*, Church Stuff and Veſtments, which are kept for Antiquity, and ſo were theſe.

Bar. *Street.* Mr. *Sheppey* has been a Prieſt, and he knows the uſe of thoſe things as well as you.

Busby. My Lord, thoſe things Laymen do wear as well as Prieſts, I deſire to call a Witneſs to prove it.

Bar. *Street.* You may if you will, but to what purpoſe?

Busby. Pray call *Robert Needham.*

(Who was called and appeared.)

Bar. *Street.* Well *Needham*, do you know theſe things?

(The Veſtments being ſhewed unto him)

Rob. Needham. I have had theſe things on my ſelf, my Lord, and have ſaid my Prayers in them, and have thought my Prayers more acceptable when I had them on; and I have ſeen them uſed by others ſeveral times.

Busby. More wear them that are Laymen, than ſuch as are Prieſts.

Bar. *Street.* *Needham*, it ſeems you wore them whilſt you ſaid your Prayers, that they might be more acceptable?

R. Needham. Such like Veſtments are worn by Laymen in ſeveral places

Busby. I deſire one Mr. *Charles Umphrevill* may be called, to ſpeak to my being an Alien born.

(Who being called for the Priſoner, was not ſworn.)

Char. Umphrevill. To Mr. *Busby*'s being an Alien, I have known Mr. *Busby* ſeveral Years, and I have heard his Mother and Brother affirm he was born at *Bruſſels:* And I have an Affidavit from the Regiſter at *Coddington* of all their Children born in *England*, and we do not find Mr *George Busby*'s name in the Regiſter.

Bar. *Street.* How can you be ſure of that? You ought to have brought the man along with you, to teſtify it.

Cha. Umphrevill. My Lord, the Sexton is an old man above ſixty years of Age, and could not come, but he made Affidavit of it, which is here.

Bar. *Street.* That does not ſignify any thing at all, that Affidavit cannot be allowed, for he might be born there, and yet not regiſter'd; but what makes you ſay we? What makes you concerned?

Cha. Umphrevill. I ſay we, becauſe I was one of thoſe employ'd to get Mr. *Busby*'s *Habeas Corpus.*

(Upon Mr. Umphrevill's *being at a ſtand, and* Busby *directing him to tell what he had ſeen beyond Sea; the Judge taking notice thereof, ſaid,)*

Bar. *Street.* What would you have him ſay Mr. *Busby*? tell him.

Cha. Umphrevill. I have ſeen Canons beyond Sea wear ſuch Veſtments, that are not in Orders; I have ſeen Children wear them, and they I am ſure are not in Orders.

Busby. I call Mr. *Mayo* to prove that I am not a natural born Subject of the King's.

Bar. *Street.* (Come Sir, tho' you are not upon your Oath, yet you muſt tell us the truth, as faithfully as if you were.)

Edw. Mayo. I have ſearched the Regiſter at *Coddington*, and I do not find *George Busby*'s name, the Priſoner, regiſter'd'; I have ſearched all the Books, and I find no Regiſter of him.

Bar. *Street.* An hundred Children may be born in that Pariſh within this 20 years, and not regiſter'd; all that are baptized, are regiſter'd only.

Busby. Mr. *Mayo*, ſatisfy my Lord of the diſappointment I had of my *Habeas Corpus*, which you got for me.

Bar. *Street.* To what purpoſe? but Mr. *Busby* you ſhall not ſay but I will hear him: What ſay you *Mayo?*

Edw. Mayo. My Lord I was employed about an *Habeas Corpus* for Mr. *Busby* in *Eaſter Term* laſt, and did obtain one for him then, but by reaſon of ſome ſlackneſs it was preſently out of date, and ſo became ineffectual. Alſo in *Trinity Term*, I procured another *Habeas Corpus* for him, which was deliver'd to the Under-ſheriff of this County of *Derby*, who was then very ſick at *London*, of which Sickneſs he died there at laſt, and that *Habeas Corpus* for that reaſon did likewiſe fall ſhort, by which diſappointments Mr. *Busby* is not ſo prepared for his Tryal at this time as otherwiſe he might, if he had not really depended upon his being removed to *London* by *Habeas Corpus*.

Bar. *Street.* All this is too little to the purpoſe, for if he expected to have had his Tryal there, and was prepared for it a Term or two ago, how comes it to paſs he is not prepared now? Come, come Mr. *Busby* what can you ſay more?

Busby. I could not be born at *Coddington*, I was born beyond Sea, out of the Kingdom. My Lord, here is not one word proved of the ſubſtance of the Indictment, not a word proved that I took Orders beyond Sea, nor here, from any perſon that ſaw me take Orders; not a word of that proved: nor not a word of the ſubſtance of that Statute of Queen *Elizabeth*, which I am indicted upon; only ſome few Women ſay they heard me pray in an unknown Language, which was no more than Family Duty; and I can produce a Witneſs that Women ſay their prayers publickly in an unknown Tongue, and all anſwer; and by theſe Circumſtances I am accuſed for being a Prieſt.

Bar. *Street.* I find Mr. *Busby* you underſtand the Law; But pray you, is the Sacrament given by Women? and is Abſolution given by Women?

Busby. If they underſtand not the Language, they underſtand not the Thing: Treaſon may be ſpoke in *French*, and I not know it to be ſo.

Bar. *Street.* Then it ſeems no man can prove a Prieſt, that does not underſtand the Latin Tongue.

Busby. None of the Witneſſes has ſworn that I gave Abſolution, nor that I ſaid Maſs, but in an unknown Tongue. What they have ſaid are only Circumſtances, and do not prove the Indictment; and what they ſay I did, are things that are performed by thoſe that are not Prieſts. I offer it again to your Lordſhip's Conſideration, that I have not been proved a born Subject of the King's. I was deprived of my *Habeas Corpus*, which was detained in the Sheriff's hand, and ſo loſt the Benefit of it; (theſe things are material;) and have not had time to produce Witneſſes that I was not born in *England*, but beyond Sea: At *London* I could have got Evidence to prove that; and here has been no proof made of that, but a ſtory told of me when I was a Child: I have proved that my name cannot be found in the Regiſter at *Coddington*. For the reſt I have not had time; if I had had the benefit of my *Habeas Corpus*, to have been tried at *London*, I had Friends there that could have proved me born beyond Sea: This *Dudley* that appears an Evidence againſt me, was a Servant of Mr. *Powtrel's*, who was gone away upon diſguſt; he ſent away ſeveral Loads of Goods, and now he comes to ſwear againſt me; I am verily confident that he carried away above three Horſe-load of Goods, that he carried privately out of the Garden, of Plants and ſuch things, and ſent them all away.

Mr. *Gilbert.* My Lord, they were his Cloaths, and other things of his own, which he took with him when he went away.

Bar. *Street.* All this ſignifies nothing, if it be proved; but bring what Witneſſes you will to prove it.

Busby. I hope your Lordſhip will conſider that I am an Alien born, and that by the loſs of my *Habeas Corpus* I had not time to bring my Witneſſes; and that the Prayers I ſaid were only Family Duties: I hope that will be conſider'd; and that thoſe people that have ſworn I ſaid Maſs and abſolved, do not know what Maſs is, nor Abſolution. My Lord, here is nothing proved of the Indictment againſt me.

Bar. *Street.* You have ſaid all this ſix times over, if you have nothing farther to ſay in your defence, I muſt ſum up the Evidence to the Jury.

Bar. *Street.* You of the Jury, the Priſoner at the Bar, *George Busby*, ſtands indicted of Treaſon upon the Statute of 27 *Eliz. Cap.* 2. the principal Branch whereof is this:

'And be it further Enacted by the Authority 'aforeſaid, That it ſhall not be lawful to or for 'any Jeſuit, Seminary Prieſt, or other ſuch Prieſt, 'Deacon, or Religious or Eccleſiaſtical Perſon 'whatſoever, being born within this Realm, or 'any other of her Highneſs Dominions, and 'heretofore, ſince the ſaid Feaſt of the Nativity 'of St. *John Baptiſt*, in the firſt Year of her Ma'jeſties Reign, made, ordained, or profeſſed, or 'hereafter to be made, ordained, or profeſſed, by 'any Authority or Juriſdiction, derived, chal'lenged, or pretended from the See of *Rome*; by 'or of what Name, Title, or Degree ſoever the 'ſame ſhall be called or known, to come into, be, 'or remain in any part of this Realm, or any 'other her Highneſs Dominions, after the end 'of the ſame Forty days, other than in ſuch ſpe'cial caſes, and upon ſuch ſpecial occaſions only, 'and for ſuch time only, as is expreſſed in this 'Act: And if he do, That then every ſuch Of'fence ſhall be taken and adjudged to be High 'Treaſon: And every perſon ſo offending, ſhall 'for his Offence be adjudged a Traytor, and 'ſhall ſuffer, loſe, and forfeit as in caſe of High 'Treaſon.

This makes every Offender againſt this Statute a Capital Offender, and guilty of High Treaſon: Now whether he is within this Law, you are to conſider. Mr. *Gilbert* has told you that he is a reputed Prieſt and Jeſuit, in the Neigbourhood, and that as ſuch he had an Order from his Majeſty to apprehend him. He uſed his endeavours to take him for ſome time, but could not apprehend him till the ſixteenth of *March* laſt, and then he found him; but in ſuch an obſcure hole, that no body would hide himſelf in, but ſuch an extraordinary Offender. Innocent people do not obſcure themſelves in that manner. *Joſeph Dudley*, to prove him a Native and not an Alien, tells you, that when Soldiers in the time of the late Wars,

Wars, came to plunder his Father's Houſe, he heard him ſay, that at two Years old he hid himſelf in the Curtains in his Mother's Chamber for fear of the Soldiers. But (ſays the Priſoner) my memory could not ſerve me at two Years old to retain what I did then. But our Parents tell us what we did then. If a man be ask'd, What Age are you of? no man can tell, but as his Parents tell him. My Father told me I was ſix Years old, and from thence I remember it. His Father and Mother were not out of *England* (as appears) till about 1646, and then the War was ended; and the Priſoner confeſs'd himſelf to be about forty Years of Age, which ſhews him born in *England*. He that but obſerves his Language, will find that the Tone of the Engliſh Language remains with him. One born in *Wales*, (tho' he come young from thence) he will have a Welſh Tone as long as he lives. The Priſoner tells you, that no man has proved his being in Orders of the Church of *Rome*, nor where, when, or by whom made a Prieſt: But if all that were to be proved, it would make the Law idle and inſignificant. If he be made a Prieſt in *England*, 'tis as much as if made at St. *Omers* or *Rome*. He did own to *Joſeph Dudley*, that he was made a Jeſuit, and laboured to make a Convert of him in the Garden, when he was alone with him. The next was *Thomas Houis*, who courted a Woman, and muſt not have her, unleſs he turn'd Roman Catholick. *Busby* muſt diſcourſe him, and make a Convert of him. He hears *Busby* preach three times, and heard him ſay Maſs ſeveral times; and was not only married by him, but has been confeſs'd and abſolved by him divers times. But *Busby*'s fallacious Argument has no weight in it, that becauſe he underſtands not Latin, therefore he proves it not Maſs, nor other Services of the Church of *Rome*. *Dorothy Saunders* ſpeaks to the ſame purpoſe, that he confeſs'd and abſolved her. And ſhe tells you, that ſhe has ſeen him elevate the Hoſt, and has ſhewed you the manner how; and he gave her the Sacrament, which ſhe and the reſt took from him as the Sacrament: And that ſhe has ſeen him officiate in ſome of the Robes produced in Court. *Sarah Clark* ſpeaks to the ſame purpoſe, and ſo did *Elizabeth Evans*. But *Busby* ſays, becauſe this was done in an unknown Tongue, they cannot ſwear it; and that he is no Prieſt, becauſe they do not ſwear where, and when, he received his Orders. Whoever does exerciſe that Profeſſion, we do believe him of that Church. When a Miniſter of our Church preaches or officiates, we do not ſay, Pray let us ſee your Orders firſt; but if he officiate uſually as a Prieſt, 'tis taken for granted that he is one. He can tell where he received his Orders, but it may be cannot produce them upon all occaſions. Muſt he therefore be no Prieſt? Upon the whole, if you believe the Witneſſes, or any two of them, you are to find the Priſoner guilty; I believe you have had full Evidence, go together and conſider of it.

(*The Jury went forth, and after a ſhort ſtay came back into the Court.*) And then,

Clerk. Gentlemen of the Jury, have you agreed on your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. The Fore man.

Clerk. *George Busby*, hold up thy hand: Look upon the Priſoner.

Clerk. Do you find *George Busby* guilty of the High Treaſon and Felony he hath been arraigned of, or not guilty?

Fore-man. Guilty.

Clerk. And ſo you ſay all?

Jury. Yes.

Clerk. Look to him Jaylor.

Bar. *Street.* Tho' I muſt paſs Sentence upon you of courſe, the Jury having found you guilty; yet I muſt tell you, that his Majeſty hath commanded me to reprieve you from Execution.

(*Then Mr. Baron* Street *paſſed Sentence.*)

That you the Priſoner now at the Bar be conveyed hence to the place from whence you came, and that you be conveyed thence on a Hurdle to the Place of Execution; where you are to be hang'd by the Neck; that you be cut down alive, that your Privy Members be cut off, your Bowels taken out and burnt in your view; that your Head be ſevered from your Body; that your Body be divided into four Quarters; which are to be diſpoſed of at the King's pleaſure: And God of his infinite mercy have mercy upon your Soul.

The TRYAL *of* Stephen Colledge.

33 Car. 2. 1681.

To the King's moſt Excellent Majeſty.

The humble Petition of *Stephen Colledge*, now Priſoner in Your Majeſty's *Tower* of *London*.

Moſt humbly ſheweth,

'THAT whereas Your Petitioner being 'charged with High Treaſon, is under 'ſtrait Confinement, that he hath not 'liberty to ſee or ſpeak with any of his 'Friends or his Children, and being lately in-'formed, that it is ordered Your Petitioner ſhall 'come to his Tryal at the City of *Oxon* about 'the middle of the next Month.

'Your Petitioner therefore moſt humbly 'prays your Sacred Majeſty, That leave may 'be given for Mr. *Thomas Smith* and Mr. *Robert 'Weſt* to come to him; and alſo to have the uſe 'of Pen, Ink and Paper, in order only to make 'his legal and juſt Defence, and alſo to have 'the Comfort of ſeeing his two Children.

And your Petitioner as in duty bound ſhall ever pray, &c.

A True Copy,
Francis Gwyn.

At *Hampton-Court*, July 28. 1681.

'UPON Reading this Day at the Board 'the Petition of *Stephen Colledge* Pri-'ſoner in the *Tower*, praying that in 'order to the making his Defence 'at his Tryal, which he hears is to be the mid-'dle of the next Month, he may be permitted to 'ſee his two Children, to have the Liberty of 'Pen, Ink and Paper, and that Mr. *Thomas 'Smith*, and Mr. *Robert Weſt* may come to him. 'His Majeſty was pleaſed to Order, That the 'Lieutenant of the ſaid *Tower* of *London*, do per-'mit the ſaid *Stephen Colledge* to have Pen, Ink 'and Paper, and to ſee his two Children, and 'the ſaid Mr. *Thomas Smith*, and Mr. *Robert Weſt*, 'and to converſe with them as often as he ſhall 'deſire in the preſence and hearing of the War-'dour who attends him.

A true Copy,
Francis Gwyn.

To the King's Moſt Excellent Majeſty. And to the Right Honourable the Lords of His Majeſty's Moſt Honourable Privy Council.

The humble Petition of *Stephen Colledge*, now a Priſoner in the *Tower* of *London*.

Humbly ſheweth,

'THAT your Petitioner having been a 'cloſe Priſoner ever ſince his firſt Com-'mitment, is altogether ignorant of the 'particular matters charged againſt 'him, and of the Names of the Witneſſes who 'are to prove the ſame; upon his knowledge 'of both which, as well the nature as the man-'ner of his Defence muſt depend; and becauſe 'upon the conſideration of his Caſe, ſeveral 'Matters of Law may ariſe as well before as at 'the Time of his Tryal in which Council will 'be neceſſary to aſſiſt him, and ſeveral Mat-'ters of Fact preparatory to his Tryal, 'with which under his Confinement he cannot 'be furniſht without the help of a Sollicitor, 'and he is like to be wholly uncapable of re-'ceiving any benefit from the privilege allowed 'by Law of peremptory Challenge to ſeveral 'Jurors, eſpecially in a Country where he is 'abſolutely a Stranger, unleſs he may have ſome 'knowledge of them before his Tryal.

'In full aſſurance therefore of the great Ju-'ſtice and Clemency of Your Majeſty and this 'Honourable Board which he hath lately had 'ſome experience of, and doth with all humi-'lity and thankfulneſs acknowledge, Your Pe-'titioner doth humbly beſeech Your Majeſty 'and this Honourable Board, that he may 'have a Copy of the Indictment againſt him, 'or the particular Charges of it, That his Coun-'cil and Sollicitor may have free acceſs to, 'and private Conference with him; and be-'cauſe their own private affairs or other acci-'cidents may call away ſome of his Council 'from his aſſiſtance, that Mr. *Wallop*, Mr. *Smith*, Mr. *Thompſon*, Mr. *Darnel*, Mr. *Weſt* of the 'Middle Temple, Mr. *Holles* of *Lincolns-Inn*, Mr. 'Rotherham, Mr. *Lovell*, Mr. *Rowny* of *Grays-Inn*, 'Mr. *Pollexfen*, Mr. *Ward* of the *Inner-Temple*, 'may be aſſigned him for Council, and *Aaron 'Smith* for his Sollicitor, and that he may have 'a Copy of the Jurors to be returned upon his 'Tryal ſome days before his Tryal.

And your Petitioner ſhall ever pray, &c.

A true Copy,
Francis Gwyn.

At *Hampton-Court*, Aug. 11. 1681.

'IT is ordered by his Majeſty in Council, 'That the Friends and Relations of *Ste-'phen Colledge*, a Priſoner in the *Tower*, ſhall 'have Liberty of Viſiting and freely conver-'ſing with him; and the Lieutenant of the *Tower* 'having firſt cauſed their Names to be taken in 'Writing, is to ſuffer ſuch Friends and Rela-'tions to have Acceſs to the ſaid *Stephen Colledge*, 'without any Interruption from time to time 'accordingly.

A True Copy,
Francis Gwyn.

THE

The TRYAL *of* Stephen Colledge.

Preſent the { Lord *Norreys*. / Lord Chief Juſtice *North*. / Mr. Juſtice *Jones*. / Mr. Juſtice *Raymund*. / Mr. Juſtice *Levyns*.

On *Wedneſday* the 17 of *Auguſt*, 1681. the Judges and Commiſſioners of *Oyer* and *Terminer* and Gaol-Delivery, met at the Court-Houſe in the City of *Oxford*; and after Proclamation for Silence, the Commiſſion of Gaol-Delivery was Read, and then the Commiſſion of *Oyer* and *Terminer*. Proclamation was made for the Sheriff to return the Precepts to him directed: The Juſtices of the Peace of the County of *Oxford* were called over; and the Appearance of the Grand Jury Summoned to attend this Commiſſion was taken.

L. Ch. Juſt. North. GEntlemen, You that are returned of the Grand Inqueſt, there has been a Seſſions ſo lately that in all probability there will be no great matter to trouble you with at this time. And ſo I ſhall not trouble my ſelf nor you to give you any Charge, becauſe we know of no buſineſs yet that we ſhall need you for. The Court hath recorded your Appearance. You will do well to be in the way either in the Town or here about the Court, that you may be ready if any thing ſhould happen. 'Tis neceſſary for us to have your attendance, but we know not of any thing that we have in particular to trouble you with. We have an Indictment before us, let us proceed upon that.

Cl. of the Crown. Gaoler, have you your Priſoner?

Gaoler. We will fetch him preſently.

Then the Priſoner was brought to the Bar.

Cl. of Cr. Stephen Colledge hold up thy hand. (*Which he did.*)

'Thou art here Indicted by the Name of '*Stephen Colledge* late of *Oxford*, in the County 'of *Oxford*, Carpenter; For that thou as a falſe 'Traytor againſt the moſt Illuſtrious, moſt Se'rene, and moſt Excellent Prince, our Sove'reign Lord *Charles* the Second, by the Grace 'of God, of *England*, *Scotland*, *France* and *Ireland* 'King, Defender of the Faith, *&c.* thy Su'preme and Natural Lord, the Fear of God in 'thy heart not having, nor weighing the Duty 'of thy Allegiance, but being moved and ſe'duced by the Inſtigation of the Devil, the 'cordial Love, and true due and natural obedi'ence which true and faithful Subjects of our 'ſaid Sovereign Lord the King towards him our 'ſaid Sovereign Lord the King, ſhould and of 'right ought to bear, wholly withdrawing and 'machinating, and with all thy ſtrength in'tending the Peace and common Tranquillity 'of our ſaid Sovereign Lord the King of this 'Kingdom of *England* to diſturb, and Sedition 'and Rebellion, and War againſt our Sovereign 'Lord the King, within this Kingdom of *Eng'land* to move, ſtir up and procure; and the 'cordial Love, and true and due obedience 'which true and faithful Subjects of our ſaid 'Sovereign Lord the King, towards him our 'ſaid Sovereign Lord the King ſhould and of 'right ought to bear, wholly to withdraw, put 'out and extinguiſh, and him our ſaid Sovereign 'Lord the King to Death and final Deſtruction 'to bring and put, the Tenth Day of *March*, in 'the Three and Thirtieth Year of the Reign of 'our Sovereign Lord *Charles* the Second, by the 'Grace of God, of *England*, *Scotland*, *France* and '*Ireland* King, Defender of the Faith, *&c.* at *Ox'ford*, in the County of *Oxford*, Falſly, Malici'ouſly, Subtilly and Traiterouſly, did Purpoſe, 'Compaſs, Imagine, and Intend Sedition and 'Rebellion within this Kingdom of *England*, to 'move, ſtir up, and procure, and a Miſerable 'Slaughter among the Subjects of our ſaid So'vereign Lord the King to procure and cauſe, 'and our ſaid Sovereign Lord the King from 'his Regal State, Title, Power and Govern'ment of his Kingdom of *England*, to deprive, 'depoſe, caſt down and diſinherit; and him 'our ſaid Sovereign Lord the King to Death 'and final Deſtruction to bring and put, and 'the Government of the ſaid Kingdom at thy 'will and pleaſure to change and alter, and 'the State of all this Kingdom of *England*, in 'all its parts well inſtituted and ordained, whol'ly to Subvert and Deſtroy, and War againſt 'our ſaid Sovereign Lord the King, within this 'Kingdom of *England* to levy; and thy ſaid 'moſt Wicked Treaſons and Traiterous Imagi'nations and Purpoſes aforeſaid to fulfil and 'perfect, thou the ſaid *Stephen Colledge* the ſaid 'tenth day of *March*, in the Three and Thir'tieth year of the Reign of our ſaid Sovereign 'Lord the King with Force and Arms, *&c.* at '*Oxford* aforeſaid, in the County of *Oxford* a'foreſaid, Falſly, Maliciouſly, Subtilly, Adviſedly, 'Deviliſhly and traiterouſly did prepare Arms,

'and

' and Warlike offenſive habiliments to wage War ' againſt our ſaid Sovereign Lord the King. And ' thy ſelf in warlike manner for the purpoſes ' aforeſaid, then and there Falſly, Maliciouſly, ' Subtilly, Adviſedly, Deviliſhly and Traite- ' rouſly didſt Arm, and one *Edward Turbervill*, ' and other Subjects of our ſaid Sovereign Lord ' the King, to Arm themſelves, to perfect thy ' Traiterous purpoſes aforeſaid, then and there ' Adviſedly, Maliciouſly and Traiterouſly didſt ' incite and adviſe. And further, then and there ' Falſly, Maliciouſly, Subtilly, Adviſedly, De- ' viliſhly and Traiterouſly didſt ſay and declare, ' That it was purpoſely deſigned to ſeize the ' Perſon of our ſaid Sovereign Lord the King ' at *Oxford* aforeſaid, in the County of *Oxford* ' aforeſaid. And that thou the ſaid *Stephen Col-* ' *ledge* in proſecution of thy Traiterous purpoſe ' aforeſaid, wouldſt be one of them who ſhould ' ſeize our ſaid Sovereign Lord the King at ' *Oxford* aforeſaid in the County aforeſaid. And ' that thou the ſaid *Stephen Colledge* thy ſaid moſt ' wicked Treaſons and traiterous Imaginations, ' Compaſſings and Purpoſes aforeſaid the ſooner ' to fulfil and perfect, and Diſcords between ' our ſaid Sovereign Lord the King, and his ' People to move, cauſe and procure, then and ' diverſe times and days as well before as after, ' at *Oxford* aforeſaid, in the County of *Oxford* ' aforeſaid, in the preſence and hearing of di- ' verſe Liege Subjects of our ſaid Sovereign Lord ' the King, then and there being preſent, falſly, ' maliciouſly, ſubtilly, adviſedly, deviliſhly and ' traiterouſly didſt ſay and declare, That nothing ' of good was to be expected from our ſaid So- ' vereign Lord the King, and that our ſaid So- ' vereign Lord the King did mind nothing ' but Beaſtlineſs and the Deſtruction of his ' People: And that our ſaid Sovereign Lord ' the King did endeavour to eſtabliſh Arbitrary ' Government and Popery, againſt the Duty of ' thy Allegiance, againſt the Peace of our So- ' vereign Lord the King, his Crown and Dig- ' nity, and againſt the Form of the Statutes in ' this Caſe made and provided.

How ſay'ſt thou *Stephen Colledge*, art thou Guilty of this High Treaſon whereof thou ſtandeſt indicted and haſt been now arraigned, or not Guilty?

Colledge. My Lord, I do deſire, if it pleaſe your Lordſhip, to be heard a few Words.

L. C. J. Look you Mr. *Colledge*, the matter that hath been here read unto you is a plain matter, and it hath been read to you in *Engliſh*, that you may underſtand it. 'Tis an Indictment of High Treaſon; now you muſt know, that no Plea can be received to it, but either Guilty or Not Guilty as to the Fact; if you can aſſign any matter in Law, do it.

Colledge. Will you pleaſe to ſpare me, that I may be heard a few words. I have been kept a cloſe Priſoner in the *Tower* ever ſince I was taken: I was all along unacquainted with what was charged upon me. I knew not what was ſworn againſt me, nor the perſons that did ſwear it againſt me, and therefore I am wholly ignorant of the matter. I do humbly deſire, I may have a Copy of the Indictment, and a Copy of the Jury that is to paſs upon me, and that I may have Council aſſigned me, to adviſe me, whether I have not ſomething in Law pleadable in Bar of this Indictment.

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L. C. J. Theſe are the things you ask, you would have a Copy of the Indictment, you would have Council aſſigned to you, to adviſe you in matter of Law, and a Copy of the Jury.

Colledge. One word more, my Lord, I deſire to know upon what Statute I am indicted.

L. C. J. I will tell you for that. Is it not *contra formam Statut.* with an abbreviation?

Cl. of Cr. Yes.

L. C. J. That refers to all manner of Statutes that have any relation to the thing in the Indictment that is High Treaſon. For it may be meant *contra formam Statut.* which are all the ſeveral Statutes that are in force concerning High Treaſon. Now for thoſe things that you demand, you cannot have them by Law. No Man can have a Copy of the Indictment by Law; for Council you cannot have it, unleſs matter of Law ariſes, and that muſt be propounded by you; and then if it be a matter debatable, the Court will aſſign you Council, but it muſt be upon a matter fit to be argued: For I muſt tell you, a Defence in Caſe of High Treaſon ought not to be made by Artificial Cavils, but by plain Fact. If you propoſe any matter of Law, the Court will conſider of it, and aſſign you Council if it be reaſonable. For a Copy of the Jury, that you can't have neither, for there is no ſuch thing as yet; there is no Iſſue joyned whereupon ſuch a Jury ſhould be impannelled. When you have pleaded to Iſſue, then we muſt award the Sheriff to impannel a Jury to try that Iſſue. So as to what you ſay as to want of preparation for your Tryal, we cannot enquire what Notice you have had; and yet if you had never ſo little time, there is no cauſe why you ſhould not plead, tho' you were but juſt now taken and brought to the Bar to anſwer it, and never heard of any thing of it before. So that I think you ought to plead preſently.

Colledge. My Lord, I am wholly ignorant of the Law, I may ruin my ſelf by miſtaking the Law; I deſire Council, not to delay my Tryal, but only to adviſe me whether there is not ſomething in Law proper for me to plead to this Indictment, and thoſe things I alledged were not at all to delay the Tryal, but only that I may not be wanting to my ſelf in what I may by Law have.

L. C. J. I tell you, Council cannot be aſſigned you, till the Court be poſſeſſed of ſome matter to grant it upon.

Colledge. I had ſome Papers my Lord, that were taken from me, which I deſire may be reſtored to me. I only plead, that I may have my Birth right, and that which the Law gives me; if I may have Juſtice, I deſire no more. Thoſe Papers were taken from me in the Houſe over the way ſince I was brought from the Priſon; they were Papers that concerned my Defence; ſome Directions and Inſtructions how to manage my ſelf in that Defence. If you pleaſe to let me have thoſe Papers, I will not take up much of your time; I deſire to have but common Juſtice, and that which is my right by Law.

L. C. J. That which you demand, Juſtice, you ſhall have by the Grace of God to the beſt of our Skill, without any partiality in the World. But you muſt truſt the Publick Juſtice of the Kingdom. We are to be of Council for you, ſo far as to ſee that all things proceed fairly on

all

all things proceed fairly on all ſides. And when things come before us that are fit for you to have Council upon, you ſhall have Council aſſigned you; for we are tender of the Life of a Man, as well as of the Life of the King, and of the Publick Juſtice of the Kingdom. But this is no reaſon why you ſhould not now plead. For the Papers you ſpeak of, we will take an Examination of them afterwards. If they were Papers that are neceſſary for your defence upon your Tryal, in God's Name you muſt have them reſtored to you, but we know not which way you came by them, nor what they are.

Colledge. They were taken from me juſt now, under pretence of bringing them to your Lordſhip.

L. C. J. How comes any body to give yon Papers? No body can ſolicit for one that is under an Accuſation of High Treaſon, unleſs he be aſſigned ſo to do by the Court.

Colledge. God have Mercy upon any Man that is ſo accuſed then; for 'tis not poſſible for him to make his defenſe, if he cannot be at liberty to look after it himſelf, nor any of his Friends permitted to do it for him.

L. C. J. You can ſay, whether you are Not Guilty without any Papers.

Colledge. My Lord, I know not but there may be ſomething in Law for me to plead to this Indictment, which I ſhall loſe the benefit of if I plead. I humbly conceive, you are to be my Council; and as you are Judges, are to proceed according to the Law. You are upon your Oaths to do me right according to the Law.

Mr. *J. Jones.* But till you have propoſed a matter of Law fit for Council to argue, there is no Council to be aſſigned you.

Colledge. If I had thoſe Papers I could tell what I ſhould plead. My Lord, this is one thing, I am a Free-man of *London*, and I am not impleadable by the Charter of *London* any where out of the Liberties of the City in Pleas of the Crown.

L. C. J. You are indicted in *Oxfordſhire* for High Treaſon committed here. If there be not any thing of High Treaſon proved, done in *Oxfordſhire*, you will be acquitted. But a Free-man of *London* cannot have a Priviledge to commit Treaſon in *Oxfordſhire*, but muſt be tryed for it there.

Colledge. Will you pleaſe to order me my Papers back that were taken from me?

Mr. *J. Jones.* You ought firſt to plead. You have a right to demand Council in matters of Law, but then it muſt be upon ſuch matters of Law as you your ſelf propoſe to the Court, and the Court ſhall judge to be matters of Law fit to be debated: Till then we cannot aſſign you Council.

Colledge. It was ſo in the Tryal of *Lilburne*, and in the Tryal of my Lord *Stafford*, there was Council aſſigned to them.

Mr. *J. Jones.* Not before they pleaded to the Indictment.

Colledge. Did not your Lordſhips, ſome of you, that are Judges of the *Kings-Bench* ſay that it was the right of the Priſoner, to have a Copy of the Pannel and of the Jury before the Tryal?

Mr. *J. Jones.* No ſure: Here are two of us that are of the Court, and we never heard of any ſuch thing.

Colledge. Pray, my Lord do me right, I am ignorant of the Law, and through my Ignorance may miſtake.

L. C. J. God forbid we ſhould not do you right; you may expect it from us; we are upon our Oaths to do all the King's Subjects right.

Colledge. I am ignorant in the Law, and 'tis impoſſible for me to make my defence without the Aſſiſtance of my Papers.

L. C. J. Cannot you tell, whether you be Guilty or Not Guilty of this Treaſon?

Colledge. I can ſo, but I know not what error I may run my ſelf into, if I ſhould plead preſently, and loſe the benefit that the Law may give me.

L. C. J. All matters of Law are ſaved to you after you have pleaded.

Colledge. Pray, my Lord let me have my Papers again that were taken from me.

Cl. of Cr. You muſt plead to the Court, Guilty or not Guilty.

Colledge. Shall I not have my Papers after I have pleaded?

L. C. J. We will not capitulate with you. Move what you will then, but till you have pleaded, we can enter into no other buſineſs.

Colledge. I know not but I might plead ſome other thing to the Indictment.

Mr. *J. Jones.* Propoſe what you will, if it be a matter in Law fit to be argued, you ſhall have Council aſſigned yon.

Colledge. Pray my Lord, let me have my Papers again. If it were not my right to have them, or to have Council, I would not ask it; but if it be, I would not loſe what is my right.

L. C. J. You muſt plead firſt. I know not but he may be a Criminal that brought you thoſe Papers; for we allow no Sollicitors in Caſes of Treaſon.

Colledge. Some of thoſe Papers were received from me in the *Tower*, and were brought back to me, and taken away but to day, I deſire they may be returned.

Cl. of Cr. Are you Guilty or Not Guilty?

Colledge. Thoſe Papers tell me I have a Plea in Law, but what it is, I cannot directly tell without my Papers.

L. C. J. You muſt mention it and propoſe it, and then we will do what is fitting for us to do in it.

Colledge. I have not that method about me, nor can I directly tell it without my Papers; but 'tis ſomething of Law about the Indictment.

L. C. J. You are not bound up to Forms of Law. For if you propoſe the matter never ſo looſely, yet if it be a matter of avail, and that which the Law is not clearly againſt you in, you ſhall have Council, and time to draw it up in form.

Colledge I cannot propoſe the matter ſo regularly as if I had my Papers.

Mr. *J. Jones.* You are not bound to propoſe it in formality of Law, my Lord tells you, only let us know what it is.

Colledge. If I have a priviledge in Law, I hope you will give me the benefit of it.

L. C. J. We will deny you nothing that the Law gives you; but we cannot give you Council. It is not one particular Caſe, but the com-

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mon Courſe of Juſtice is concerned. Without a matter of Law ariſes, we cannot aſſign you Council; if we would, we cannot in Juſtice till you have propoſed the matter which the Court thinks fit to be argued.

Colledge. My Lord *Coke* ſays, It is the Birth-right of every *Engliſh-man* to have Council in matters of Law, and *Lilburne* had it upon ſolemn argument in his Tryal.

Mr. *J. Jones.* What times were thoſe? That was before the High Court of Juſtice.

* Sir *Robert Sawyer.*

Mr. *Att. Gen.* If there be matter in Law, it muſt be propoſed to the Court, and they are to judge, whether it be a point fit to be argued, and then Council is to be aſſigned you, and not till then.

Colledge. My Lord, I know not but there may be ſomewhat in Law for me to plead to this Indictment, till I have my Papers I can't tell what it is.

L. C. J. We know nothing of your Papers what they are, you muſt anſwer whether you be Guilty or Not Guilty.

Colledge. If I had my Papers, I would anſwer to it immediately; but I hope I ſhall not be murdered.

Mr. *J. Jones.* Have a care of aſperſing the Court. Pray who intends to murder you?

Mr. *Serj. Jefferies.* I remember in *Lilburne*'s Tryal, that he ſpeaks of, ſuch Words, were uſed indeed.

Colledge. My Lord, I hope I ſhall not be deny'd what is neceſſary for my defence. This deſign is not only againſt me, but againſt all the Proteſtants.

Mr. *Att. Gen.* How long have you been a Proteſtant, Mr *Colledge*?

Colledge. Ever ſince I knew what Religion was Sir; I never was any thing elſe. For God's ſake, my Lord, let me have the Juſtice of the Nation, and what by Law an *Engliſh man* ought to have.

L. C. J. You muſt plead Guilty or Not Guilty, or you muſt ſhew ſome matter that you will plead, that is proper for us to aſſign you Council. If we ſhould record your refuſal, you would be judged to ſtand Mute, and Sentence would paſs upon you.

Colledge. If I have a Privilege in Law as an *Engliſh man*, I will not forfeit it, if I can help it, for any thing in the World. Therefore I deſire I may have my Papers again, that I may ſee if I can plead any thing in Law; for if I have a Privilege by the Law, before I will forfeit it, you ſhall do what you pleaſe with me.

L. C. J. You'll have the advantage of all that matter that is in your Papers after you have pleaded, if there be any advantage.

Colledge. Pray, my Lord, order me my Papers that were taken away from me.

L. C. J. They were not taken away by me.

Colledge. They were taken away by the Keeper, under pretence to bring them to your Lordſhip.

L. C. J. I know not how you came by them. There came one to me laſt Night that is a common Sollicitor, one *Aaron Smith*, and deſired he might have liberty to go and ſpeak with the Priſoner. I told him, I did not underſtand till he were aſſigned by the Court, that any could juſtify ſolliciting for a Man that is accuſed of High Treaſon, nor could any be of Council till they were aſſigned: For a Defence againſt Treaſon ought to be by plain matters of Proof and Fact, and not by artificial Cavils. But if you will propoſe any thing of Subſtance as a matter in Law which the Court ſhall think fit to be argued, propoſe it, and then we will aſſign you Council.

Colledge. Is it not my right, that I ought to have a Copy of the Jury?

L. C. J. Look you for that now, you cited the Opinion of the Judges of the *Kings-Bench*. My Brothers two of them that are here who are Judges in that Court, ſay, they know nothing of any ſuch matter: But I tell you, you have Liberty by Law to challenge 35. by your ſight peremptorily without ſhewing Cauſe. They are bound to look upon you when they come to be ſworn, and if you have juſt Cauſe, you may except againſt as many more as you will. But now we that proceed upon a Commiſſion of Gaol delivery, are to proceed with expedition; there are no particular Men deſigned for a Jury that I know of. But when you have pleaded, we ſhall award the Sheriff to impannel a Jury.

Colledge. If the Law allows me the Liberty of Challenging, it does intend it me that I may challenge thoſe Perſons that I think will do me Juſtice, but where they are Strangers unto me, if I can have no Information about any of them by my own Inquiry or my Friends, I may challenge my Friends as well as my Foes: And ſhould there be any perſon that has a prejudice againſt me, and I not know it, he may chance to be one.

L. C. J. I hope they will be neither Friends nor Foes, but true Men.

Colledge. I know not that my Lord.

Mr. *J. Jones.* This that you ſay as to a Copy of the Jury is unſeaſonable. There is no Jury, nor can be awarded till you have pleaded. There muſt be firſt Iſſue joyned; and that cannot be but upon your Plea of Not Guilty. Therefore you muſt plead firſt, and then ſay all you will.

Cl. of Cr. Are you Guilty or not Guilty?

Colledge. My Lord, may not I have a Pannel of the Jury.

Mr. *J. Jones.* There is no ſuch thing in being.

Colledge. I know not what to ſay to it; pray my Lord, let me have my Papers.

Cl. of Cr. You have heard the Opinion of the Court, you muſt firſt plead.

Colledge. I cannot plead firſt. I muſt loſe my Life, if I muſt; I neither know who accuſes me, nor what it is they accuſe me of; 'tis impoſſible I could defend my ſelf, if I have not my Papers.

L. C. J. We know not what Papers you mean.

Colledge. The Gaoler took them from me, and one of the King's Meſſengers. Pray, my Lord, will you order them to be returned to me again? Let me but ſee whether I have any right or no, and whether I have any thing to plead or no: When I have peruſed my Papers, I will propoſe it as well as I can to you. Pray, my Lord let me have a fair Tryal.

L. C. J. We promiſed you a fair Tryal, but you muſt put your ſelf upon that Tryal by your pleading.

Colledge.

Colledge. I cannot do that without my Papers, my Lord. Let me but have them again, and I will not delay your time at all.

L. C. J. You can tell whether you are Guilty or Not Guilty, can't you?

Colledge. If I have a Plea in Law againſt the Indictment, I hope you will not hinder me of that which is my right. It is poſſible the Indictment does not lay it right, either as to the matter of Treaſon, or as to the place.

Mr. *J. Jones.* That is upon the Iſſue of not Guilty upon your Trial. If there be not matter of Fact, or Words proved that are Treaſon in this place, you will have the advantage of it upon your Tryal.

Colledge. I know not my Lord, but that the Indictment does mention ſomething of Treaſon, and ſomething of Miſdemeanour.

Mr. *J. Jones.* That which is Miſdemeanour, won't amount to a proof of the Treaſon upon the Trial.

L. C. J. If they prove no Treaſon againſt you here, but only Miſdemeanour, I do not underſtand that the Jury can find you Guilty of that Miſdemeanour, for 'tis another Crime, and there is another ſort of Proceedings for it. In Miſdemeanour, there are no peremptory Challenges; in Miſdemeanour Council is to be allowed for the Priſoner, but not in Treaſon.

Colledge. Pray my Lord, be pleaſed to order me my Papers again: I know not what to ſay without I have the aſſiſtance of my Papers; when I have them, I ſhall be ready to plead preſently according as I ſhall find I may by Law. This I am ſure, I have done nothing, nor ſaid nothing of Treaſon, and I pray for nothing but Juſtice, and that which is my right. This is a moſt horrid Conſpiracy to take away my Life; and it will not ſtop here, for it is againſt all the Proteſtants in *England.*

L. C. J. Mr. *Colledge*, You do not only trifle, but run out into very great Extravagancies. Who has any Conſpiracy againſt your Life? You ſhall be allowed to give in Evidence any thing of any Conſpiracy againſt you, or Contrivance againſt you when you are upon your Tryal. Now the Queſtion is, Are you Guilty, or not Guilty? I ſee no uſe of Papers that you can have as to the Plea.

Mr. *J. Jones.* You will run into Danger by ſpending of time.

Colledge. Pray my Lord, order me my Papers, they are in the Hands of Mr. *Murrell* the Gaoler, and *Sewell* the King's Meſſenger.

L. C. J. When you have pleaded, we will take it into Conſideration.

Colledge. It may be too late then.

L. C. J. 'Tis a plain matter before you, whether you be Guilty or no. You know what to anſwer.

Colledge. I will give a direct Anſwer, after I have my Papers again.

Mr. *J. Jones.* You can give an Anſwer to that without Papers.

L. C. J. Conſult with your own Heart, and there you may receive an Anſwer to that Queſtion.

Mr. *Att. Gen.* Mr. *Colledge*, can any body tell whether you be Guilty or no, better than yout ſelf?

Mr. *J. Jones.* If you expect any Papers, they ought to be framed by your ſelf; for by Law, none can adviſe you what to plead.

Colledge. I don't expect it in matter of Fact, but if matter of Law ariſe.

Mr. *J. Jones.* But this is a matter of Fact, and therefore you may plead Not Guilty, as well without your Papers, as if you had them.

Colledge. But if there be any matter of Law, that I ought to have the Advantage of.

Mr. *J. Jones.* Then you ought to have no Advice, till they be aſſigned by the Court: For by the Law, neither Council nor Advice are allowable to you, till the matter has been propoſed, and the Court think fit to aſſign you Council.

Mr. *J. Levinz.* You talk of the Privilege of an Engliſh Man; you have all the Privileges of an Engliſh Man: You are here brought to an open Trial, according to the Law, and by that Law you muſt plead. Now if a Man be indicted for High Treaſon, he is bound to plead either Guilty or Not Guilty, unleſs he has a matter in Law to excuſe him from that Plea, which muſt be propoſed to the Court, and then Council will be aſſigned, and if ſo be matter of Law ariſes upon any Evidence that is given againſt you at the Trial, you may demurr upon that Evidence, and pray Council of the Court to argue that demurrer, and they will not deny you, but I think you muſt plead preſently.

Colledge. I ſuppoſe other Perſons that have been tried, have had Council before they have pleaded.

Mr. *J. Jones.* But never before the matter was propoſed to the Court.

L. C. J. It was ſo in the Caſe of my Lord *Stafford.* The Court made him propoſe his matters in Law, and ſo it was in *Lilburne*'s Caſe. He did inſiſt upon a great many matters in Law, and had the Books there himſelf

Colledge. I am wholly ignorant of the Law, my Lord.

Mr. *Serj. Jefferies.* Your Lordſhips are the Judges of the Law in this Caſe. The Queſtion here in ſhort, is whether the Priſoner be Guilty or Not Guilty, and that being demanded of him by the Court, if he refuſes, let him take the Conſequence of it.

Colledge. What is that pray, Sir *George*?

Mr. *Att. Gen.* Judgment of High Treaſon. For if a Perſon ſtand mute, and will not plead to an Indictment of High Treaſon, the common Judgment of preſſing to Death muſt not paſs upon him, but an Attainder of High Treaſon.

Colledge. Well if it be ſo, I cannot help it. I thank God I am innocent of any Treaſon, or any ſuch thing

L. C. J. Why don't you plead Not Guilty then?

Colledge. I do not refuſe to plead, I am willing to plead with all my Heart, if I may have my right.

Mr. *J. Jones.* If you do not plead, you refuſe to plead.

Colledge. Pray my Lord, let me have my Papers.

Mr. *Att. Gen.* Pray give the Court an Account where had you thoſe Papers.

L. C. J. Nay, we will not enter into any Examination of that matter now Mr. Attorney; he can have no uſe of Papers to ſee whether he ſhould plead Guilty or Not Guilty.

Mr. *Serj. Jefferies.* We know nothing of thoſe Papers, we deſire that he may anſwer to the Queſtion ſhortly whether he be Guilty or Not Guilty, if not, we pray your Lordſhips Judgment.

Colledge. I had them not all from one Perſon, they were received from my own hands, ſome of them in the *Tower*; and being brought back to me, they were taken from me to day; let me have but one of them: the Paper of Inſtructions in point of Law, that I may know what is my right: I would not throw away my Life, if I have any thing that is my right that can preſerve it.

L. C. J. You are to give a plain Anſwer, whether you are Guilty or Not Guilty, now for that you have no uſe of Papers: For you can beſt tell whether you be Guilty or Not. If you can propoſe any matter of Law that you can have to plead, do it.

Colledge. If I have any Plea, that I may plead beſides Not Guilty, I deſire I may have my Papers to conſider of it, and that I may have Council aſſigned me.

L. C. J. If you have any ſuch Plea, tell us the Matter and Subſtance of it.

Colledge. I do not know what really are matters of Law, if I had thoſe Inſtructions that are in my Papers, I could give you a direct Anſwer preſently.

L. C. J. You ought not to have any advice to decline your Trial: When you propoſe matter of Law your ſelf, you may have advice upon it. But you ought not to have advice to decline your Trial before-hand.

Cl. of Cr. Are you Guilty, or Not Guilty?

Colledge. Mr. Attorney, pray let me have a Copy of the Indictment.

Mr. *Att. Gen.* Apply your ſelf to the Court for it, we muſt receive our Directions from thence.

L. C. J. You have had the Opinion of the Court, you can't have it.

Mr. *J. Levinz.* You have been told nothing can be received from you, but a Plea of Guilty or Not Guilty, and the Court have given you their Opinion, and that you cannot have a Copy of the Indictment, nor Council aſſigned you, till you offer ſomething for them to be aſſigned upon.

L. C. J. And that was it which was done in the *Kings-Bench* in the Caſe of *Fitz Harris*, which I ſuppoſe you meant when you ſpeak of the Judges Opinions.

Mr. J. Jones. Nothing was done there till he himſelf aſſigned the matter in Law that he would plead, and then Council was aſſigned him.

Mr. *Serj. Jefferies.* Mr. *Colledge* was in the Court at that time, and can tell what was done.

L. C. J. If you deſire the Indictment read over again diſtinctly, that you may have.

Mr. *Att. Gen.* Ay, with all my heart.

Colledge. Pray let me hear it again my Lord if you pleaſe.

L. C. J. Read it over again to him, and read it diſtinctly.

Cl. of Cr. Thou art indicted by the Name of *Stephen Colledge* late of *Oxon*, in the County of *Oxon*, Carpenter, as a falſe Traytor.

Colledge I have obſerved one thing already, my Lord, I pray I may have Pen and Ink.

L. C. J. Ay, give him Pen and Ink, let him make what Obſervations he can.

Then the Clerk read the Indictment thro'.

Clerk of Crown. Art thou guilty of this High Treaſon or not guilty?

Colledge. This Indictment, if I underſtand it, ſays, there was a Plot and Conſpiracy by me and others; now I know when my Lord *Stafford* was tried, they did proceed to prove, firſt, that there was ſuch a Plot, and then that my Lord was guilty of it; firſt, that there was ſuch a Conſpiracy by the Papiſts, is it not requiſite they ſhould, firſt, prove ſuch a Plot and Conſpiracy there was, before they go to prove me guilty of it?

Mr. *J. Jones.* What before you have pleaded?

L. C. J. When you have pleaded, the next thing is to try you, and to give the Evidence; but what way the King's Council will take to manage your Tryal, that we can't tell.

Mr. *J. Jones.* But they are not to be directed by you Mr. *Colledge.*

Colledge. It was ſo done I ſay in my Lord *Stafford*'s Caſe.

L. C. J. He pleaded firſt however, you have not yet pleaded.

Cl. of Cr. Are you guilty or not guilty?

L. C. J. Do not trifle any longer, 'tis a plain matter, and requires a very ſhort and plain Anſwer.

Colledge. Your Lordſhips are my Council as well as my Judges, and I do deſire if I have any right to plead any other matter, you will be pleaſed to declare it to me, for I am ignorant in the Law.

Mr. *J. Jones.* We have declared our Opinion already, that you have no right to have any Solicitor or Council, till matter of Law do ariſe.

Colledge. Is it your Lordſhips Opinion, that I have no Plea in Law?

Mr. *J. Jones.* Have you no Plea in Law?

L. C. J. He would have our Judgment, whether there be any or no.

Mr. *J. Jones.* You yourſelf know beſt, we know nothing you have to plead.

Colledge. I cannot unleſs I have Council, and my Papers.

L. C. J. There does nothing appear to us.

Colledge. I know nothing of the Law.

L. C. J. Then plead not guilty, that is a ready Plea.

Mr. *J. Jones.* You have had our Opinion over and over again. You have as much Council as is allowed in theſe Caſes, for every man is beſt Judge of his own Caſe, what to plead, whether guilty or not guilty: You have had as fair play as ever any man had.

Mr. *Att. Gen.* Mr. *Colledge* has ſaid, he knows of no Plea in Law he has, and therefore there is none; for *de non apparentibus & non exiſtentibus* the Reaſon is the ſame.

L. C. J. In matter of Fact, there is no Plea but not guilty.

Colledge. The Court are Judges in matter of Law, and they are my Council.

Mr. *J. Jones.* And the Court have all of them declared they know of nothing in Law that you have to plead.

Colledge. Is not Council to be allowed to one under my Circumſtances?

L. C. J. If you have any thing for Council to be aſſigned upon, you ſhall have them.

Colledge.

Colledge. If I am ignorant of that, and cannot propoſe it, ſhall I not have the Aſſiſtance of Council?

Mr. *J. Jones.* No, we have told you the Law plainly, and that which is frequent in practiſe in like Caſes, and you muſt be contented with the ſame meaſure.

Colledge. My Lord, I am ignorant of the Law.

L. C. J. Then rely upon the Fact and plead not guilty.

Coll. But if I have a right to any point in Law let me have it.

Mr. *J. Jones.* You have a right if you will propoſe any matter of Law, but we cannot propoſe it for you.

Mr. *Att. Gen.* Mr. *Colledge*, no man ought to propoſe your Plea for you; *Ignorantia juris non excuſat.*

Coll. Shall my Ignorance deſtroy me, Mr. Attorny?

Mr. *Sol Gen.* You have heard the Opinion of the Court, you have a right to propoſe any other Plea that you can yourſelf; but you have no right to ask Council before you have pleaded.

Mr. *Serj. Jeff.* If Mr. *Colledge* have ſuch a thing as a Solicitor, I ſhall crave leave to put that Solicitor in mind of the Caſe of one that was indicted of High Treaſon for ſoliciting for one that was accuſed of High Treaſon.

Mr. *Att. Gen.* We ſhall talk of that by and by.

L. C. J. The ſame methods are uſed in your Caſe, as are in all Caſes of the like nature, as far as my knowledge reacheth.

Coll. If I have a right to the Law, I muſt not loſe it for my own Ignorance of the Law; but if you deny me both my Council and my Papers, you take away the means of my coming to that right, and make me uncapable of making my defence.

L. C. J. You have been told you muſt plead before you do any thing.

Coll. This is the Perſon, (*pointing to a Perſon by him*) that had the Papers. Be pleaſed to command him, that I may have them again: He ſaid he had Orders to take them from me, and bring them to your Lordſhip.

L. C. J. I know of no uſe you could have of any Papers, to plead guilty or not guilty.

Mr. *Sol. Gen.* If there be in thoſe Papers Advice in matters of Law, that you have been told you ought not to have, till the Court has aſſigned you Council to give you Advice.

Coll. Then if there be a Right in Law, and a priviledge which I ought to have, I muſt loſe it by my being ignorant of it, and have no one to adviſe me about it neither.

L. C. J. You may propoſe it, if you have any, if not, you muſt plead to the Indictment.

Mr. *Serj. Jeff.* My Lord, it has not been uſual for us, that are of the King's Council, to enter into Dialogues with Priſoners at the Bar. The firſt thing that is to be done in ſuch Caſes, is for the Priſoner to plead guilty or not guilty, or to offer ſomething to the Court that may be a matter in Law fit to be debated; and this we pray may be done in this Caſe, and that the Priſoner may plead preſently, or elſe we deſire your Judgment.

Coll. Pray let me have my Papers again my Lord.

L. C. J. You go in a Circle, and run round from one thing to another, and will receive no Anſwer. We have told you our Opinion, and we muſt tell you, that tho' you hold long diſcourſes, yet you will be judged loſt and mute if you plead not a legal Plea: Therefore you muſt plead guilty or not guilty, or offer ſomething that may be a Plea in Law, and then you ſhall have the Aſſiſtance of Council, but you muſt have none till then.

Coll. But ſhall I not have my Papers my Lord?

L. C. J. We know nothing of them.

Coll. Pray my Lord order the man to give them to me, that took them from me.

L. C. J. We will order no ſuch thing. He may be a Criminal perhaps that did give them you at firſt; but when you have pleaded, we will hear any motion you will make about them.

Coll. It may be I ought to plead that the words were ſpoke in another place than the place laid in the Indictment.

L. C. J. You will not need to plead any ſuch thing, for if there be nothing proved of Treaſon that you ſaid or did in *Oxfordſhire*, you muſt be found not guilty.

Coll. Here is another thing my Lord, I am indicted by the name of *Colledge* Carpenter.

L. C. J. What then?

Coll. I am not a Carpenter, but a Joyner; is that any Bar to it?

L. C. J. The addition ſignifies nothing, I do not know any difference betwixt a Carpenter and a Joyner in Law.

Mr. *J. Jones.* They might have indicted you by the name of Labourer, and it had been good.

Coll. Pray my Lord either give me my Papers or aſſign me Council, or elſe I may throw away my Life, for I am wholly ignorant of the Law.

L. C. J. When you have pleaded we will hear any motion you will make, and do that which is juſt upon it; but I ſee no uſe you can have of Papers to plead guilty or not guilty, which is the only Queſtion is ask'd you.

Cl. of Cr. Are you guilty or not guilty?

Coll. Will you promiſe me my Lord, there ſhall no Advantage be taken againſt me, if I do plead ſo?

L. C. J. We will make no Bargains with you. Plead as you ought by Law to do.

Coll. If matters of Law ariſe, ſhall I have Council to ſpeak to them?

Mr. *J. Jones.* Yes you ſhall, you need not doubt it. Propoſe any matter now fit to be argued, and you ſhall have Council to it.

Coll. I am not capable of doing it. I know not when I have any right.

Mr. *J. Jones.* The Court is of Council to you.

Coll. If you are my Council, then have I any Plea in Law to make?

Mr. *J. Jones.* You have heard the Indictment read, what ſay you? For you muſt propoſe the matter.

L. C. J. We know of none but guilty or not guilty; if you can tell of any do.

Coll. I pray I may have my Papers again; if there be no other Plea for me, pray let me have my Papers again.

L. C. J. You have heard the Opinion of the Court, you muſt plead.

Mr. *Att. Gen.* Certainly Mr. *Colledge* you can't be guilty of theſe things, you need not to ſcruple it, to plead not guilty ſure.

Coll. My Lord, having been kept a Priſoner, as I have been, without Pen, Ink, or Paper, no Converſation with my Friends, no Knowledge of the Fact, and being ignorant of the Law, not knowing

knowing where I have a right, nor when I have a right, if you do force me upon this Plea and it coſt me my Life, at your doors lie it

Mr. *J. Jones.* You will loſe your Life if you do not plead, if you plead not guilty, and are not proved guilty, you will ſave your Life by this Plea.

Coll. I am willing to plead what the Law requires of me to plead, and if I have a right in Law, I would not loſe it.

Cl of Cr. Are you guilty or not guilty?

Coll. Why, then as they have laid it in that Indictment, in manner and form as 'tis there laid, I am not guilty.

Cl. of Cr. Culprit, by whom wilt thou be tried?

Coll. By God and my Country.

Cl. of Cr. God ſend thee a good deliverance.

Mr. *J. Jones.* Not guilty is his Plea.

L. C. J. Now he has pleaded Mr. Attorny; he ſpeaks of ſome Papers, if there be any Memorandums or any thing that muſt aſſiſt him, that is neceſſary for his defence in his Tryal in thoſe Papers, it will be hard to deny him them.

Mr. *Att. Gen.* If your Lordſhips pleaſe to give me leave, I will give you an account of them. The meſſenger juſt now, did deliver theſe Papers to be delivered to the Court.

Coll. Pray ſpeak out Mr. Attorny, and let me hear.

Mr. *Att. Gen.* When he came to Priſon he had none, but Mr. *Aaron Smith,* the meſſenger informed me, did deliver them to him.

L. C. J. Whoſe hand-writing are the Papers in?

Coll. He received them from me in the *Tower.*

Mr. *J. Jones.* You received them from him firſt.

Coll. No.

Mr. *Att. Gen.* What were the Papers you delivered to him in the *Tower?*

Coll. The three pieces joined together that contains Directions how to govern myſelf; there is another to the ſame purpoſe, which inſtructs me to demand a Copy of the Indictment, and of the Pannel of the Jury, and thoſe were Inſtructions to tell me what the Law allows me.

Mr. *Att. Gen.* Here is a Speech made for you, that begins thus; *Before you plead, ſpeak to this purpoſe.* Pray my Lord, I deſire that may be examined, and Mr. *Smith* may be called to give an account how he came to give the Priſoner thoſe Papers; for here are abundance of Niceties propoſed for him to move, and there will be a ſtrange ſort of Proceedings at this rate, if men go about to eſpouſe the Cauſe of Traytors.

Coll. I am no Traytor, Mr. Attorny.

Mr. *Att. Gen.* You ſtand indicted of High Treaſon.

Coll. That is by a Grand Jury made up that morning, as I am informed.

Mr. *Att. Gen.* Here is a Liſt of the names of ſeveral men of the County returned to be of the Jury, and particular marks ſet upon them, who are good men, and who bad men, and who moderate men.

Coll. Ought I not to have that Paper my Lord?

Mr. *Att. Gen.* No I hope not.

L. C. J. Whether they are material, or not material, if we ſhould judge them not material for his defence, yet it will look like an hard point upon the Priſoner; and to deliver them into an hand that they may be carried away or ſtifled, in caſe there were a Crime in the delivering of them, that would not do well on the other ſide: Therefore I would have theſe Papers put into ſome ſafe hands, that what may be for the Priſoner's uſe he may not want, and yet they may not be taken away, if there be occaſion to uſe them upon another account.

Mr. *Att. Gen.* But if it pleaſe your Lordſhip, I deſire you would enter into the Examination of this matter; for I have an account from *London* by a ſpecial meſſenger, that there are ſeveral perſons go up and down to procure Witneſſes againſt the King's Evidence, making it a publick Cauſe; and here my Lord, is another Paper which is a Liſt of men as Witneſſes pick'd up together againſt the King's Witneſſes.

L. C. J. He muſt have that, deliver him that preſently.

Mr. *Att. Gen.* But my Lord, others have gone about and framed Witneſſes for him.

L. C. J. You muſt give him the Liſt of his Witneſſes, for I ſee not what uſe you can make of it.

Mr. *Serj. Jeff.* This no man will oppoſe ſure, if any thing that is delivered to him be fit to be delivered, the perſon that delivers it muſt come and own it; but before any perſon delivers any Papers to the Priſoner, for him to make uſe of againſt the King's Evidence, we deſire to know what thoſe Papers mean, and who gave them.

L. C. J. Look you Brother, we will have nothing of heat till the Trial be over, when that is over, if there be any thing that requires our Examination, it will be proper for us to enter into the Conſideration of it. But in the mean while what hurt is there, if the Papers be put into ſome truſty hands, that the Priſoner may make the beſt uſe of them he can, and yet they remain ready to be produced upon occaſion: if a man be ſpeaking for his Life, tho' he ſpeak that which is not material, or nothing to the purpoſe, there will be no harm to permit that.

Mr. *Serj. Jeff.* With Submiſſion my Lord, that is aſſigning him Council with a Witneſs.

Mr. *Att. Gen.* If people are permitted to go up and down and ask Counſel of perſons and bring it in Papers to the Priſoner, 'tis the ſame thing as if Council came to him. Here is a buſie Solicitor, and he gets advice from Council, and then he delivers it to the Priſoner; 'tis the firſt of the kind certainly that ever was allowed; and if this be not to aſſign him Council, I know not what is.

L. C. J. What think you of our peruſing the Papers?

Mr. *Att. Gen.* With all my heart my Lord.

Coll. If you take away all helps from me, you had as good condemn me without a Trial.

Mr. *Att. Gen.* You ought not to have helps to plead dilatories.

Coll. Not to help me to my right in Law?

Mr. *Att. Gen.* We are to go upon the Fact now: And my Lord, I pray your Judgment about them, when you have peruſed them.

Then the Judges looked upon that Paper that was called the Speech.

L. C. J. We have read enough of this to ſuppreſs it, and to examine how this came to his hands.

Mr. *J. Jones.* Where is *Aaron Smith?*

Mr. *Att. Gen.* My Lord, here is another that is worſe than that, charging the Juſtice of the Nation. Pray call Mr. *Aaron Smith,* and Mr. *Henry Starkey.*

Mr.

Mr. *Smith appeared.*

Mr. *Att. Gen.* Mr. *Smith*, did you deliver theſe two Papers to the Priſoner?

Mr. *Smith.* Does any body accuſe me that I did?

Mr. *Att. Gen.* You are accuſed of it.

Mr. *Smith.* I deſire proof may be made againſt me.

Mr. *Att. Gen.* That will be done.

L. C. J. Look you we will not interrupt the Trial with it. Mr. *Smith* muſt be taken into ſafe Cuſtody, only to ſecure him till we can examine it, not as charged with any Crime, but only that he may be forth coming to be examined.

Mr. *Att. Gen.* You do not make a direct Anſwer Mr. *Smith* in the Caſe, it will be proved upon you.

Mr. *Smith.* Mr. Attorny, I know not what Anſwer to make better than I have given; our Law ſays no man is bound to accuſe himſelf.

Mr. *Att. Gen.* But our Law ſays, you ſhall be examined.

Mr. *Smith.* I come to give no Informations here Mr. Attorny; if I did I ſhould be then examined.

Mr. *Att. Gen.* Here are Inſtructions given to the Priſoner, they ſay you gave them.

Mr *Smith.* I deſire to have it proved.

L. C. J. Mr. Attorny, you will take a Recognizance of Mr. *Smith*, to be forth-coming during this Seſſions.

Mr. *Smith.* I will not depart my Lord, I aſſure you; and I hope Mr. Attorny will take my word.

Mr. *Att. Gen.* Indeed I will not Mr. *Smith*, becauſe you have broken it with me already; when I gave you leave to go to the Priſon, I did not think you would have abuſed that kindneſs, to give him Papers.

L. C. J. Well, take his Recognizance.

Mr. *Smith.* 'Tis high time to have a care, when our Lives and Eſtates, and all are beſet here.

L. C. J. What do you mean by that Mr. *Smith*?

Mr. *Smith.* I ſaid it not, meaning by it the Court, for I declare I abhor that Expreſſion to be ſo interpreted, that I reflected upon the Court.

L. C. J. Why do you uſe ſuch looſe Expreſſions then, Mr. *Smith*?

Mr. *Smith.* Becauſe I have been threaten'd ſince I came to Town, tho' I have not ſpoke one word in any publick Company ſince I came.

Mr. *J. Jones.* It ſeems you will reflect here in the Face of the Court, and in the Face of the Country, upon the Government, upon the Juſtice of the Kingdom.

Mr. *Smith.* No my Lord, I have told you what I meant by it; I neither reflected upon the Court, nor upon the Government, nor upon the Juſtice of the Kingdom.

L. C. J. You ſhould have done well to have forborn ſuch Expreſſions as thoſe were.

Coll. Shall I not have the Uſe of the Papers my Lord: Will you not pleaſe to deliver them back to me, now you have peruſed them?

Mr. *J. Jones.* One of them is a Speech, and a moſt ſeditious libellous Speech, to ſpit Venom upon the Government in the Face of the Country. We cannot tell who made it, but it ſeems to be beyond your Capacity; and therefore we muſt enquire into it: But we do not think fit to let you have the uſe of that Paper.

L. C. J. For that which contains the names of the Witneſſes, that you have again: For the other matters, the Inſtructions in point of Law, if they had been written in the firſt perſon, in your own name, that we might believe it was your writing, it would have been ſomething; but when it is written in the ſecond perſon, you ſhould do ſo and ſo, by which it appears to be written by another perſon, it is an ill Precedent to permit ſuch things; that were to give you Council in an indirect way, which the Law gives you not directly.

Coll. If I am ignorant what Queſtions to ask of the Witneſſes, ſhall not my Friends help me my Lord?

L. C. J. We will ſift out the Truth as well as we can, you need not fear it.

Coll. Some of thoſe things I took out of the Books myſelf: And if you are reſolved to take away all my helps, I cannot help it; I know not that Mr. *Smith* wrote one of thoſe Papers.

Mr. *Att. Gen.* But Mr. *Smith* would have given four Guineas it ſeems, as a Bribe, to the Goaler, and he offered four more to let him have liberty to come to him.

Mr. *Serj. Jeff.* 'Tis time indeed for Mr. *Smith* to have a care.

Keeper. It was Mr. *Starkey* that offered me the four Guineas.

Mr. *Att. Gen.* Pray call Mr. *Henry Starkey.*

(*But he did not appear.*)

Then the Court took a Recognizance of 100 l. *of Mr.* Smith *to attend the Court during the Seſſion.*

Coll. Pray my Lord, let me have my Papers delivered to me, I cannot make my defence elſe.

L. C. J. We are your Council in matter of Fact, and to give you your Papers were to aſſign you Council againſt Law, they being not your own Papers, but coming from a third hand.

Coll. Will you pleaſe to give me the Paper that has the Queſtions in it, to ask the Witneſſes?

L. C. J. There are no Papers with any particular Queſtions to any one Witneſs, but only Inſtructions how to carry yourſelf in this caſe.

Coll. A great deal of it is my own my Lord.

L. C. J. Mr. Attorny, truly I think that that does not contain matter of Scandal, may be tranſcribed and given to the Priſoner.

Coll. My Lord, I deſire I may have that, that has in the margent of it, the Caſe of *Lilburn* and *Stafford.*

Mr. *J. Jones.* You ſhall not have the Inſtructions to ſcandalize the Government, all that is neceſſary for your defence, you ſhall have.

L. C. J. If he had writ it himſelf I cannot well ſee how you could take it from him; and truly as 'tis, I had rather let him have too much than too little.

Coll. My Lord, I thought I might have had Council to have aſſiſted me, but if I may have Council neither before my Plea nor after, I that am an Ignorant may be loſt by it, but can't help it.

L. C. J. If matter of Law ariſe, you ſhall have Council to it.

Coll. I know not but it might have admitted of an Argument, that which if I had had my Papers, I ſhould have offered to you.

L. C. J. Mr. *Colledge*, we ſhall not go any farther now, I know not how many Witneſſes will be produced either of one ſide or another, but 'tis too late to go on this morning, and becauſe we attend here only upon this Occaſion, we ſhall go on with the Trial at two a Clock in the Afternoon.

Coll. My Lord, you will be pleaſed to order the

the Papers for me to peruſe in the mean time.

L. C. J. We have ordered that you ſhall have a Tranſcript of the Paper of Inſtructions, leaving out that which is ſcandalous.

Coll. I deſire I may have a Copy of the whole.

Mr. *J. Jones.* No, we do not think fit to do that.

Coll. Pray let me know which you do except againſt.

L. C. J. Look you Mr. Attorny, I think we may let him have a Copy of the whole

Mr. *Att. Gen.* My Lord, before you riſe, I deſire you would pleaſe to take the Examination of Mr. *Gregory*, about Mr. *Starkey*.

L. C. J. Swear him. (*Which was done.*)

Mr. *Att. Gen.* What do you know concerning Mr. *Starkey*, and what he did offer you?

Gregory. When they came by your Lordſhips Permiſſion to Mr. *Colledge*, they brought ſome Papers which they delivered to him: And afterwards Mr. *Starkey* took me aſide, and told me it was hard Uſage that the Priſoner could not have his Council permitted to come to him: Do him what Favour you can, and I ſhall not be ungrateful; ſo he clapped four Guineas in my hand, but I immediately laid them down upon the Table, and would not take them.

Mr. *Att. Gen.* My Lord, I deſire you would pleaſe to ſend for Mr. *Starkey*.

L. C. J. Let him be ſent for.

Cl. of Cr. You muſt go and take up Mr. *Starkey*.

Meſſenger. Muſt I keep him in Cuſtody? I don't know him.

Cl. of Cr. No, you muſt order him from the Court to attend here.

Mr. *J. Jones.* Theſe Papers *Colledge* ſhall not be debarr'd of, for his defence, nor you Mr. Attorny from proſecuting upon them.

L. C. J. No, we will put them into ſuch hands as ſhall take care of that.

Coll. Very few my Lord, have appeared to do me any Kindneſs, ſome have been frighten'd and impriſon'd, others are now in Trouble for it.

L. C. J. Well, you ſhall have the uſe of your Papers.

Coll. May I have any Friends come to ſee me in the mean time?

L. C. J. They muſt not come to you in the Priſon, to give you advice; but I'll tell you, ſince you move it, if my Brothers think it convenient, whilſt the Court does withdraw, any body of your Friends may come to you, in the Preſence of your Keeper.

Mr. *J. Jones.* Certainly you cannot think you can give a Priviledge to any Friend of yours, to commit any demeanor to offer Bribes to any Perſon.

Coll. I know not of any ſuch thing.

Mr. *J. Jones.* We do not charge you with it, but Mr *Starkey* did.

Coll. I have been kept a ſtrict cloſe Priſoner, and if my Friends are ſo kind to me, as to help me in order to my defence, I hope you will not be againſt it. Pray my Lord, let me have my Papers.

L. C. J. You ſhall have them, but they ſhall be put into ſuch hands as the Court may have command over; they ſhall be in the Sheriff's Son's hands, and you ſhall have the immediate uſe of them.

Coll. If there be any thing elſe in thoſe Papers neceſſary for my defence, I pray I may have it.

L. C. J. The Speech is not fit for you; what other Papers would you have?

Coll. Another Paper there is, that is ſomething of Law.

Mr *J. Jones.* Nothing but libellous, and what is a Scandal to the Government.

Mr *Att. Gen.* You are to have nothing of matter of Law, but what you are to propoſe yourſelf.

Coll. If you take away all my helps, I cannot propoſe any thing.

Mr *Serj. Jeff.* To allow you thoſe Papers, is to allow you Council by a ſide Wind.

L. C. J. Look you, the Papers of inſtructions ſhall be delivered to the Sheriff's Son, who ſhall let you peruſe it in this interval, and make uſe of it in your Trial; but it muſt be in ſafe cuſtody to be uſed upon further occaſion, as the King's Attorny ſhall think fit.

Then the Court adjourn'd till two in the Afternoon.

Poſt meridiem, at two a clock the Court returned, and Proclamation was made for Attendance, and for the Under Sheriff to return his Jury.

Coll. My Lord, ought not I to have a Copy of this Jury?

L. C. J. No, they are to look upon you as they come to be ſworn, and then you are to challenge them.

Clerk of Cr. Stephen Colledge, hold up thy hand, and hearken to the Court; thoſe good men that you ſhall hear called, and perſonally appear, are to paſs, *&c.*

Coll. Pray Sir let the way be clear, that I may ſee them.

Clerk of Cr. Ay, ay.

Coll. Pray Sir how many are there of the Jury that appear?

Mr *Att. Gen.* There are enough.

Clerk of Cr. Make Proclamation for Information, (*which was done.*)

Clerk of Cr. Henry Standard, (who was ſworn,) *Richard Croke*, (who was challenged by the Priſoner,) *William Bigg*, (challenged.)

Mr *J. Jones.* Do you challenge him peremptorily, or with Cauſe?

L. C. J. If he do not ſhew Cauſe, it muſt be ſuppoſed it is peremptory.

Coll. I ſuppoſe he was upon the Grand Jury.

L. C. J. That would be a Challenge with cauſe.

Mr *Bigg.* No, I was not.

Coll. Then I do not challenge him; I know him not. (*He was ſworn.*)

Clerk of Cr. Thomas Marſh, (challenged,) *Thomas Martin*, (did not appear,) *Gabriel Merry*, (being almoſt a hundred Years of Age, was excuſed,) *Robert Bird*, (ſworn,) *John Shorter*, (ſworn,) *William Windlow*, (ſworn,) *Edward Ayres*, (challenged,) *William Ayres*, (challenged) and *Richard Ayres*, (challenged,) *Charles Hobbs*, (ſworn,) *Roger Brown*, (ſworn,) *Timothy Doyley*, (ſworn,) *Richard Dutton*, (challenged,) *Ralph Wallis*, (ſworn) *John Naſh*, (challenged) *John Benſon*, (ſworn) *John Piercy*, (ſworn,) *William Web*, (challenged) and *John Lawrence*, (ſworn.)

They were counted, and their Names in Order thus.

Henry Standard,	*Roger Browne,*
William Bigg,	*Timothy Doyley,*
Robert Bird,	*Ralph Wallis,*
John Shorter,	*John Benſon,*
William Windlow,	*John Piercy,*
Charles Hobbs,	*John Lawrence.*

L. C. J.

L. C. J. Mr. Sheriff, there are a great many of the Jury that are not ſworn, they are diſcharged, let them go out of the Court, and ſo you will make room for the Witneſſes.

Cl. of Cr. Gentlemen, you of the Jury, look upon the Priſoner, and hearken to his Charge. He ſtands Indicted by the Name of *Stephen Colledge*, late of *Oxford*, in the County of *Oxford*, Carpenter, for that he as a falſe Traytor, *&c. prout* in the Indictment, *Mutatis Mutandis*, and upon this Indictment he hath been Arraigned, *&c.*

Mr. *North.* May it pleaſe your Lordſhip, and you Gentlemen that are ſworn, this is an Indictment againſt *Stephen Colledge*, the Priſoner at the Bar, for an Endeavour to raiſe a Rebellion within this Kingdom, wherein he is accuſed, and the Jury find that he as a falſe Traitor againſt the King's Majeſty, contrary to the duty of his Allegiance, on the 10th of *March*, in the 33d Year of the King's Reign, at *Oxon* here did traiterouſly conſpire, and compaſs the Death of the King, and the Subverſion of the Government, and to raiſe a Rebellion in the Kingdom, and to ſlaughter his Majeſties Subjects, to put the King to Death, to levy War againſt him, and to deprive him of his Royal State and Government, and to alter the Government at his own Will and Pleaſure; and to accompliſh this, he did at *Oxon* here prepare Arms for the carrying on the War, and excited one *Edward Turbervile* and others, to arm themſelves againſt the accompliſhment of this deſign, and did declare his purpoſe was to ſeize the King's Perſon at *Oxon*, and that he was one of thoſe that was to do it; and to bring the ſaid *Turbervile* and other Subjects to his purpoſe, did falſly, maliciouſly, and traiterouſly declare in their hearing, That there was no good to be expected from the King, that he minded nothing but the deſtruction of his People, and Arbitrary Government, and to introduce Popery. And this is laid to be againſt the duty of his Allegiance, againſt the King's Peace, and againſt the form of the Statutes in thoſe Caſes made and provided. The Priſoner, you hear, upon his Arraignment hath pleaded not guilty, which Iſſue you are to try, and if the Evidence for the King, which are ready to be produced, prove that which is laid to his Charge, you are to find it accordingly.

Mr. *Att. Gen.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury: The Priſoner at the Bar ſtands indicted of a very high Crime, no leſs than High Treaſon, and that too of the deepeſt Dye; it is for an Endeavour to deſtroy the King, to ſubvert the Government, to raiſe a Rebellion amongſt the King's Subjects. And Gentlemen, thoſe Inſtances that we ſhall give you, and produce our Evidence to, for the Proof of that, are theſe: He laid his Deſign to ſeize the King at *Oxon*; and he did not want his Accomplices to do it; but they were not men, Gentlemen, that were Proteſtants, but men that were Rebels in the late War, they were men of ſuch a Kidney, that he aſſociated himſelf with, and theſe were the Perſons that were to aſſiſt in this Attempt. In order to this he had prepared Arms in an extraordinary manner, Arms of a great value, for one of his Condition, who is by Trade a Joyner; for if a true Eſtimate were taken of the value of the Arms, I believe they were worth twice his whole Eſtate; he prepared a good Horſe, extraordinary Piſtols, a Carbine, a Coat of Maile, an Head-piece; and ſo being arm'd Cap-a-pee, with that Deſign he came hither to *Oxon*. And you will judge whether theſe be fit Tools for a Joyner.

Colledge. I beſeech you Sir, have you any body to prove this? If you have not, you do hurt to the Jury as well as me, to ſpeak it.

L. C. J. Be patient, *Mr. Colledge*, and let Mr. Attorney go on to open the Charge. I will tell you and the Jury too, that what he ſays further than he makes good by proof and Witneſſes, will ſerve for nothing.

Colledge. 'Tis hard the Council ſhould plead againſt me, and open things that he cannot prove.

L. C. J. I will do you all the right imaginable, and therefore I do tell you again; if they do not prove it, all he ſays is nothing.

Colledge. But I beſeech you, my Lord, ſince there hath been ſuch extraordinary means, and Methods uſed to contrive my Death, that the Witneſſes may be examined apart, and far from the hearing one of another.

L. C. J. That we will take care of by and by.

Mr. Att. Gen. Mr. Colledge. This ſhews your Temper, you are inordinate in your way of expreſſing your ſelf.

Colledge. Mr. Attorney, I ſhould not interrupt you, if I were not afraid this was ſpoken to poſſeſs the Jury.

Mr. Att. Gen. I hope to prove what I have ſaid, or every word of it ſhall paſs for nothing.

Coll. 'Tis impoſſible for all the Men on Earth to prove it.

Mr. Att. Gen. Gentlemen, Theſe were the particulars I was opening to you, in what manner he was armed, and how accoutred he came hither. We ſhall likewiſe ſhew you that he made it his Buſineſs to perſwade others to undertake the Deſign, and joyn with him, as if open War were already declared; he gave out a Sign which was a blew Ribbon, a wrought Ribbon with Letters in it, and this was the mark and ſign they were to know one another by. This was given out by him frequently; and that it may not ſeem an extraordinary thing, Gentlemen, tho' indeed it was a wild attempt, yet you will ceaſe to wonder when you have heard of the Exploits of *Venner*, who with a few Men raiſed ſuch a Commotion, ſoon after the King's coming in, and the ſeveral Exploits that have of late in *Scotland* been carried on by a few diſcontented Perſons. So that Men of the like Principles, as we ſhall give you an account of this Gentleman's Principles what they were, may well be thought to ingage in ſuch an extraordinary Exploit. And we ſhall prove what the incouragement was he was to have; for he boaſted of himſelf, that he ſhould be in a little time a Colonel.

Colledge. What Sir?

Mr. Att. Gen. A Colonel, a great Preferment for a Joyner.

Colledge. Yes it was ſo.

Mr. Att. Gen. We ſhall ſhew to you that this was not a ſudden unpremeditated thing; for we ſhall prove that he had entertained the horrideſt Malice againſt the King, that ever Subject entertained againſt his Sovereign: For we ſhall give this Evidence, and his Front will not oppoſe it, that he had made it his common Diſcourſe in Coffee-houſes, and publick Houſes, (and I believe

I could bring you 40 and 40 Witneſſes to it) to defame the King, and murder him in his Reputation, and was one of the Complices with *Fitz-Harris*, who was lately executed for that venemous Libel: We ſhall prove that he juſtified it, and maintained it to be as true as the Goſpel. We ſhall give Evidence that he carried on the ſame Deſign with that Arch-Traytor who was a Papiſt; and I believe if this Gentleman were examin'd thro'ly he would be found to be one of the ſame Stamp, and acted by the ſame Principle; for I think that no Proteſtant Subject would attempt ſuch things as we ſhall prove to you. I believe, Gentlemen, you have frequently heard, as none of us but have, that the King has been traduced as a Deſigner of Arbitrary Government, and his Reputation blaſted maliciouſly and falſly, as an introducer of Popery: Whence comes all this generally, but out of the Popiſh Quiver, who make it their buſineſs to ſet the King's good Subjects at variance amongſt themſelves; and againſt their Prince, by ſtiling the King a Papiſt, as this Priſoner hath done; nay, he hath been ſo impudent as to report that the King was in the Plot againſt his own Life. We ſhall prove to you, how here and at other places he hath frequently done this; to go further, we ſhall produce to you the Evidence that he drew the King's Picture, and expoſed him in all the reproachful Characters imaginable. and that the Picture might be the better underſtood, he adds a Ballad to it: And that he may not have the confidence to ſay this is not true, we ſhall produce to you a whole Bundle of theſe Papers, among thoſe which his Son made a Diſcovery of, when they were ſent to his Uncle to be hid, and we ſhall prove him to be the Author of them; and yet this Man ſhould have the confidence to ſay he is a good Subject and a good Proteſtant, when by all ways imaginable he goes about to ruin the Government, and defame the King! And Gentlemen when we have given this Account by Witneſſes, for I would have you believe me in nothing, but according as I prove it, you will not wonder then that he ſhould ſay his Life is in danger, (for ſo it is indeed?) And if any Man ever was Guilty of High Treaſon, ſure he is, and being Guilty of the greateſt Treaſon, he deſerves the greateſt Puniſhment.

Colledge. Pray, Gentlemen of the Jury, take Mr Attorney General at his Word, and remember Sir, you deſire not to be believed your ſelf, but what you prove.

Mr. *Serj. Holloway.* May it pleaſe your Lordſhip, and Gentlemen, purſuant to what Mr. Attorney hath opened, we will call our Witneſſes, and we will begin with Mr. *Dugdale*, who was a Witneſs againſt my Lord *Stafford*, at his Tryal in Parliament, whoſe Credit Mr. *Colledge* did atteſt at that Trial, aſſerting him to be an honeſt good Man, and I believe his Evidence will go in a great meaſure through all that Mr. *Attorney* hath opened, and when we have done with him, we hope to ſecond him with other Witneſſes of as good Credit, and that will ſay as much to the purpoſe.

Then Mr. Dugdale *was ſworn.*

Mr. *Att. Gen.* Mr. *Dugdale*, look upon the Priſoner, and tell the Court whether you know him.

Mr. *Dugdale.* Yes, I do know him Sir.

Mr. *Att. Gen.* Will you give us an Account of your knowledge of him?

Colledge. My Lord, I humbly deſire they may be examined a part, and not in the hearing of one another.

Mr. *Att. Gen.* That with Submiſſion ought not to be in the King's Caſe, tho' we think there are none of them, that will ſpeak any more than the Truth.

Colledge. Here are ſeveral of them my Lord, they are all of a Gang.

Mr. *Serj. Jefferies.* Not of your Gang, Mr. *Colledge.*

Colledge. I pray they may go out my Lord, (which was ordered accordingly.)

Mr. *Dugdale.* If your Lordſhips pleaſe, whether or no I may deliver in theſe Papers?

Mr. *Att. Gen.* By and by, time enough, when we ask for them; ſpeak your own knowledge.

Mr. *Dugdale.* My Lord, I have been I think acquainted with Mr. *Colledge* two years or thereabouts. I have been ſeveral times in Mr. *Colledge's* Company, and truly ſometimes he hath been mightily bent againſt Popery; he hath at ſome times uttered himſelf, becauſe the King did not proſecute the Papiſts according as he thought ſufficiently, that the King was a Papiſt himſelf, that he was as deep in the Plot as any Papiſt of them all, that he had an hand in Sir *Edmondbury Godfrey's* Death. This Mr. *Colledge* I appeal to your ſelf, whether you have not ſaid it: And in this Town of *Oxford* you have ſeveral times told me that nothing was to be expected from him, he would do nothing.

Mr. J. *Levinz.* Who did tell you ſo?

Mr. *Dugdale.* Mr. *Colledge* did tell me that there was nothing to be expected from the King, but the introducing of Popery and Arbitrary Government, this I believe Mr. *Colledge* will acknowledge to be true.

Colledge. Where was this ſpoken?

Mr. *Dugdale.* This was ſpoken at a Coffee-houſe, called *Combes* Coffee houſe in this Town, and at the *Angel-Inn* in this Town at a Barber's Shop; that Day the King went out of Town, we were in the ſame Shop.

Colledge. Who was there beſides?

Mr. *Serj. Jefferies.* Do not interrupt our Witneſſes, let us have done with him, and you ſhall have your time to ask him Queſtions after.

L. C. J. For your inſtruction I will tell you, your time is not yet come, if you chop in and interrupt the Witneſſes, you will diſturb any Man living, but your way is this, when he hath delivered his Teſtimony, ask him any Queſtions then; and he ſhall be bound to Anſwer you, and in the mean time you ſhall have Pen, Ink and Paper to help your memory.

Mr. *Dugdale.* That day the King went out of Town, preſently after he went, you and I went into the *Angel-Inn*; and we went into the Barber's Shop that is juſt within the Inn, and being charging your Piſtols there, you ſaid *Rowley* was gone, the Rogue was afraid of himſelf, he was ſhirked away, and here I appeal to your own Conſcience, whether you did not ſpeak of it?

Collledge. I know nothing of it.

Mr. *Att. Gen.* Don't appeal to him, 'tis nothing for that.

Mr. *Soll. Gen.* Who did he mean by *Rowley?*

Mr. *Dugdale.* The King.

Mr.

Mr. *Serj. Holloway.* Was that his common Appellation for the King?

Mr. *Dugdale.* It was his common word concerning the King. And at other times ſpeaking that the King did not do thoſe things that were fair, he hath given mighty great words againſt him: He hath told me that there was no truſt to be put in him; for it was the People we muſt truſt to, and we muſt look to Arm our ſelves, and that he would Arm himſelf and be here at *Oxford*, and he told me here in the Town accordingly when I came out of the Country, and he ſaid that he had ſeveral ſtout Men that would ſtand by him in it. Their Intention was as he ſaid for the rooting out of Popery, by which name he always termed the Church that is now Eſtabliſhed by Law, as to be of the ſame nature the Papiſts were. This I believe *Mr. Colledge* will acknowledge.

Mr. *Att. Gen.* Well, go on Sir.

Mr. *Dugdale.* And at a time when he had Dr. *Tongue* at his Houſe, he told me that as for Dr. *Tongue* he had much ado with him, and he had been at a great Charge to keep him in order, that he was forced to neglect his own buſineſs to look after him; for if he had not done ſo, the Rogue, as he ſaid, had a mind to fling all upon the Proteſtants, that is, the Diſſenters, for he does not count the Church of *England* to be ſo; that he had much ado to keep him in order; for he had ſaid he had drawn Papers for that purpoſe, but thoſe Papers are ſecured, for where they are I can't tell.

Mr. *Att. Gen.* Who were they that were to be with him in that Deſign of his?

Mr. Dugdale. He told me Capt. *Chinton*, Capt. *Brown*, and one Dr. *Lewes*, and he brought them into Town here, when he came with him.

Mr. *Att. Gen.* To what purpoſe did he bring them?

Mr. *Dugdale.* Expecting there would be a riſing.

Mr. *Jones.* Did he tell you that here?

Mr. *Dugdale.* Yes, the *Friday*, I think it was, after the Parliament firſt ſat.

Mr. *Jones.* How did he expreſs himſelf what they had to do?

Mr. *Dugdale.* They were to be here, in caſe there were any riſing which he expected.

Mr. *Jones.* What uſe did he ſay he would make of them?

Mr. *Dugdale.* For the defence of the Proteſtant Religion, againſt the King and all his Adherents.

Mr. *Jones.* What did he ſay he would do to the King? I would not lead you.

Mr. *Dugdale.* He did not ſay what particularly.

Mr. *Jones.* What did he ſay if the King did not yield to the Parliament?

Mr. *Dugdale.* If the King did not yield to the Parliament, he ſhould be forced to it.

Mr. *Jones.* Where did you hear him ſay that?

Mr. *Dugdale.* At *Oxford.*

Mr. *Serj. Holloway.* Did you hear him declare this at *London*?

Mr. *Dugdale.* He did ſay at *London*, he expected there would be ſomething done at *Oxford*, and that he would go thither with his Horſe and Arms, and thoſe Gentlemen I named before would go with him. And, he ſaid, let them begin when they would, he did not care how ſoon, his Party was the greateſt Party.

Mr. *Att. Gen.* What was that Capt. *Brown*? did you know him?

Mr. *Dugdale.* Yes, I knew him very well; he did much frequent Mr. *Colledge*'s Company; he was in the late Army againſt the King.

Mr. *Serj. Jefferies.* Did you ſee him have any Piſtols?

Mr. *Dugdale.* Yes, I have ſeen him carry Piſtols about him.

Mr. *Serj. Jefferies.* Where, in his Pocket?

Mr. *Dugdale.* I ſaw them in the Houſe.

Mr. *Serj. Jefferies.* At *Oxford*?

Mr. *Dugdale.* Yes.

Mr. *Serj. Holloway.* Did you ſee them in his hand?

Mr. *Dugdale.* I cannot tell that, he had them in the Houſe, I ſaw them there.

Mr. *Serj. Holloway.* Did you ſee him in his ſilk Armour about the Parliament-Houſe, the Lobby, or any place?

Mr. *Dugdale.* I cannot ſay that.

Mr. *Att. Gen.* What did you know of his delivering any Marks or Signs for Perſons to be diſtinguiſhed by?

Mr. *Dugdale.* I had as much Ribband from him as came to 40 *s.* with *No Popery, No Slavery* wrought in it; and he gave it me to diſtribute among my Friends in the Country, that they might be known by other Perſons that would wear the ſame.

Mr. *Jones.* Where had you it?

Mr. *Dugdale.* At *London*, from Mr. *Colledge.*

Mr. *Jones.* Where was it to be diſtributed?

Mr. *Dugdale.* Among thoſe that I knew to be Diſſenters in the Country.

Mr. *Jones.* Were you to come to *Oxford*, by agreement, with Mr. *Colledge*?

Mr. *Dugdale.* I promiſed him to come to *Oxford*, and did ſo.

Mr. *Att. Gen.* Well, go on. What more do you know?

Mr. *Dugdale.* At *London* I was once at a Coffee-houſe with Mr. *Colledge*, and with ſome of the Members of the Houſe of Commons; it was a little before they met; and they were earneſtly talking of the Parliament at *Oxford*, and of ſome diſturbance that was likely to happen here. And it was then fully agreed, and Mr. *Colledge* was by, That it would be the beſt way, out of every County, where the Parliament had the beſt Intereſt in the People, to leave one in every County that might manage the People. This I appeal to Mr. *Colledge* whether it be true.

Colledge. You appeal to me, ſhall I ſpeak now, my Lord?

Mr. *J. Jones.* No, you will remember it by and by.

Mr. *Att. Gen.* What do you know of any Pictures?

Mr. *Soll. Gen.* Pray let him ſpeak that over again which he mentioned laſt.

Mr. *Dugdale.* Being in a Coffee-houſe with Mr. *Colledge*, there were ſome of the Members of the Houſe of Commons by; and ſpeaking of a Diſturbance that might happen here at *Oxford*; it was then agreed, That in every Quarter where the Parliament had the moſt intereſt in the People, they ſhould not all come up, but ſome remain there to manage the People.

Mr. *Att. Gen.* What do you know of any Pictures or Papers, have you any about you?

Mr. *Dugdale.* Yes, I have one thing I received from Mr. *Colledge*, that is, the Letter pretended to be intercepted to *Roger L'Eſtrange.*

Mr. *Att. Gen.* Pray, what account did he give you of it? Who made it?

Mr. *Dugdale.* He told me he was the Author of it himſelf, and he ſhewed me it in Manuſcript before it was printed; and he told me, he got one *Curtis*, or his Wife, to print it; but he would never truſt them again, for they cheated him of ſome of the Gain.

Mr. *Att. Gen.* Who was the Author, did he ſay?

Mr. *Dugdale.* He himſelf.

Mr. *Att. Gen.* Pray produce it Sir.

Mr. *Dugdale.* This and others he delivered to me to diſperſe.

L. C. J. What is it Mr. Attorney?

Mr. *Att. Gen.* It is a Letter, and a great part of *Fitz-Harris*'s Libel is taken out; it ſeems *Colledge* was the Author, and this is the Original of the Libel.

L. C. J. Did he tell you this was of his making?

Mr. *Dugdale.* Yes.

Mr. *Att. Gen.* Did he diſperſe them to any body elſe?

Mr. *Dugdale.* Yes, there was ſome given to one Mr. *Boſon*, he had ſome at the ſame time, and Mr. *Baldwin* had ſome.

Then the Paper was read.

Cl. of Cr. First Q. **Whether they that talk**——

Mr. *Att. Gen.* Pray give my Lord an account what more Papers and Libels he delivered to you.

Mr. *Dugdale.* I received one like this, I cannot ſay it was the ſame, where all the Biſhops were changing their Hats for Cardinal's Caps.

Mr. *Serj. Jefferies.* Where is *Rary Shew*, for it ſeems he hath expounded the meaning of that. (*Then it was produced.*)

Mr. *Serj. Jefferies.* I ſuppoſe 'tis his own cutting too.

Mr. *Dugdale.* I heard Mr. *Colledge* ſing it.

Mr. *Serj. Jefferies.* Where?

Mr. *Dugdale.* In *Oxfordſhire*, and in *Oxford* Town, at my Lord *Lovelace*'s.

Mr. *Serj. Jefferies.* Where at my Lord *Lovelace*'s?

Mr. *Dugdale.* At his Houſe in the Country.

Mr. *Srrj. Jefferies.* Who were in the Company there?

Mr. *Dugdale.* Sir *Robert Clayton*, Sir *Thomas Player*, Mr. *Rouſe*, Mr. *Colledge.*

Mr. *Serj. Jefferies.* You ſay you heard him in *Oxford*, and in *Oxfordſhire*, and at my Lord *Lovelace*'s, where is that?

L. C. J. My Lord *Lovelace* is here himſelf, and hears what he ſays.

Mr. *Dugdale.* I might miſtake the County, but I heard him ſing it at *Oxford* Town, and at my Lord *Lovelace*'s Houſe again.

L. C. J. Where is that?

Mr. *Dugdale.* I cannot tell the Town.

Mr. *Serj. Jefferies.* How came you there?

Mr. *Dugdale.* Sir *Thomas Player* did invite me thither.

Mr. Serj. Jefferies. Where is it in *Oxfordſhire*?

Mr. *Dugdale.* I cannot tell, 'tis four miles from *Henley.*

M. Serj. Jefferies. Was my Lord at home?

Mr. Dugdale. Yes, he was.

Mr. Serj. Jefferies. Now for the Cutt then; Did he ſhew you this Cutt?

Mr. Dugdale. Yes, he told me he would get it printed.

Mr. Serj. Jefferies. Was it before it was printed then that he ſung it?

Mr. Dugdale. Yes, it was.

Mr. Serj. Jefferies. Who did he tell you did make it?

Mr. Dugdale. He told me he was the Author of this Cutt, and he gave me one, and we ſang it together preſently after it was printed.

Mr. Att. Gen. How did he deſcribe it to you, when he ſhewed it to you?

Mr. Dugdale. That which hath the Pack on the back of it, he deſcribed to be the King; thoſe that follow him were *Topham*, *Cooper*, *Hughs*, and *Snow*, and that company of Men there is the Houſe of Commons.

Mr. Serj. Holloway. What was meant by the Pack?

Mr. Dugdale. The Parliament and all his Retinue; and then here is the King in the Mire again, according as 'tis repreſented in the Long——

Mr. Serj. Jefferies. Ay, he goes on well. And this here is the Biſhops which they thruſt into the Pack when they have got him down in the Mire, and then they thruſt them all away, as it is in the Song, to hoot them away.

L. C. J. Did he make this explication to you?

Mr. Dugdale. Yes.

Mr. Serj. Jefferies. Who were the *All*?

Mr. Dugdale. King and Clergy-men, and all.

Mr. Serj. Jefferies. Where was this that he explained it?

Mr. Dugdale. At *London.*

Mr. Serj. Holloway. Is there any thing relating to *White-hall*? what Name did he give that?

Mr. Dugdale. Yes. he ſaid, *Louſe-hall* was *White-hall*, becauſe of its poverty.

Then the Ballad was read.

Cl. of Cr. **Rary Shew.** To the Tune of, *I am a Senſeleſs Thing*——

Mr. Att. Gen. This ſhews you what a ſort of Man he is.

Mr. Serj. Jefferies. Here you ſay he explained this with the Pack at the back to be the King?

Mr. Dugdale. Yes, he told me ſo.

Mr. Serj. Jefferies. What did he mean by the two Faces?

Mr. Dugdale. That he was half a Proteſtant, and half a Papiſt.

Mr. Jones. Did he make any compariſon between his own Party and the King's Party?

Mr. Dugdale. He ſaid they were but a handful to them.

Mr. Jones. To whom?

Mr. Dugdale. To his Party, that was the Diſſenters.

Mr. Att. Gen. Speak that out.

Mr. Dugdale. That their Party was but a handful to theirs.

Mr. Att. Gen. Theirs and theirs, who did he mean?

Mr. Dugdale. He meant the Diſſenters, for the Church of *England* he reckoned among the Papiſts.

L. C. J. Tell us the words he ſaid.

Mr. Dugdale. He ſaid, his Party was the true Church of *England*, and that which is eſtabliſhed by Law, were but Proteſtants in Maſquerade.

Mr. Jones. Tell us when he made the compariſon, what words he did uſe, and upon what occaſion.

Mr. Dugdale. When he perceived the King at *Oxford* would not yield to the Houſe of Commons, he ſaid, Let him begin as ſoon as he would, he did not care how ſoon he did begin, for their Party, meaning the King and his Party, was but an handful to him and his Party, calling them the true Proteſtants, the others were Proteſtants in Maſquerade.

Mr. Att. Gen. What did he deſire you to do? To be aſſiſting in any thing?

Mr. Dugdale. He always deſired me to be true of that ſide, he hoped I was, and to get good Arms for my ſelf.

Mr. Serj. Holloway. Did he in *Oxford* deſire this of you?

Mr. Dugdale. No, he did not.

Mr. Sol. Gen. For what purpoſe did he deſire you to arm your ſelf?

Mr. Dugdale. He ſaid, the King had a deſign on the People to introduce Popery and Arbitrary Government, and he expected every day when they would begin, and the ſooner the better, he would be provided for them.

Mr. Jones. Was that in *Oxford*?

Mr. Dugdale. He ſpoke it in *Oxford*, and in the City too.

Mr. Jones. Did he tell you of any that were liſted?

Mr. Dugdale. He ſpoke of Capt. *Brown*, and Capt. *Clinton*, and *Don Lewes*, and abundance more he ſaid he had.

Mr. Jones. Did he tell you he had them here?

Mr. Dugdale. Yes, about forty of them were there he ſaid.

Mr. Serj. Holloway. Did he tell you of any that were liſted, in order to the coming down of the Parliament at *Oxford*?

Mr. Dugdale. Not liſted, but were intended to come down; and at *Oxford* he told me they were come down.

Mr. J. Jones. Were you in their company in *Oxford* here?

Mr. Dugdale. Yes. I was.

Mr. J. Jones. In the company of whom? name them.

Mr. Dugdale. Of Capt. *Brown*, *Don Lewes*, and ſeveral others of that Gang; I know not their Names, but I know their Faces.

Mr. Sol. Gen. Did he take notice to you that they were come down.

Mr. Dugdale. Yes.

Mr. Sol. Gen. To what purpoſe.

Mr. Dugdale. He expected there would be a riſing in *Oxford*, and to this purpoſe; *Mr. Colledge* was one that debated it at *Richard*'s Coffee-houſe, and it was to be carried from thence to the *Kings-head* Club, Whether it were not beſt to leave a Parliament Man in every County?

Mr. Att. Gen. Where was this?

Mr. Dugdale. This was at *Richard*'s Coffee-houſe in *London*, againſt they met here.

Mr. Att. Gen. We could give you an account of a volume of theſe things, abundance of ſcandalous Pamphlets, both Songs, Libels, and Ballads, that were made by this Gentleman, and all ſeized in his cuſtody.

Mr. J. Jones. But he ſung this Libel?

Mr. Att. Gen. All theſe, Gentlemen, (ſhewing a great bundle) were to be diſperſed over *England*.

Mr. Serj. Jefferies. It was it ſeems expounded and ſung by the Priſoner at the Bar; he gave you the Ballad here at *Oxford*, you ſay *Mr. Dugdale*.

Mr. Dugdale. No, I heard him ſing it here.

Mr. J. Jones. Pray, *Mr. Dugdale*, what was the uſe was to be made of this Ballad?

Mr. Att. Gen. Come go to the next, we call this Evidence to ſhew you the malice of the Man.

Colledge. Pray, my Lord, let me ask ſome Queſtions of *Mr. Dugdale*.

Mr. Serj. Jefferies. Ay, now let the Priſoner ask his Queſtions (to do him right) before we go to another Witneſs.

Mr. Dugdale. My Lord, I have a word or two more about a Libel in Manuſcript, that very day the Sheriffs were to be choſen; it was to be printed, and he told me the Printer durſt not print it, it was ſo dangerous.

Mr. Serj. Jefferies. What was it, can you remember any part of it?

Mr. Dugdale. No, but it was the worſt I ever heard in my Life againſt the King and Government.

L. C. J. Now ask him what Queſtions you will.

Colledge. Pray, when was the firſt time you gave this Evidence?

Mr. Dugdale. Truly, Mr. *Colledge*, I don't keep an account of Time, I cannot give an account of Time.

Mr. Att. Gen. As near as you can, tell him.

Mr. Dugdale. I cannot tell whether it might be in *June*, I think it was.

Colledge. How long before I was taken?

Mr. Dugdale. It might be about the time you were taken.

Colledge. Pray, who did you give it before?

Mr. Dugdale. I gave it to Sir *Lionel Jenkins*.

Colledge. Where did you ſwear theſe things were done then?

Mr. Dugdale. What was done in the City, I ſwore to be done there.

Colledge. What City?

Mr. Dugdale. London; the ſame words were ſaid in the City of *London*, and over again here. I have repeated, for the moſt part, only the words you ſaid here, but more was in the City than here.

Colledge. Did you ſwear then, that the words you ſwear now were ſpoken at *London*?

Mr. Dugdale. It may be we might not name *Oxford* then.

Mr. Serj. Jefferies. He ſays well, it might not be named then.

Colledge. Then you did give in your Information, that I ſpoke theſe words at *Oxford*.

Mr. Dugdale. I was not examined about what was done at *Oxford*; but I believe I have heard you ſpeak the ſame words to me at my Lord *Lovelace*'s, but I do not know what County that is in.

Colledge. I ask you poſitively, Whether you did not ſwear that what you now ſay was ſpoken at *Oxford*, was ſpoken at *London*.

Mr. Dugdale. I did not name *Oxford* then.

Colledge. But did not you ſay that was done at *London*, that now you ſay was done here?

Mr. Dugdale. Truly, you ſaid them both at *London*, and here.

Colledge. Pray, *Mr. Dugdale*, what had you to give this your Information?

Mr. Dugdale. Truly I can't ſay I have received the worth of a Groat.

Colledge. Nor was ever promiſed any thing?

Mr. Dugdale. No, I never received any thing, nor ever was promiſed, but only what the King gave me for going down into the Country for my Charges.

Mr. Att. Gen. Was that the ſame Allowance you had when you were Witneſs for the Popiſh Plot?

Mr. Dugdale. Yes.

Mr. Serj. Jefferies. Have you any other Allowance than what you had before, when you gave Evidence at my Lord *Stafford*'s Tryal?

Mr. Dugdale. No, nor have got all that yet neither.

Colledge. But pray obſerve my Queſtion, *Mr. Dugdale*, and anſwer it, Did you not ſwear at *London* that I ſpoke theſe words there, which now you ſay I ſpoke here?

L. C. J. Pray obſerve, he ſays he did not then name *Oxford*; but in the giving of his Evidence now, he tells you a ſeries of what paſſed between *London* and *Oxford*; and I muſt tell you further, if a Treaſon be committed, and the Evidence prove it to be in two Counties, the King may chuſe which County he will proſecute and bring his Indictment in, and give in Evidence the Facts in both Counties. But you ſhall have your Objection to it afterwards, and we will take it into conſideration. I tell you this, that it may not ſeem to you that the Witneſſes ſpeak impertinently of what was done at *London*; but if nothing was done or ſaid at *Oxford*, then it will be taken into conſideration, you ſhall have it ſaved afterwards, I only hint it now, that you may not think it impertinent.

Colledge. I beſeech your Lordſhip give me leave to ſpeak one word: When he made his Affidavit before Sir *Lionel Jenkins* there about ſeizing the King, about the Party I had, and the Arms I had provided, ought not he at the ſame time to have ſaid where I ſaid thoſe words to him? but he did ſwear then it was in *London* that I ſaid thoſe words to him; and coming before a Grand Jury of honeſt Gentlemen in *London*, they were ſo wiſe and honeſt as to do me Juſtice, and not find the Bill; ſo their deſign failing there, then they changed it to *Oxford*.

L. C. J. You did not come to your Trial there, if you had ſo done, then they would have asked him in particular what was ſaid at *Oxford*, and what at *London*, as 'tis now, being done in both Counties. But look you, if you will ask any particular Queſtions, do, for they have other Witneſſes to produce.

Colledge. My Lord, I only ask this Queſtion, Whether it be not rational to think, that when he ſwore before Sir *Lionel Jenkins*, he ſhould not ſwear the words were ſpoken, and things done?

Mr. Dugdale. He hath ſaid the ſame words to me at my Lord *Lovelace*'s, as I lay in Bed with him, and this I never mention'd but now in my Evidence.

Colledge. What words did I ſay there?

Mr. Dugdale. If you muſt have them repeated, they were about the King.

Colledge. What were they?

Mr. Dugdale. That he was a Papiſt, and deſigned Arbitrary Government.

Colledge. Did I ſay ſo to you at my Lord *Lovelace*'s?

Mr. Dugdale. Yes, as we lay a-bed.

Mr. Soll. Gen. Did you lie together?

Mr. Serj. Jefferies. Yes, yes, they were Intimates.

Colledge. I had not ſix Words with you when you went to Bed, for you ſaid you were weary, and went aſleep preſently.

Mr. Dugdale. I ſay you ſaid this in the morning, for we had an hours Diſcourſe when we were a-bed, and all our Diſcourſe was about the Parliament and the King.

Colledge. Where was it I ſaid theſe Words in *Oxford*?

Mr. Dugdale. At *Comb*'s Coffee-Houſe was one place.

Colledge. Was there no Body by?

Mr. Dugdale. No, but at the *Angel-Inn* there were ſeveral Perſons ſtanding by?

Colledge. Surely then ſome of thoſe heard the Words as well as you.

Mr. Dugdale. It may be ſo, I am ſure many at *London* have been by, as *Mr. Starkey* by name, *Mr. Boſon*, *Mr. Baldwin*; they have rebuked you for it, and I have rebuked you too.

Colledge. What Words have they and you heard, and rebuked me for?

Mr. Dugdale. When you have been railing againſt the King, and ſaid, That the King deſigned nothing but the introducing of Popery and Arbitrary Government, and that he was a Papiſt.

Mr. Serj. Jefferies. He loves to hear it repeated.

Colledge. What Arms did you ſee of mine in this Town?

Mr. Dugdale. I ſaw Piſtols; you had a Caſe of Piſtols before you, and you had ſome Pocket Piſtols.

Colledge. None but one I borrowed of you, and that you had again; had I? (pray ſpeak) did you ſee any more?

Mr. Dugdale. It may be there might not, but there were Pocket Piſtols in the Room, and you had them in your hand.

Colledge. He ſwore but now that he ſaw me have Pocket Piſtols, when it was but one, and that was his own.

Mr. Serj. Jefferies. Hark you now, you talk of Piſtols, do you know that he had any Piſtols in his Holſters at *Oxford*?

Mr. Dugdale. Yes, he had.

Colledge. Yes, I know that, I don't deny it.

Mr. Serj. Jefferies. I think a Chiſſel might have been more proper for a Joyner.

Colledge. You ſay I was confederated with Capt. *Brown*, and other Men.

Mr. Dugdale. You have told me that Capt. *Brown* had a good Allowance, and it was pity he had not a better Allowance; and you would ſpeak

ſpeak he might have a better Allowance, for he was able to do good Service when the time came.

Coll. From whom?

Mr. Dugd. Among you.

Coll Among whom?

Mr. Dugdale. You know there were ſeveral Gatherings among you that I was privy to.

Coll. What do I know?

Mr. Soll. Gen. You know mony was gathered many times.

Coll. For what purpoſe?

Mr. Dugdale. You never told me particulars; it was to diſtribute ſomewhere, I had none of it.

L. C. J. He does not ſay theſe men were concerned with you, but you ſaid ſo.

Mr. Dugdale. You know, *Mr. Colledge*, there were many Gatherings of monys.

Coll. Did I tell you there were any Gatherings for Capt. *Brown*?

Mr. Serj. Jefferies. He ſays you told him no particulars; if you have a mind to ask him any more Queſtions, do.

Colledge. Pray, Sir *George*, don't interrupt me, I am here for my Life. Did I tell you there were any Gatherings for Capt. *Brown*?

Mr. Dugdale. I do not ſay for him, nor whom you diſtributed it to; but you gathered mony one among another, and you have paid mony.

Colledge. I have paid mony! when, and to whom?

Mr. Att. Gen. You will not deny that, you confeſſed, upon your Examination, that you gave a Guinea.

Colledge. Sir, did you ſee me any more at *Oxford*, than in the Coffee Houſe, and at that Inn, when I went out of Town, and was going home with the City Members?

Mr. Dugdale. Yes.

Colledge. Were you in my Company any where, but in thoſe two places?

Mr. Dugdale. I was with you at the *Chequer*.

Coll. Did you come a purpoſe to ſpeak with me, or had you any buſineſs particularly with me?

Mr. Dugdale. Truly, *Mr. Colledge*, I have forgot whether I had or no, I was in the Room with you there.

Coll. Where is that Room?

Mr. Dugd. I can't tell all the Rooms in that Houſe.

Coll. Was it above ſtairs, or below?

Mr. Dug. Both above and below, two days I was there with you.

Coll. Was there any of this diſcourſe you ſpeak of paſſed there between us?

Mr. Dugd. I know I was with you in thoſe two places I mention'd before; you called me aſide to drink a Glaſs of Mum, and there was none in the Room but us two at that Coffee Houſe.

Coll. Sir, You came to Town but on *Friday*, I think it muſt be *Saturday*, *Sunday*, or *Monday* this was, for he ſtayed no longer in *Oxford*.

Mr. Dugd. Nay, I came to *Oxford* either *Wedneſday* night, or *Thurſday* morning; and I ſaw you and *Mr. Hunt* together the ſame day I came.

Coll. Did I explain any Pictures to you at *London*, or owned I was the Author of them.

Mr. Dugd. Yes, upon my Oath, you have explained Pictures to me, and there is one Picture that I have not ſhewed yet, which you have explained what the meaning was.

Mr. *Serj. Jefferies.* 'Tis your common Trade it ſeems.

Mr. *Dugd.* You told me you got them done.

Clerk reads, *A Character of a Popiſh Succeſſor*, &c.

Mr. *Serj. Holloway.* How did he explain it to you, *Mr. Dugdale*?

Mr. *Serj. Jefferies.* I would ſee what Opinion he had of the Church of *England*; there are ſome Church-men, what are they a doing?

Mr. *Dugd.* They are a parcel of *Tantivy-men* riding to *Rome*; and here's the Duke of *York*, half Man, half Devil, trumpeting before them.

Coll. You have got ſome Body to explain theſe things to you, *Mr. Dugdale.*

Mr. *Dugdale.* You did it, upon my Oath.

Coll. Oh, fie upon you *Mr. Dugdale*, conſider what you ſay.

Mr. *Serj. Jefferies.* All this you did explain it ſeems.

Mr. *Dugd.* And in one place of the other Libel the King was termed a Rogue, but they put him in by another Name.

Mr. *Serj. Jefferies.* Where is it?

Mr. *Dugd.* 'Tis in *Rary Shew*; in the Manuſcript it was, *Now, now the Rogue is down.*

Mr. *Serj. Jefferies.* Let me ſee it, I took notice of it, 'tis, *Now, now the Gyant is down*, here.

Coll. I ask you, Sir, Whether the Song which you ſay was ſung at my Lord *Lovelace*'s, and other places, was the ſame with this?

Mr. *Dugd.* For the general it is, I can't tell for every Word: You ſang it half a dozen times there, and the Muſick plaid to you.

Coll. I ask you whether it was the ſame with this?

Mr. *Dugd.* I can't tell for every Word you ſang.

Coll. Was there any Body by at my explaining of theſe Pictures?

Mr. *Dugd.* Mr. *Baldwin* was by, and reproved and corrected you, that you would be ſo open.

Coll. Was there any Body at *Oxford*, when you did hear me talk of Arming my ſelf?

Mr. *Dugd.* They were walking up and down in the Barber's Shop, and I know not whether they did hear or no.

Mr. *Att. Gen.* Was that Gentleman ſworn at my Lord *Stafford*'s Tryal, *Mr. Dugdale*?

Coll. Yes, I was ſworn there, I acknowledge it.

Mr. *Att. Gen.* Did he ſwear any thing on your behalf, for your credit, *Mr. Dugdale*?

Coll. That was by hear ſay, Mr. Attorny, at the *Tower*, I know nothing of my own knowledge, but I did believe him another man than I find him.

Mr. *Serj. Jefferies.* No queſtion, or elſe you would not have truſted him.

Mr. *Att. Gen.* Swear *Stevens.* (*Which was done.*) Do you give my Lord, and the Jury, an account where you found this precious Ballad.

Stevens. The firſt draught I found in his Bedchamber.

Mr. *Serj. Jefferies.* What of all of them? Which is it?

Stevens. The *Rary Shew*; We found the firſt draught

draught of it in his Houſe, when we came to ſearch his Papers, by Order of Council; and the Printer that printed the Ballad, hath told me ſince, he had it from him ——

Mr. Att. Gen. What ſay you your ſelf? ſpeak your own knowledge.

Stevens. And *Mr. Atterbury* was by when we ſearched the Houſe.

Mr. Att. Gen. Well, *Mr. Atterbury* will tell his own Story.

Stevens. I have ſeen you on Horſe back, with Holſters before you, with ſome hundreds of men of men after you, coming out of the *Bell-ſavage* Inn; they ſaid you were going to chuſe Parliament-men: I have known you three or four years, you were Joyner to our Hall.

Mr. Serj. Jefferies. We call you to that particular of the Papers, and you run in a ſtory of a Cock and a Bull, and I know not what.

L. C. J. Will you ask him any Queſtions?

Coll. No, only this; Do you ſwear, upon your Oath, that you found the Original in my Houſe?

Stevens. Yes, Sir, you will ſee it with my hand to it, and ſome more of them.

Mr. Att. Gen. And you found too thoſe that were printed?

Stevens. Yes, both our Names are to them that were concerned in the ſearching of them.

Mr. *Serj. Jefferies.* You found the Paper in the Houſe?

Stevens. Yes.

Mr. *Serj. Jefferies.* That is *Towzer*; but have you the Original of the *Rary Shew?*

(It was look'd for, but could not be found.)

Coll. Pray, Gentlemen obſerve, he ſwears that is an Original.

Mr. *Serj. Jefferies.* No, no, he found the Paper in your Houſe.

Coll. I ask about the Original of *Rary Shew.*

Mr. *Serj. Jefferies.* He ſays, he ſaw a Paper drawn with a Pencil that was like the Original.

Atterbury. There was an Original drawn with a Pencil, upon Dutch Paper, 'tis loſt ſince, for we do not ſee it here now which at the ſame time we found upon *Colledge*'s Table in his Bed-Chamber.

Coll. Did you find an Original in my Chamber?

Atterbury. Yes, we found a Paper drawn with Black-lead.

Coll. Pray, where is it?

Atterbury. I did ſee it, it was drawn in Black-lead, it was upon Dutch Paper, and lay upon the Table in your Chamber.

Stevens. Sure I am, it was taken when we ſearched the Houſe.

Coll. I am ſure you could never find the Original of any ſuch thing in my Houſe.

Mr. *Att. Gen.* Then where is Mr. *Sewell? (Who was ſworn.)* Sir, did you ſee that Trumpery taken?

Sewell. I had a Warrant to ſeize *Mr. Spur*, and his Brother-in-Law, *Mr. Colledge.* So I went down to ſeize *Mr. Spur*, and ſearch his Houſe for ſuch Papers as I ſhould find. I could not find them in the Houſe; but I enquired of him, after I had ſearched, and could not find them where they were; becauſe I ſaw him at Mr. *Colledge*'s when we firſt ſearched; he denyed them a pretty while, but at laſt he told me they were in the Hay-mow in the Barn. When I came there, he was bawling, and told me, his Wife, *Colledge*'s Siſter had taken them down, and carried them into a Room where I had ſearched before, but could not find them; and the man was angry then, ſo we run after his Wife, and found her with all theſe Papers in a Bag.

Mr Att. Gen. Are theſe the ſame Papers?

Sewell. Yes; and there were two other Cuts; the man himſelf is about the place ſomewhere.

Mr. *Att. Gen.* Swear Mr. *John Smith.*

(Which was done.)

Mr. *Jones.* Come Mr. *Smith*, do you know Mr. *Colledge?*

Mr. *Smith.* Yes.

Mr. *Serj. Jeff.* Give us an account what dealings you have had with him, where, and when; what he hath ſaid about the King; and tell us firſt whether you be intimately acquainted?

Mr. *Smith.* We were intimately acquainted. The firſt time I heard Mr. *Colledge* diſcourſing any thing of this nature, that is, concerning Treaſon, or any ſuch thing, was once at a Coffee houſe by *Temple-Bar*; there I met *Colledge*, and he told me he was invited to Dinner, and he likewiſe invited me to it. I ask'd him, who provided the Dinner; he told me it was one Alderman *Wilcox*; I told him I was a ſtranger, and did not care for going; he told me, I ſhould be very welcome there; and at laſt prevail'd upon me to go: And as I was going along, I ask'd him what the Alderman was; he told me, he was a man that was as true as ſteel, and a man that would endeavour to root out Popery: Said I, That may be done eaſily, if you can but prevail with the King to paſs the Bill againſt the Duke of *York.* No, no, ſaid he, you are miſtaken, for *Rowley* is as great a Papiſt as the Duke of *York* is, *(now he call'd the King* Rowley) and every way as dangerous to the Proteſtant Intereſt, as is too apparent by his Arbitrary ruling. This was the Diſcourſe between the Coffee-houſe and the Tavern where we went to dine. When we came in, I ask'd *Colledge* again whether the Alderman was there; he ſaid he was not there at that time: I ask'd him, the ſecond time, what kind of man he was; he ſaid, he was one that lived in his Country-houſe, and gave freely to ſeveral People to buy Arms and Ammunition: And I ask'd him to what purpoſe? and he ſaid, it was to bring the King to ſubmiſſion to his People: adding thereto, that he wonder'd *Old Rowley* did not conſider how eaſily his Father's Head came to the Block, which he doubted not would be the end of *Rowley* at the laſt. After this Diſcourſe, the Alderman came in; we dined, and every one went his own way about his own Buſineſs. Mr. *Colledge* then told me, if I would go with him to his own Houſe, I ſhould ſee how he was prepared with Arms and Proviſion. Soon after I met with him, and he deſired me to go along and dine with him; and I did ſo, and there he did ſhew me his Piſtols, his Blunderbuſs, and his great Sword; and he ſhew'd me his Armor, Back and Breaſt; and he ſhew'd me his Head-piece, which, if I am not miſtaken, was cover'd over with Camlet, it was a very fine thing; and, ſaid he, theſe are the things which will deſtroy the pitiful Guards of *Rowley*, that are kept up contrary to Law and Juſtice, to ſet up Arbitrary Power and Popery.

Coll. What did I ſay, Sir, about my Armor?

Mr. *Smith.* Thus you ſaid; it was to deſtroy *Rowley*'s

Rowley's Guards, (thoſe were your words) that were kept up contrary to Law and Juſtice, to ſet up Arbitrary Power and Popery. After I had dined with him, I parted with him. A little before the Parliament was to meet at *Oxford*, I met him again; and we were diſcourſing of ſeveral things, what Preparations the City were making, how they were provided with Powder and Bullets, and for his part he would go down to *Oxford*, for he expected a little ſport there, upon the Diviſions that were like to be between the King and Parliament. Then ſaid I to him, Why, what is the matter there? Why, ſaid he, we expect that the King will ſeize upon ſome of the Members, and we are as ready as he: And, ſays he, for my part, I will be there, and be one that ſhall ſeize him if he ſecure any of the Members; (and I believe he did go down;) ſays he, you know how the City is provided: I told him, No, not ſo well as he; but he told me all was very well. After he came up again, I met him another time, and he told me, he went down in expectation of ſome ſport; but *Old Rowley* was afraid, like his Grandfather *Jamy*, and ſo ran away like to beſhit himſelf.

Mr. *Serj. Jeff.* Did he ſay, if he had not ran away he would have ſeized him?

Mr. *Smith.* He ſaid nothing of that; but before, he ſaid, he would be one of them ſhould ſeize him, if he ſeized any of the Members. After this he told me, that *Fitzgerald* and he had had a Quarrel at the Parliament-Door of the Houſe of Lords at *Oxford*; that *Fitzgerald* had called him Rogue; and, ſaid he, *Fitzgerald* made my Noſe bleed; but before long, I hope to ſee a great deal more Blood ſhed for the Cauſe. After this again, when there was a diſcourſe of diſarming the City, that my Lord *Feverſham* was to come to do it, he told me, he was well provided, and if *Feverſham*, or any man, nay *Rowley* himſelf ſhould attempt any ſuch thing, he would be the death of him, before any man ſhould ſeize upon his Arms.

Mr Serj. *Jeff.* Did he diſcourſe any thing to you about Arms to provide yourſelf.

Mr. *Smith.* Yes, he did, I had an Armor from him.

Mr. Serj. *Jeff.* What did he ſay to you about it?

Mr *Smith.* He did deſire me to get me Arms, for I did not know how ſoon I might make uſe of them. I had an Armor from him upon trial; he ſaid it coſt him 30 or 40 s. I had it upon trial, but it was too big for me, ſo I gave it him back, and bought a new one.

Mr *Att. Gen.* Did he tell you to what purpoſe you ſhould arm yourſelf?

Mr. *Smith.* No, he did not name any purpoſe, but he told me, I did not know how ſoon I might make uſe of it.

Mr *Att. Gen.* What did he ſay to you about any one's ſeizing the King?

Mr *Smith.* He told me, the Parliament were agreed to ſecure the King, and that in order to it, all Parliament-men came very well armed, and accompanied with Arms and Men; and he told me of a great man that had notice from all the Gentlemen of *England* how well they came armed.

Mr J. *Jones.* What did he ſay of himſelf?

Mr *Smith.* He would be one that ſhould ſecure the King, if he ſeized any of the Members.

Mr *Jones.* When he had been there, what did he ſay?

Mr *Smith.* If they had had any work, he was ready provided for them.

Mr *Att. Gen.* But pray, tell us again what he ſaid of the King's running away?

Mr *Smith.* He ſaid, *Rowley* was afraid, like his Grandfather *Jamy*, and ran away ready to beſhit himſelf.

L. C. J. If you have done with him, Mr Attorny, let the Priſoner ask him what Queſtions he will.

Coll. Mr *Smith*, where was this Diſcourſe I had with you?

Mr *Smith.* Which do you mean, the former part or the latter?

Coll. The firſt Diſcourſe you talk of, what I told you going to Mr *Wilcox*'s to dinner; and when it was?

Mr *Smith.* You know beſt when it was, I can't exactly remember the time; but you know 'tis true.

Coll. Where was it?

Mr *Smith.* As we went along thither we had the firſt part of it, and when we came thither, you and I talk'd till Alderman *Wilcox* came in; and you and I were alone together, and ſeveral Perſons that were there, were drawn into Cabals, two by two.

Coll. Where?

Mr *Smith.* In the Room where we dined; and you know there was a little Room by, where ſome were drinking a Glaſs of Wine.

Coll. You ſay, by two and two, the Company were drawn into Cabals.

Mr *Smith.* I tell you moſt of them were in Cabals, two and two together, only thoſe two Gentlemen that belong'd to the Alderman went up and down and gave Wine.

Coll. What Religion are you of?

Mr *Smith.* Is it for this man to ask me, my Lord, ſuch a Queſtion?

L. C. J. Yes, anſwer him.

Mr *Smith.* I am a Proteſtant.

Coll. You were a Prieſt?

Mr *Smith.* Yes, what then? and I am in Orders now.

Coll. That was from the Church of *Rome.*

Mr *Smith.* Yes, and that is a good Ordination; I came in voluntarily to diſcover the Popiſh Plot, and was no Penſioner, nor received any Sallary from the King. I have ſpent ſeveral Pounds, ſeveral ſcores of Pounds, but received no Recompence: And I was the Darling at one time all over the City, when I did adhere to what they would have me to do.

Mr Serj. *Jeff.* Did not you ſwear againſt my Lord *Stafford*?

Mr *Att. Gen.* Were not you a Witneſs, Mr *Smith*, at my Lord *Stafford*'s Trial?

Mr *Smith.* In that Caſe I did give a general account of the deſign of the Papiſts; they did not then queſtion my Reputation, and I defie all the World to ſay any thing againſt it.

Coll. Pray hear me Sir, if you pleaſe; the firſt diſcourſe that you ſpeak of about Mr. *Wilcox*'s being a good man for the Cauſe, and contributing mony, this was when we were at Dinner.

Mr *Smith.* This was that day when we went to dinner with him, you know it very well.

Coll. Where were the other diſcourſes I had with you?

Mr *Smith.* Which part of them?

Coll. When I came from *Oxford.*

Mr

Mr *Smith.* By the Ditch-ſide, by your own Houſe; I have two or three to prove it, we were an hour or two diſcourſing together about this Buſineſs.

Coll. What Buſineſs?

L. C. J. He tells you of two Diſcourſes, one before you went to *Oxford*, and one after you came from thence.

Coll. He does ſay, that I diſcourſed him about our coming down hither to *Oxford*, that the Parliament would ſecure the King, and that I would be one of them that ſhould ſeize him, and this was the time when we dined with Alderman *Wilcox*.

L. C. J. Not ſo, he ſays after that time, and before you went to *Oxford*, he had ſuch a diſcourſe with you.

Mr *Smith.* Yes my Lord, ſo it was.

Coll. And does he ſpeak of another time, when I ſhewed him the Back, Breaſt, and Arms?

Mr *Smith.* Yes.

Coll. But he ſaid, I diſcourſed then, that the City was provided with Arms, and that the Parliament were reſolved to bring the King to ſubmiſſion.

Mr *Smith.* When I was in the Houſe with him, he then ſaid Mr *Wilcox* gave mony to provide Arms: I ask'd for what? he ſaid, it was to bring the King to ſubmiſſion to his People; and then he added, he admired that *Rowley* did not remember how eaſily his Father's Head came to the Block; and he doubted not but that would be the end of him too.

L. C. J. He ſpake of ſeveral times you know.

Coll. I do not know one word of it, nor can diſtinguiſh the times: But, Mr *Smith*, the laſt diſcourſe you ſay about *Oxford* buſineſs, was by the Ditch-ſide.

Mr Serj. *Jeff.* The diſcourſe about bringing the King to ſubmiſſion, was in the way as you went to dinner.

Mr *Smith.* The laſt diſcourſe when you returned from *Oxford*, was by the Ditch-ſide; but both before and after you ſpake to me at that place about this deſign of bringing the King to ſubmiſſion.

Coll. You ſaid it was at *Wilcox*'s at Dinner.

Mr Serj. *Jeff.* You miſtook him then.

Coll. Nay, Sir *George*, you took him not right.

Mr Serj. *Jeff.* I have taken him right I aſſure you, and you ſhall ſee it by and by.

Coll. He is the falſeſt man that ever ſpoke with a tongue.

Mr Att. Gen. Swear *Bryan Haynes.* (*Which was done.*) Tell my Lord, and the Jury, whether you know this Gentleman, what converſe you had with him, and what diſcourſe he hath had with you. Apply yourſelf to Mr *Colledge*'s Buſineſs only.

Haynes. I ſuppoſe he will not deny but that he knows me very well; I have been acquainted with him ever ſince *March* laſt, before the ſitting of the Parliament at *Oxford*. My Lord, there was a Warrant againſt me for High Treaſon, and I made my application to Mr *Colledge*, and deſired him to go to a Perſon of Honor in *England*, and ask his advice, Whether I might ſuperſede the Warrant by putting in Bail, and carry the *Superſedeas* in my Pocket: Mr *Colledge* told me he would go to this Perſon of Honor, for he would do nothing of his own head; and he bid me come to him the next day. My Lord, I came to Mr *Colledge* the very next day, and I met him at his Houſe, and I ask'd him what was the reſult, and what advice he had from that Perſon of Quality: He bid me be of good chear, that the Parliament would be, and ſit at *Oxford* ſoon; that I ſhould not value the King a pin; for, ſaid he, the King is in a worſe condition than you or I; for you ſhall ſee, ſaid he, he ſhall be called to an account for all his Actions.

Mr Serj. *Jeff.* Who ſhould?

Haynes. The King; for all the World may ſee, ſays he, that he does reſolve to bring in Arbitrary Power, and Popery: And, ſaid he, unleſs he will let the Parliament ſit at *Oxford*, ſince he hath called them together, and put the People to charges in chuſing of them, and them in coming down, we will ſeize him at *Oxford*, and bring him to the Block, as we did the Logger-head his Father: The Parliament ſhall ſit at *Guild-hall*, and adjuſt the Grievances of the Subject, and of the Nation: And you ſhall ſee, ſaid he, that no King of his Race ſhall ever reign in *England* after him.

L. C. J. Where was this he ſaid ſo?

Haynes. At his own Houſe I met him; and he and I did walk all along from his own Houſe, over the Bridge that is againſt *Bridewell*, and ſo went all along till we came to the *Hercules Pillars*, and we had ſome diſcourſe there; we went up one pair of ſtairs and called for ſome Beef; and all this diſcourſe was in that very place of the *Hercules Pillars*.

Mr Serj. *Holloway.* Do you know any thing of any Arms he had, and for what?

Haynes. But Sir, ſaid I to Mr *Colledge*, how can this be done, 'tis a thing impoſſible: You pretend, you ſay, to the Duke of *Monmouth*, that he is a fine Prince, and ſtands up for the Proteſtant Intereſt. Alas, ſaid he, we make an Idol of him to adumbrate our Actions, for fear we ſhould be diſcovered: Do you think the wiſe People of *England* ſhall ever make a Baſtard upon Record King of *England*? No, ſaid he, for tho' we praiſe his Actions, yet we cannot endure him, becauſe he is againſt his own Father. But, ſaid he, further, unleſs the King do expel from his Council the Earl of *Clarendon*, cunning *Lory Hide*, the Earl of *Hallifax*, that great Turn-coat Rogue, that was before ſo much againſt the Papiſts, a Raſcal, we ſhall ſee him hang'd, and all the *Tory* Counſellors; except the King do it, we will make *England* too hot for him.

Coll. Who did I ſay this to? to you?

Haynes. Yes, to me.

Coll. Pray, how could this be poſſible?

Haynes. Yes, you knew my condition; and I intimated to you at that time, that I was as much for Treaſon and Villany as you: But then ſaid I to him, how can this be done? Here you have neither Officers, nor Men of Experience, nor Men of Knowledge; nor you have no Ammunition, Sea-port Towns, nor Ships. And beſides, the King, ſaid I, hath a great Party in the Land, and the Duke of *York* likewiſe; and for all the men of Eſtates, and the ancient Gentlemen, they will not be diſturbed, and quit their Eaſe for a Civil War. Oh, ſays he, you are miſtaken, for we have in the City 1500 Barrels of Powder, and we have 100000 men ready at an hour's Warning; and we have ordered every thing in a due method againſt the ſitting of the Parliament at *Oxford*; and you ſhall ſee *England* the moſt glorious Nation in the World, when we have cut off that beaſtly fellow *Rowley*; and ſpeaking

of

of the King, he ſaid, he came of the Race of Buggerers, for his Grandfather King *James* buggered the old Duke of *Buckingham*; and he called him *Captain*, and ſometimes the *King*, and ſometimes *Rowley*.

Mr Serj. *Jeff.* This was pure Proteſtant diſcourſe upon my World.

Haynes. Then he railed at Judge *Pemberton*; and, ſaid he, let him try *Fitzharris* if he dare; I ſhall ſee him go to *Tyburn* for it, I hope, a Turncoat Rogue; He was for the Plot whilſt he was *puiſne* Judge, but now he is Chief Juſtice, he is the greateſt Rogue in the World. He is like one of the Penſioners in the Long Parliament. So one day I went along with Mrs *Fitzharris*, and Mr *Ivy*, and he ſent a man to me, and deſired me to come to the *Hog in Armor*; thither we came, and met him, and went to his Lodgings, and there we dined. Then they made ſome Perſons of Honor believe, that I was a Perſon ſo and ſo qualified, and was brimful of the Plot; and he would put me upon charging the King with the firing of *London*, and the murder of Sir *Edmundbury Godfrey*, and, ſaid he, ſuch and ſuch Lords ſhall live and die by you; and beſides, ſaid he, you need not fear, *England* ſhall eſpouſe your Cauſe. But, ſaid I, the Law is like a Spider's Web, that catches the little Flies, but the great Flies run thro' the Net, and make their eſcape; ſo 'tis with theſe Lords, they put you and me on the danger of acting; and when they get off by intereſt, a Jury of 12 men will hang us by the Neck, and ſo I ſhould periſh, whilſt others triumphed, and only be a Martyr for the Fanaticks. So in diſcourſe we were talking of the Libel of *Fitzharris*; The Devil take me, ſaid he, every individual Word is as true as God is in Heaven; and, ſaid he, if you do not joyn with *Fitzharris* in his Evidence, and charge the King home, you are the baſeſt fellow in the World, for he makes you ſlaves and beggars, and would make all the World ſo; and 'tis a kind of charity to charge him home, that we may be rid of ſuch a Tyrant.

Mr. Serj. *Jeff.* Mr *Colledge*, if you will ask him any Queſtions, you may.

Coll. Certainly, my Lord, the thing ſpeaks it; he is not to be talk'd withal; Is it probable I ſhould talk to an *Iriſhman* that does not underſtand Senſe?

Haynes. 'Tis better to be an honeſt *Iriſhman*, than an *Engliſh* Rogue.

Mr Serj. *Jeff.* He does it but to put you in a heat, don't be paſſionate with him.

Haynes. No I am not, I thank God, he hath not put me into an heat.

Coll. Where was this diſcourſe about ſuperſeding your Warrant?

Haynes. At *London*.

Coll. When?

Haynes. It was before the Parliament ſat at *Oxon*.

Coll. How long?

Haynes. I can't tell poſitively to an hour or a day.

Coll. What month as near as you can?

Haynes It was in the month of *March*.

Coll. Had you ever ſeen me before?

Haynes. Can you deny that?

Coll. I ask you whether you have or no?

Haynes. Yes, I have ſeen you in the Coffee-houſes bawling againſt the Government.

Lord Ch. Juſt. Were you an intimate Acquaintance of his before *March* laſt?

Haynes. No intimate Acquaintance.

Coll. Then this is the firſt time you diſcourſed with me.

Haynes. Oh, no my Lord. One and I fell out at the *Queens-Head* Tavern at *Temple-Bar*, and he ſet me upon the buſineſs, and *John Macnamarra* and others, and truly I did the buſineſs for him: For we fell out and did box, and our Swords were taken from us, and I went to *John Macnamarra* and told him, Yonder is ſuch a man at ſuch a place, now you may ſeize upon him.

Coll. What man was that?

Haynes. One *Richard Ponre*.

Coll. He belonged to my Lord *Tyrone* I think, there were Warrants to take him. Do you ſay I ſet you upon that?

Haynes. Yes, you were with me the Night before, and Capt. *Browne*, and they gave us a Signal, a Blew Ribband to diſtinguiſh that we were Proteſtants from the Biſhops men.

L. C. Juſt. When were you to make uſe of it?

Haynes. When the King was ſeized.

Mr Serj. *Jeff.* Well, go on, have you any more?

Haynes. But, my Lord further, after he came from *Oxon* I met him; and ſaid I, Where are now all your Cracks and Brags? now you ſee the King hath made a Fool of you; now you know not what you would have done. Says he, What would you have us to do? We have not done with him yet; for, ſaid he, no Servant, no man living did know whether he would diſſolve the Parliament that day. I was that very nick of time at the Lords Houſe, and there was a man came in with a Gown under his Arm, and every one look'd upon him to be a Taylor, and no body did ſuſpect, no not his intimateſt Friends, except it were *Fitzgerald*, that he would diſſolve the Parliament that day; but preſently he puts on his Robes, and ſends away for the Houſe of Commons; and when he had diſſolved them, before ever the Houſe could get down, he took Coach and went away, otherwiſe the Parliament had been too hard for him; for there was never a Parliament-man but had divers armed men to wait on him, and I had my Blunderbuſs and my man to wait upon me. But well, ſaid he, there is a God above will rule all.

Mr. Att. Gen. Call Mr. *Turberville*.

Coll. Hold Sir, I deſire to ask him ſome Queſtions. You ſay the firſt time that I ſaw you, you had this diſcourſe with me?

Haynes. Do not uſe Tautologies; 'tis not the firſt time I have been examined, I know how to ſpeak as well as you.

Coll. Anſwer my Queſtion, Sir.

Haynes. You know it was after I had made Affidavit before the Recorder of *London*, a Copy of which was carried to that Nobleman; and you came from him and returned me his Thanks, and told me it was the beſt Service I could do him. I would not trouble the Court with circumſtantial things; and you told me I ſhould be gratified not only in my own Property, but a Reward for me and my Heirs for ever.

Mr Att. Gen. For what?

Haynes. I made Affidavit before the Recorder of *London*.

Coll. About what?

Haynes. Concerning one *Fitzgerald*.

Mr Att. Gen. Is it to this matter?

Haynes. No, nothing at all.

L. C. J. Let him ask any Queſtions what he will.

Coll. I ask when it was the firſt time you were

acquainted with me ſo much as to know me well?

Haynes. As to the firſt time of intimacy, here is *Macnamarra* will take his corporal Oath that I was as well acquainted with him as any one in the World.

Coll. Pray anſwer me, Sir, when was the firſt time I talk'd to you?

Haynse. The firſt intimate acquaintance we had, was when you put me upon the deſign about *Fitzgerald.*

Coll. Pray Sir, you go too faſt already, as you are ſtill galloping; Where was this diſcourſe about his Majeſty?

Haynes. I told you before.

Coll. What was it?

Haynes. I went to you after the Affidavit was made, and told you there was a Warrant out after me, and deſired you to go to *that* Nobleman and deſire his Advice what I might do, or whether I might ſuperſede the Warrant. You told me you could do nothing without advice, and you would go and adviſe with *that* Nobleman.

Coll. My Lord, here is Mr *Turbervile* come in, they will over-hear one another; pray let me have fair play for my Life.

(*Whereupon* Turbervile *withdrew.*)

L. C. J. Can't you anſwer him? When was the firſt time you came acquainted with him?

Mr Serj. *Jeff.* When was the firſt diſcourſe you had with him?

Haynes. In *April* laſt.

Coll. You ſay it was before the ſitting of the Parliament, and that was in *March?*

Haynes. I meant in *March.*

Coll. So indeed you ſaid at firſt.

Mr Serj. *Jeff.* He never did ſay the day of the month, nor the month neither.

Mr *Jones.* How long was it before the ſitting of the Parliament?

Haynes. Mr *Jones,* truly I do not remember preciſely how long it was before the ſitting of the Parliament, but I am ſure it was before.

Mr Serj. *Jeff.* I did take it that he ſaid it was before the ſitting of the Parliament, and now he ſays in the month of *March.* Pray when he talk'd to you, did not he tell you of the ſitting of the Parliament, and that they would ſtand by you?

Coll. He hath ſaid it already, you need not direct him, Sir *George,* he goes faſt enough. But you ſay Sir, the firſt time I ever was acquainted with you was in *March,* then Gentlemen conſider whether it be probable that at that time I ſhould diſcourſe to him after this manner.

L. C. J. No, I will tell you what he ſays; he ſaid the firſt time he was intimately acquainted with you, was in *March;* he ſaid he had before ſeen you in Coffee-houſes, and he is ſure it was before the ſitting of the Parliament; for he tells you the diſcourſe you had, and by that diſcourſe it appears, it related to a Parliament that was afterwards to ſit. And then to give you a more particular Circumſtance, he ſays, that you put him upon the making of the Affidavit about *Fitzgerald,* and ſo you came acquainted.

Haynes. Ask Mr Attorny. My Lord, that day he was taken and carried to *White-hall* before the Secretary of State, he ſaid, I do not know who it ſhould be that ſhould accuſe me, I believe it is *Ivy;* as for *Haynes,* he was taken t'other day, he was an honeſt man.

Coll. You ſay I deſired you to make an Affidavit; Was it after that or before I had that diſcourſe with you?

Haynes. It was after: For I came and deſired you to go to ſuch a Perſon of Quality, and you went to him and adviſed with him; and then the next morning ſuch diſcourſe as I told your Lordſhip and the whole Court of, he told me.

Coll. Did I ſpeak theſe Treaſonable Words after the Affidavit made?

Haynes. You ſaid I muſt make ſuch an Affidavit concerning *Fitzgerald.*

Coll. But was this Treaſonable Diſcourſe before you made the Affidavit, or after?

Haynes. After the Affidavit made, you told me this: When I came to his Houſe, and from thence we went to the *Hercules Pillars.*

Mr Sol. Gen. Will you ask him any more Queſtions, Mr *Colledge?*

Coll. Did you ever ſpeak with me in your Life before *Macnamarra* did call me out of the Coffee-houſe to go along with you, where you would diſcover a deſign againſt my Lord *Shaftsbury's* Life?

Haynes. I told you I never had any intimate acquaintance with you in my Life before, nor did I ever ſpeak with you before.

Coll. When was that diſcourſe, I ask you once again?

Haynes. After the Affidavit made.

Coll. That Night?

Haynes. Within a Week or thereabouts after the Affidavit made.

Mr Att. Gen. Call Mr. *Edward Turbervile.* But Mr *Haynes,* I would ask you one Queſtion, Did he deliver you any Ribband as a mark of diſtinction?

Haynes. Yes, here it is. (*And it was ſhew'd to the Court.*)

Then Mr Turbervile *was ſworn.*

Mr Serj. *Jeff.* Pray Mr *Turbervile* will you tell my Lord and the Jury what diſcourſe you had with Mr *Colledge,* and where, and when?

Mr *Turbervile.* When the Parliament ſat in *Oxon,* about the middle of the Week, I can't be poſitive in the day, but I think it was in the middle of the Week, I dined with Mr. *Colledge,* Capt. *Brown* and *Don Lewes* Clerk of *Derby-Houſe* at the *Chequer-Inn.* After Dinner *Don Lewes* went out about ſome buſineſs, and Capt. *Brown* went to ſleep; Mr *Colledge* and I fell to talking of the Times, and I was obſerving, I thought the Parliament was not a long-lived Parliament. Said he, There is no good to be expected from the King; for he and all his Family are Papiſts, and have ever been ſuch, you know it, Sir.

Mr Serj. *Jeff.* Nay don't appeal to him.

Mr *Turb.* Said I, The King will offer ſomething or other by way of Surprize to the Parliament. Said he, I would he would begin; but if he do not, we will begin with him and ſeize him; for there are ſeveral brave Fellows about this Town, that will ſecure him till we have thoſe Terms that we expect from him.

L. C. J. Where was this?

Mr *Turb.* At the *Chequer-Inn.*

L. C. J. What ſaid he further?

Mr *Turb.* He ſaid he had got a Caſe of Piſtols, and a very good Sword, and a Velvet Cap; and I can't be poſitive he had Armor on, but I believe he had.

Mr Att. Gen. Did he tell you he came down for that purpoſe to ſeize the King?

Mr *Turb.* Yes, and he gave me a piece of Blew Ribband to put in my Hat, he had a great Quantity of it.

Mr

Mr. *Att. Gen.* What was that for?

Mr *Turb.* To be a diſtinction if there ſhould be any diſturbance when the thing ſhould be done.

Coll. What thing done?

Mr *Turb.* I knew nothing but of your telling me of it.

Coll. Where was this?

Mr *Turb.* At the *Chequer-Inn* in *Oxon*, Mr *Colledge*. You talk much and can't remember all you ſay.

Mr *Att. Gen.* What did he diſcourſe to you about Arms and an Horſe?

Mr *Turb.* I told him I had never an Horſe, and nothing but a Caſe of Piſtols; he bid me I ſhould not trouble myſelf, for he would get me an Horſe.

Coll. What to do?

Mr *Turb.* To carry on your deſign, I know not what it was, but by your Words.

Mr *Att. Gen.* Tell what he ſaid of it at the *Chequer-Inn*.

Mr *Turb.* He ſaid there was a deſign to ſeize the King.

Mr *Att. Gen.* Did he deſire you to be one of them?

Mr *Turb.* He did deſire me to be ready to aſſiſt.

Mr *Jones.* And how much of that Ribband had he, pray?

Mr *Turb.* A very great quantity, 40 or 50 Yards.

Mr *Sol. Gen.* Pray Mr *Turbervile* will you give your Evidence over again, and let Mr *Colledge* attend to it.

Mr *Turb.* When the Parliament ſat at *Oxon*, about the middle of the Week, I cannot be poſitive to a day, I believe it was either *Wedneſday* or *Thurſday*, I dined with Mr *Colledge*, Capt. *Brown*, and *Don Lewes*, who was formerly Clerk of *Derby-houſe*. *Don Lewes* after Dinner went out, and Capt. *Brown* laid down on the Bed, and Mr *Colledge* and I fell a talking of the Times, and I told him, I thought this Parliament would be no long-lived Parliament. Upon which *Colledge* told me the King and all his Family were Papiſts, and there was no good to be expected from him. Then I replied, The King would perhaps ſurprize the Parliament, or uſe ſome Stratagem to bring them to his Terms. Said Mr *Colledge* again, I would he would begin; but if he do not, we will ſecure him till he comes to thoſe Terms we would have from him; for here are ſeveral brave Fellows, and many more are coming down that will joyn with it.

Mr *Att. Gen.* Did he name any one?

Mr *Turb.* No indeed, he did not; he himſelf had a Caſe of Piſtols, a Sword, and I believe he might have his Armor on.

Coll. Did I diſcourſe who were to joyn with me?

Mr *Turb.* No, Mr *Colledge*, you did not name any body to me, but Capt. *Brown* was with you.

Mr *Att. Gen.* Were you examined in my Lord *Stafford*'s Tryal?

Mr *Turb.* Yes, I was.

Mr *Att. Gen.* Was this Gentleman ſworn to your Reputation there?

Mr *Turb* No, not to mine.

Coll. Pray how came we to talk of ſuch things? What occaſion was there that I ſhould talk Treaſon of the King to you? Was there any body beſides us two there?

Mr *Turb.* No, Capt. *Brown* was gone to ſleep, and *Lewes* was gone out.

Mr *Att. Gen.* It was not at Dinner that you talk'd ſo, Mr *Colledge*, he ſays.

Coll. Had they been at Dinner with us there?

Mr *Turb.* Yes, and we had a Leg of boil'd Mutton to Dinner.

Coll. Did you ſtay after Dinner?

Mr *Turb.* Yes, and I lay with you afterwards upon the Bed.

Coll. I thought you had ſaid Capt. *Brown* went to ſleep there.

Mr *Turb.* Yes, but he was gone too, when we laid down together.

Coll. God forgive you, I can ſay no more, I never ſpoke one Word of any ſuch diſcourſe in my Life.

Mr *Att. Gen.* Will you ask him any more Queſtions?

Coll. Mr *Turbervile*, when did you give in this Information againſt me?

Mr *Turb* I gave it to the Grand Jury.

Coll. Not before?

Mr *Turb.* Yes, I did.

Coll. When was it?

Mr *Turb.* Truly I can't well tell, I believe it was a day or two before I came to *Oxon*.

Coll Why did you make it then, and not before?

Mr *Turb.* I'll tell you the occaſion. Mr *Dugdale* told me the Grand Jury of *London* would not find the Bill: I did admire at it extreamly; for I thought every one that converſed with him might be an Evidence againſt him; he was always ſo very laviſh againſt the King and the Government. So then Colonel *Warcup* came to me and took my Depoſitions, and then I came for *Oxford*.

Coll. What was the reaſon you did not diſcover this Treaſon before?

Mr *Turb.* There was no reaſon for it, it was not neceſſary.

Coll. You were not agreed then.

Mr *Turb.* There was no agreement in the caſe, there needs nothing of that I think; but I am not obliged to give you an account of it.

Coll. God forgive you Mr *Turbervile*.

Mr *Turb.* And you too, Mr *Colledge*.

Mr Att. Gen. Then call Sir *William Jennings*.

Mr Serj. *Jeff.* Mr Attorny, if you pleaſe, till he comes, I will acquaint my Lord here is a Gentleman that hath not yet been taken notice of, one Mr *Maſters*, that is pretty well known to Mr *Colledge*; now he is a man, he muſt acknowledge, of an undoubted Reputation, and I deſire he may give your Lordſhip and the Jury an account what he knows of the Priſoner; becauſe he is ſo curious for *Engliſh men*, we have brought him an *Engliſh man* of a very good Repute.

Coll. My Lord, I am charged with Treaſon in this Indictment; here are a great many things made uſe of that ſerve only to amuſe the Jury, I can conjecture nothing elſe they are brought for; I deſire to know whether the Pictures produced are part of the Treaſon.

L. C. J. Stay till the Evidence is given, and we will hear what you can ſay at large when you come to ſum up your Defence.

Mr Serj. *Jeff* Pray, my Lord, will you be pleaſed to hear this Gentleman: He will tell you what diſcourſe he hath had with the Priſoner at the Bar.

Then Mr Maſters *was ſworn.*

Mr *Maſters.* Mr *Colledge* and I have been acquainted for a great many Years; and we have often diſcourſed. I have told him of his being ſo violent as he hath been ſeveral times. But a little before the Parliament at *Oxon*, about *Chriſtmaſs* laſt;

laſt, after the Parliament at *Weſtminſter*, at *Mr. Charlton*'s Shop the Woollen-Draper in *Paul*'s Church-Yard, we were diſcourſing together about the Government, and he was juſtifying of the late long Parliaments Actions in 40; and he ſaid, That Parliament was as good a Parliament as ever was choſen in the Nation. Said I, I wonder how you have the Impudence to juſtify their Proceedings that raiſed the Rebellion againſt the King, and cut off his head. Said he, They did nothing but what they had juſt Cauſe for, and the Parliament that ſate laſt at *Weſtminſter* was of their Opinion, and ſo you would have ſeen it.

Mr. Serj. Jeff. What did he ſay of the Parliament ſince?

Mr. Maſters. He ſaid the Parliament that ſate laſt at *Weſtminſter* was of the ſame Opinion that that Parliament was.

Mr. Serj. Jeff. Pray afterwards what diſcourſe had you about his Colonelſhip?

Mr. Maſters. We were talking at *Guild hall* that day the Common-Council was, the 13th of *May* as near as I remember, ſo I came to him, How now Colonel *Colledge*, ſaid I, what do you make this buſtle for? You miſtook me and ſaid, Cozen, how long have you and I been Cozens? Nay, prithee, ſaid I, 'tis not yet come to that, to own Kindred between us, I only called you Colonel in jeſt. Marry, mock not, ſaid he, I may be one in a little time.

Mr. Serj. Jeff. Have you any thing to ask *Mr. Maſters*? you know he is your old acquaintance, you know him well.

(*Then Sir* William Jennings *was ſworn.*)

Mr. Jones. What is it that you know concerning *Mr. Colledge* at *Oxford*, Sir?

Sir *W. Jennings.* My Lord, the firſt time that I heard any thing of *Mr. Colledge* was, there was ſome Company looking upon a Picture, for I knew him not, nor never had any Word of diſcourſe with him in my Life, any more than ſeeing him in a publick Coffee-houſe. But there was a Picture looking on by 7 or 8 or 10 People, I believe more or leſs, and I coming and crowding in my head amongſt the reſt, look'd upon this Picture. After the Crowd was over, *Mr. Colledge* takes a Picture out of his Pocket, and, ſaid he, I will give you one of them if you will. So he gives me a Picture; which Picture if I could ſee, I could tell what it was; it was written *Mac a Top*, and there were ſeveral Figures in it.

(*Then the Picture was ſhewed him.*)

This is one of the ſame that I had of him, and I had not had it long in my Cuſtody, but meeting with Juſtice *Warcup*, I ſhew'd it him, who bid me give it him, and ſo I did. The next thing that I did ſee *Mr. Colledge* do, was in the Coffee-houſe, not the ſame day, but another time. I ſaw him bring in a parcel of blew Ribband which was wrought, and theſe Words eight times wrought in it, twice wrought in every Quarter of a Yard, *No Popery, No Slavery.* I ſaw him ſell to a Member of Parliament, as I took him to be, a Yard of that Ribband for 2s. and truly I was thinking he would ask me to buy ſome too, and I ſaw that Gentleman (I took him to be a Parliament man) take this Ribband and tie it upon his Sword. As to the other thing I have to ſay of *Mr. Colledge*; that very day the Parliament was diſſolved, he had been in a Quarrel, as he told me, with *Mr. Fitzgerald*; and I was ſtanding in the School-houſe Yard, and he comes directly to me without my ſpeaking to him or any thing; but he comes and tells me *Mr. Fitzgerald* had ſpit in his face; and, ſaid he, I ſpit in his face again, ſo we went to Loggerheads together, I think that was the Word, or fifty cuffs. So, ſaid I, *Mr. Colledge* your Noſe bleeds; he takes his handkerchief out of his Pocket and wipes his Noſe, and ſaid, I have loſt the firſt blood in the Cauſe, but it will not be long before more be loſt.

L. C. J. Where was this?

Sir *W. Jennings.* In the School-houſe Yard at *Oxon.* I never diſcourſed with him afterwards till I met him at *London* in *Fleet-ſtreet* one *Sunday* in the Afternoon, and I remember Captain *Creſcett* was along with me. And when he came up to me, How now, ſaid I, honeſt Joyner? Says he, You call me honeſt Joyner, ſome call me Rogue and Raſcal, and I have been beating ſome of them; ſo that I believe they will be aware of it. So I told Captain *Creſcett*, I never met this man but he was always in a Quarrel.

Coll. Was it on a Sunday that I told you I had been beating of ſome body?

Sir *W. Jennings.* You told me ſo, Capt. *Creſcett* was by.

Coll. I do remember I met you, but I did not tell you I had been then beating any one. But pray, Sir *William*, when I met you after the Parliament was diſſolved, and *Fitzgerald* and I had quarrell'd, did I ſay, That I had loſt the firſt blood in the Cauſe, but it would not be long e'er more were loſt? Sir *William*, you are a Gentleman, as for the other men, they don't care what they ſay, nor do I ſo much regard them, but you value your Word and Honor: Theſe were my Words, and pray will you recollect yourſelf before you be poſitive in the thing, whether I did not ſay, I have loſt the firſt blood for the Parliament, (for it was upon my vindicating of the Commons and Dr. *Oates*, whom *Fitzgerald* had abuſed, and upon that the Quarrel began; ſo I ſaid when you met me, and told me my Noſe bled, *I have loſt the firſt blood for the Parliament) I wiſh it may be the laſt.*

Sir *Will. Jennings.* Mr. *Colledge*, If you pleaſe I will anſwer you as to that, I do aſſure you 'tis the firſt time that ever I came upon this occaſion in my days, and I have declared it before, and do declare it now, I would rather have ſerved the King in three Ingagements, than come in againſt you or any man upon ſuch an occaſion. But I declare to you upon the whole memory of the truth, the Words were as I ſpoke them at firſt, and no Parliament named or mentioned. And, my Lord, moreover, I will tell you, When I did tell this ſtory, becauſe *Mr. Creſcett* that is able to tell you whether I did not relate the Words within half an hour, or a little time after. Now I never had a prejudice againſt you in my days, nor other Concern, but having told Mr. Juſtice *Warcup* this ſtory, I am brought hither to teſtify it.

Colledge. Sir *William*, I am very ſorry you did not obſerve and remember my Words then.

Sir *Will. Jennings.* I muſt needs ſay, I could not imagine what the Words meant when they were ſpoken, nor do I underſtand them to this day; but ſoon after they were ſpoken, I related them to Juſtice *Warcup*, he being a Juſtice of Peace.

Mr. *Serj. Holloway.* Gentlemen, we ſhall reſt here, and conclude our Evidence for the King at preſent, to hear what the Priſoner ſays to it, only with my Lords leave, I ſhall explain the Words

Words to you that are in the Indictment, and tell you what is meant by compaſſing and imagining the Death of the King. The ſeizing the Perſon of the King is in Law a compaſſing and intending his Death; and ſo it hath been adjudged in ſeveral caſes, as in 1 *Jacobi*, my Lord *Cobham*, and my Lord *Grey*'s caſe, and ſeveral other caſes, and ſo you may fully apprehend what the Charge is, and may underſtand the Words in the Indictment, That if you are not ſatisfied with the general Words of compaſſing the King's Dearh, you may know, that the ſeizing his Perſon extends to it.

Mr. *Serj. Jefferies.* My Lord. we have done with our Evidence, now let him go on with his.

L C. J. Now, Mr *Colledge*, you may ſay what you will for your Defence, and call your Witneſſes that you have to produce.

Colledge. My Lord, I have heard the Evidence that is againſt me, and I would deſire your Lordſhip to reſolve me ſome Queſtions upon it. I think the Indictment is for Treaſonable Practices, for a Conſpiracy; now I deſire your Lordſhip will be pleaſed that I may know from you and the Court, whether in all this Evidence given in proof againſt me, a Conſpiracy is proved; or if any thing appears beſides what they ſay I ſaid.

L C. J. For a Conſpiracy in you, if the Witneſſes ſpeak Truth, there is a plain proof, and of the degrees of it: Firſt of all, by your publiſhing Libels, and Pictures to make the King odious and contemptible in the Eyes of the People, and that you ſhould be the Author of ſome of thoſe Pictures, and they were found in your Cuſtody.

Coll. I conceive that is not proved.

L. C. J. If the Witneſſes ſay true, it is proved.

Coll. They do not produce that, they do but ſay it.

L. C. J. Mr. *Dugdale* ſwears, That at *Oxford* here, you ſhew'd him the Picture, you ſung the Song here, and expounded it at my Lord *Lovelace*'s, and a great many of them are found in your Cuſtody. Then that you prepared Arms, that you ſhew'd *Smith* the Arms in your Houſe, and having thoſe Arms, you ſaid, you would go to *Oxford*, and if there ſhould be a Diſturbance there, you would ſecure the King. And you did come to *Oxford*, where you hear what is ſaid; for I obſerve, *Stephen Dugdale* and *Edward Turbervile* ſpeak of what was done at *Oxford*. *John Smith* and *Bryan Haynes* ſpeak of what you ſaid at *London* before you went to *Oxford*, and after you came from *Oxford*. Now I ſay, if theſe Witneſſes ſpeak true, 'tis a ſtrong Evidence againſt you, both upon the Statute of the 25th of *Edw.* the 3d. and that of this King too. For my Brother *Holloway* told you true, That whereas the imagining the Death of the King is High Treaſon, by the 25th of *Edw.* the 3d. ſo a ſeizing of the King, and endeavour to do that, is a conſtructive Intention of the Death of the King; for Kings are never Priſoners, but in order to their Death. And therefore it hath been held in all times, that by the Statute of *Edw.* the 3d that was Treaſon; but then the Statute of this King, in the 13th Year of his Reign, is more ſtrong; for there it ſays, If any Man ſhall by any Words, or malicious ſpeaking ſhew the imagination of his Heart, that he hath any ſuch intention, that is Treaſon too.

Coll. My Lord, the Foundation of this Indictment is ſaid to be laid here in *Oxford*, as I ſuppoſe; pray, my Lord, here is only Mr. *Dugdale* and *Turberville* that ſwear againſt me for what I ſhould ſay in *Oxon*, all the reſt ſpeak to things ſaid and done at *London*. Now, my Lord, I deſire to know whether they have proved any Treaſonable Practices, Conſpiracy or Deſign in me againſt the Government, I would fain know that, whether there be matter here to ground an Indictment upon; for the one ſays in one place, the other in the other, which may be diſtinct matters, and none of them ſwear Facts againſt me, but only Words.

Mr. *J. Jones.* Yes, providing Arms for your ſelf, and offering others Arms.

Colledge. That I ſhall make this Anſwer to, I had only a Caſe of Piſtols and a Sword, which every Footman and Horſeman had, that came from *London*, I think. But further, my Lord, I would ask your Lordſhip whether there ought not to be two Witneſſes diſtinct, to ſwear Words at one and the ſame time.

Mr. *J. Jones.* No, no, the Reſolution of the Judges in my Lord *Stafford*'s caſe is quite contrary.

L. C. J. Look you, it hath been often Reſolved, That if there be one Witneſs that proves one Fact which is an Evidence of Treaſon; and another proves another Fact, which is an Evidence of the ſame Treaſon, tho' they be but ſingle Witneſſes to ſeveral Facts, yet they are two Witneſſes to an Indictment of Treaſon, that hath been often publickly Reſolved, particularly in the caſe of my Lord *Stafford*, mentioned by my Brother. And I'll tell you my Opinion further, If there be one Witneſs that proves here what you ſaid at *Oxford*, and another that proves what was ſaid in *London*, if they be in order to the ſame Treaſon, it is ſufficient; for if you do conſpire to commit ſuch a Treaſon in *London*, and you come with ſuch an imagination in your Heart to *Oxford* to compleat this Treaſon, tho' your Deſign was not firſt formed here, I think 'tis enough to maintain an Indictment of Treaſon, and they are two good Witneſſes, tho' but one ſpeak to what was done at *Oxford*; but I muſt tell you, in your caſe, there are two full Witneſſes, to that which was done at *Oxford*, beſides Sir *William Jennings*.

Coll. That which Sir *William Jennings* ſpeaks of I told you before what it was I ſaid, *It was the firſt Blood that was ſhed for the Parliament.*

Mr. *J. Jones.* The Parliament was diſſolved before that which Sir *William Jennings* ſpeaks of, therefore you could not ſay it was to defend the Parliament.

Coll. Mr. Dugdale did ſay that I ſpake ſuch and ſuch Words in the Barber's Shop in the *Angel Inn*; there I was indeed at the time that he does ſpeak of, and the Barber was by, I do think indeed it were convenient to have him here; but I knew not where he would charge me, or what it was he would charge me with, becauſe I never ſaid any thing in my Life that was like Treaſon.

L C. J. Mr. Colledge, call what Witneſſes you will.

Coll. But, my Lord, pray let me ask you one Queſtion more; You take theſe Words diſtinct from any matter of fact, don't you?

L. C. J. No, complicated with the Fact, which was the Overt-Act, the coming to *Oxon*, with Piſtols to make one if there had been any diſturbance, and to ſeize the King.

Coll. Then, my Lord, I would ask you, Whether any Act of Treaſon done at *London*, ſhall be given in Evidence to prove the Treaſon for which

which I am now indicted, and which was given in Evidence before the Grand Jury, upon which the Tryal was there grounded.

L. C. J. Any Act of Treaſon that is of the ſame kind. And I'll tell you, That was reſolved in Sir *Henry Vane*'s Caſe; thoſe that gave you that Paper underſtand it. But I ſpeak now to your Capacity, and to ſatisfy your Queſtion. He was indicted for Levying War againſt the King, he conſpired in *Weſtminſter*, the War was levied in another County; the Conſpiracy upon the Trial was proved in the County of *Middleſex*, and the War in another place, and yet it was held ſufficient to maintain the Indictment in the County of *Middleſex*.

Coll. There was a War really levied, but God be thanked here is only bare Words.

Mr. *J. Jones.* Yes, Actions too.

Coll. What Actions, my Lord?

Mr. *J. Jones.* Arming your ſelf, and coming to *Oxford*.

L. C. J. Well, I have told you my Opinion; my Brothers will ſpeak theirs, if they think otherwiſe.

Mr. *J. Jones.* That is not your caſe neither, tho' I am of the ſame Opinion with my Lord; for here are two Witneſſes have proved plain matter of Fact at *Oxford*; the providing Arms your ſelf, and encouraging others to take Arms——

Coll. They name no Perſons.

Mr. *J. Jones.* You will have my Opinion, and yet you will give me no leave to ſpeak; I had patience to hear you: You are told there are two Witneſſes, *Turbervile* and *Dugdale*, that prove your providing and having of Arms at *Oxon*, and perſwading others to take Arms, particularly *Turbervile*. He told you he had no Arms, or but a Caſe of Piſtols, and he had no Horſe; but you told him you would provide him an Horſe. And then there are two other Witneſſes, *Smith* and *Bryan Haynes*, they do not tell you of any thing done at *Oxford*, but they tell you what you ſaid in their hearing of what you had done in *Oxon*, and ſo I think if the Witneſſes are to be believed, there is a very full proof againſt you.

Mr. *J. Raymond.* I am of the ſame Opinion truly, and I cannot find, but that there is proof enough by two Witneſſes, *Turbervile* and *Dugdale*, of what was done at *Oxford*. They ſwear matter of Fact, not Words only, but Actions alſo.

Coll. No Fact, but that I had Piſtols and a Sword, and that I ſhould tell Mr. *Turbervile* I would provide him an Horſe, which is ſtill but Words.

Mr. *J. Jones.* But you ſhall hear anon for the full Conviction of you and all others, the Statute of the 13th of this King read to you, and you ſhall there ſee that ſuch Words are made Treaſon.

Colledge. But I beſeech your Lordſhip to tell me whether there muſt not be two Witneſſes to the ſame Words at the ſame time.

Mr. *J. Jones.* No, it was the reſolution of all the Judges in the caſe of my Lord *Stafford* in the preſence of the Parliament, and the Parliament proceeded upon it.

Mr. *Serj. Jefferies.* In the ſame Tryal where Mr. *Colledge* was a Witneſs.

Mr. *Att. Gen.* All the whole Houſe of Commons prayed Judgment upon my Lord *Stafford*, purſuant to that reſolution.

L. C. J. Come will you call any Witneſſes?

Coll. My Lord, I do not queſtion but to prove this one of the helliſheſt Conſpiracies that ever was upon the face of the Earth, and theſe the moſt notorious wicked men, an abſolute deſign to deſtroy all the Proteſtants of *England*, that have had the Courage to oppoſe the Popiſh Plot. In which no Man of my condition hath done more than I have done. I was bred a Proteſtant, and continued ſo hitherto, and by the Grace of God I will dye ſo. If that they had known of theſe Words that I ſhould ſpeak, and ſuch a deſign that I ſhould have before the Parliament ſat at *Oxon*, and be with me in *Oxon* when the Parliament ſat, if they had been good Subjects, they ought to have had me apprehended. *Turbervile* came ſeveral times indeed, and dined with me. I did not bid him go out of Doors, nor invited him thither; he was a Man I had no diſreſpect for; nay, he was a Man I valued, thinking he had done the Nation ſervice againſt the Papiſts; that this Man ſhould hear me ſpeak ſuch Words againſt his Majeſty, who was then in this Town, and know of ſuch a dangerous deſign to attempt the ſeizing his Perſon, or that I ſhould diſcover a great Party that were ready to do it, I think there is ſcarce any Man of reaſon, but will ſay, if this were really done and ſpoken by me, neither of them would or ought to have concealed it but diſcover it, none of them has ever charged me with any ſuch thing, they have been in my Company ſince. I never had any Correſpondence with any of them but *Dugdale*, then pray conſider how improbable it is, that I ſhould talk of ſuch things to Papiſts, Prieſts, and *Iriſh* men, who have broke their Faith with their own Party, that Faith which they gave under the penalty of Damnation, Men that have been concerned in Plots and Treaſons, to murder and cut the Throats of Proteſtants, that I ſhould be ſuch a Madman to truſt theſe People, when I could receive no manner of obligation from them, nor could give any truſt to them, they having before broke their Faith; eſpecially conſidering I could lay no ſuch Oaths and Obligations upon them, who was a Proteſtant; then 'tis the greateſt Nonſenſe, to believe that I would ſay theſe things before Perſons whom I could never hope would conceal my Treaſons, having diſcovered their own. If they ſpeak Truth concerning the general Popiſh Plot, that could be no Obligation upon me to truſt them with another; and they cannot ſay, that they ever obliged me in any reſpect. My Lord, I thank God, I have had ſome Acquaintance in the World, and have been concerned with ſome perſons of Honour, Noblemen, and Parliament men, that I know are as good Subjects as any his Majeſty has; theſe never found me a Fool, nor a Raſcal, ſo great a Knave as to have any ſuch Thoughts in my Heart, nor ſo great a mad man, or ſo fooliſh, as to go to diſcover them to Papiſts, Prieſts and *Iriſh* men, to men of their condition, that were ready to ſtarve for Bread. As for *Hayns* and *Smith* that run ſo faſt thro' all their Evidence, the firſt time that ever I ſet my Eyes on *Haynes*, was in the Coffee Houſe that he ſpeaks of; *Macnamarra* comes in, and deſires me to go out with him, and I ſhould hear the greateſt Diſcovery of a piece of Villany againſt my Lord *Shaftsbury*'s Life, that ever I heard in my Life. This Captain *Brown*, who is now dead, a man that I had known but a month before, (for I think it was in *March* laſt when this was) could teſtifie for me; for I came to him

him, Captain, ſaid I, here is a Diſcovery offered to be made to me, of a Deſign to take away my Lord *Shaftsbury*'s Life. *Macnamarra* asks me to go to the *Hercules Pillars*, I went along with him, and took Capt. *Brown* with us. Afterwards he fell ſick in *April*, and is now dead, ſo I loſt a main Evidence in the caſe. He was the only man that was by at the time; God knows my Heart, I ſpeak nothing but the Truth, I took him with me, *Haynes* began to diſcover to us, that *Fitz-Gerald* had employed him to fetch over *Macnamarra* and if he would come in, and ſwear againſt my Lord of *Shaftsbury*, which was his Deſign, it would not be long e'er his Head were taken off, and he ſaid, He had given in a Paper of High Treaſon againſt my Lord of *Shaftsbury*, I ask'd what it was? He told me, that my Lord ſhou'd tell *Fitz-Gerald* that he had a Deſign to bring this Kingdom to a Common-Wealth, and to root out the Family of the *Stuarts*. This he ſaid *FitzGerald* had given in in a Paper, under his own hand; and I think he ſaid, he had ſworn it, and ſent *Haynes* to fetch *Macnamarra* to ſwear againſt my Lord the ſame things too. I writ down all the heads of the Diſcourſe, which Capt. *Brown* heard as well as I. After he had ſaid it, he deſired us to conceal it. Sir, ſaid I, You are a Stranger to me, and theſe are great and ſtrange things that you do tell us, *Macnamarra* and *Brown*, and *Ivy*, and others were there, which (if they were honeſt Men) they would come and teſtifie. I thought them honeſt Men, and that they had none of thoſe wicked Deſigns in their Hearts, that now I find they have. So ſays *Haynes*, *I do not know this Man*, meaning me: *Macnamarra* told him, *I was an honeſt Man, he might lay his Life in my hands.* After he had ſpoken all this, he deſired us to conceal it: Said he, *I will not only diſcover this but a great deal more of their Rogueries, that I know very well.* Said I to him again, *I will not conceal it, nor do you no wrong; for if this be true, my Lord of* Shaftsbury *ſhall know it to night; for where there is a Deſign to take away a Peer of the Realm, I will not conceal it; but if it be falſe, and you have ſaid more than comes to your ſhare, recant it again, and we will take no notice of it, only ſay you are a Knave for ſpeaking of it; he ſwore, Dam him, it was all true, that, and a great deal more, which he ſaid he knew, about ſeizing and deſtroying the Parliament at* Oxon, *about an Army in the* North *that was to be raiſed about the time of the Sitting of the Parliament at* Oxon, *of a* French *Army that was to land in* Ireland, *at the ſame time, that the Duke of* York *was to be at the Head of them, and the intention was to deſtroy all the Proteſtants.* Upon this, I was reſolved, if I lived, to come along with the Parliament, and if there was any ſuch Deſign, I was reſolved to live and die with them; but I had no more than common Arms, a Sword and a Caſe of Piſtols, my Cap was a Velvet Cap, and nothing elſe. My Lord, I had the Honour to be ſent for, when the Parliament ſat laſt at *Weſtminſter*, the Seſſions in *October*, it was an Honourable Occaſion, and I thank thoſe worthy Gentlemen that ſent to me for the Honour of it; there I begun to be popular as to my Name, for from that time they begun to call me the Proteſtant Joyner, becauſe the Parliament had intruſted me. My Lord *Grey* was pleaſed to ſend his Footman for me to the *Crown Tavern* behind the *Exchange*, where there were ſeveral worthy Lords, Peers of the Realm, and one hundred of the Commons, that had dined there that day, it was the day before they ſate, after they had dined I came to them, and the Duke of *Monmouth* told me, They had heard a good Report of me, that I was an honeſt Man, that underſtood Building, and they did confide in me to ſearch under the Parliament Houſe; they did not really know of any Deſign, but they would not be ſecure, there might be ſome Tricks play'd them by the Papiſts, tho' we are not afraid of them, ſaid the Duke, yet we think fit to employ you to ſearch under the Houſes and thereabouts, whether you can find any ſuch Practices. So accordingly, my Lord, I did go, my Lord *Lovelace* was one of the Honourable Lords and my Lord *Herbert* that went with me, and ſome of the Gentlemen of the Houſe of Commons; and thoſe worthy Proteſtant Lords were pleaſed to thank me for my Service and did believe I was active and zealous to find out and diſcover the bottom of the Popiſh Plot, ſo far as it came legally in my way to do it. My Lord, upon this occaſion, there was a great kindneſs from them to me, and I had upon all occaſions Teſtimonies of it; and this very man who ſwears Treaſons againſt me (which God Almighty knows is all falſe) did ſwear in his Affidavit before Sir *George Treby* the Recorder of *London* (I did never ſee the Affidavit, indeed I was over night at Sir *George Treby*'s, but he was not then at leiſure, but he drew it up next day, and ſwore it that there was a Deſign to deſtroy the Parliament at *Oxon*, and there was not only his Oath for it, but it was the general belief, that ſome Evil was intended them. All men had cauſe to fear and to ſuſpect the Papiſts did bear them no good Will; and making uſe of their own Obſervations, they were generally armed with a Piſtol, or a Sword, for themſelves, in caſe they ſhould be attack'd by the Papiſts. In order to this, I did come down with my Lord *Howard*, my Lord of *Clare*, my Lord of *Huntington*, and my Lord *Pagett*, thoſe four worthy Proteſtant Lords, and it was two days after the Parliament was ſat, that we came, and I went out of Town again with my Lord *Lovelace*, Sir *Thomas Player*, and Sir *Robert Clayton*; and I am ſure they were all in ſo great a fear that *London* ſhould be ſurprized and ſeized on by the Papiſts, but there was no mortal man that ever heard of the King's being ſeized, or thought of it, till theſe men come and tell me, that I had ſuch a Deſign, and came hither with that purpoſe; but my Lord, I declare as God is my Judge, I would not have it thought I ſpeak it to ſave my Life, were it as certainly a Truth, as 'tis moſt wickedly a Falſhood, that I had a Deſign to ſeize the King, I know not of one man upon the face of the earth, that was to ſtand by me, Parliament man or other Perſons whatſoever; and how it is poſſible for me to attempt that, being a ſingle Perſon, with only a Sword and a Caſe of Piſtols, let any man judge. And I do declare, I know of no Conſpiracy or Deſign againſt the King or Government, I never ſpoke one of the Treaſonable Words in my Life, that is laid againſt me, nor had ever any thoughts of any ſuch thing. God that is my eternal Judge, knows, that what I ſpeak is true.

L. C. J. Well, Mr. *Colledge*, will you call your Witneſſes, for I muſt tell the Jury as I did at your requeſt, concerning Mr. *Attorny*, that as nothing he ſaid, ſo nothing you ſay is to be believed upon your Allegation; for then no Man would ever be guilty, if his own Purgation by Words were to be believed.

Coll.

Coll. My Lord, I thank God, I know my own Innocency, and hope to prove it. I have a Soul that muſt live to eternity, either in Joy or Miſery; I act according to thoſe Principles, and I hope I have ſome aſſurance of my own Salvation when I dye, I would not call God to Witneſs to a Lye, to ſave a thouſand Lives. My Lord, this is a villanous Conſpiracy againſt me, and if it takes place againſt me, it may go a a great way, God knows how far: This is the 17th or 18th Sham Plot the Papiſts have made againſt the Proteſtants, to get over their own; but I hope my Lord God Almighty will never ſuffer it. If they can make me a Traytor, they will try it upon others, and ſo hope to ſham off their own Treaſons; but I ſay I hope God Almighty will never ſuffer it. My Lord, I think the firſt Witneſs that ſwore againſt me was Mr. *Dugdale*; and I muſt call my Witneſſes as I have them here, I know no Perſon of them hardly, and this that is done for my Defence was done abroad. My Lord, I have been kept cloſe Priſoner in the *Tower*, and none of them ſuffered to come to me, whilſt the Popiſh Lords have had the Liberty and Privilege to talk with their Friends. Here are Witneſſes I hope will prove that theſe are ſuborned Men; for *Macnamarra* did tell me preſently after the Parliament broke up at *Oxon*, and whiſpered it to me in the Coffee Houſe, ſaid he, there is a Deſign laid to make us retract our Evidence, and go over to *Fitz Gerald*. Said I, I ſuppoſe they have been at that ſport a great while. Ah, ſaid he, they make large Offers. Said I, by whom? Said he, Collonel *Warcup* hath been at me, and he tells me——

Mr. J. Jones. *Macnamarra* is not produced as a Witneſs at all.

Colledge. No, but he told me this, that there was ſuch a Deſign, and, ſaid he, I will get you and ſome other honeſt Men; and he deſired me to be by when he had ſomething more to tell which would do his buſineſs for him, but the next News I heard of him was, he was put into *Newgate*.

L. C. J. Call your Witneſſes, Mr. *Colledge*, and prove what you can.

Coll. Call Mr. *Hickman*.

Mr. *Att. Gen.* My Lord, I deſire he may obſerve the ſame rule he deſired about our Witneſſes; that he may call but one at a time.

Coll. Yes, yes, I will call them one by one.

L. C. J. Are not your Witneſſes together? ſend to them.

Coll. My Lord, I don't know, I have not ſeen one ſince I come. This is not the firſt time, my Lord, the Papiſts have deſigned to take away my Life, tho' it is the firſt time they went about to take it away by Law.

L. C. J. I know not one Papiſt that is a Witneſs againſt you.

Coll. There is never a Man of them, except Sir *William Jennings*, but what was a Papiſt.

Mr. *Att. Gen.* What ſay you to Mr. *Maſters*?

Coll. Mr. *Maſters* ſays nothing material, it was only a jocoſe Diſcourſe.

Mr. *Serj. Jeff.* It was very pleaſant Diſcourſe upon my word; you were as merry as when you were ſinging of the *Rary Shew*.

Mr. *J. Jones.* What do you make Mirth of the blackeſt Tragedy that ever was; That horrid Rebellion, and the Murther of the late King.

Coll. I never juſtified that Parliament in any ſuch thing that they did contrary to Law.

Mr. *J. Jones.* He ſwears it.

Mr. *Att. Gen.* *Hickman* does not appear, call another.

Coll. Call *William Shewin*, (who appeared.)

L. C. J. Look you here Friend, you are not to be ſworn; but when you ſpeak in a Court of Juſtice, you muſt ſpeak as in the preſence of God, and only ſpeak what is true.

Coll. I would not have any body ſpeak any thing for me, but what is truth.

L. C. J. Now ask him what you will.

Coll. I don't know the Gentleman. But pray, Sir, will you tell what you know of theſe Witneſſes.

Mr. *Shewin.* Name any of them that I know, pray, Sir, and I'll tell you.

Coll. Do you know *Bryan Haynes*.?

Mr. *Shewin.* I know there is ſuch a Man, but I have nothing to ſay to him.

Coll. Do you know *Turbervile*?

Mr. *Shewin.* Yes.

Coll. Pray tell what you know of him.

Mr. *Shewin.* My Lord, I was in *Turbervile*'s Company on *Thurſday* night laſt at the *Golden-Poſts* at *Charing-croſs*, and there I heard him ſay, that if I were at *Oxford* I ſhould hear ſtrange things againſt *Colledge*, and he would lay ten to one that Mr. *Bethel* and Mr. *Wilmore* ſhould be hanged at *Chriſtmas*, and he would lead him by the Gold Chain along *Fleet-ſtreet*, and down with his Breeches in the middle of the Coffee Houſe, with a Band about his Neck and a Cloak.

Mr. *Serj. Jeff.* Did he ſay all theſe things againſt Mr. Sheriff *Bethel*? I aſſure you he is a bold Man.

Coll. What do you know of Mr. *Smith*?

Mr. *Shewin.* I know him by ſight, but I have nothing in particular to ſay concerning him. I have ſomething to ſay to *Macnamarra*, Sir, if he were here.

Coll. Do you know any thing of this Conſpiracy in general?

Mr. *Jones.* What of your Conſpiracy?

Mr. *Shewin.* I know they did lay who ſhould be hang'd at *Candlemas*, who at *Chriſtmas*, and who at ſeveral other times.

L. C. J. What did you hear Mr *Turbervile* ſay?

Mr. *Shewin.* Thoſe Words I ſpake before about Sheriff *Bethel*, and about the *Amſterdam* Coffee Houſe.

Coll. Did they ſay what time I ſhould be hang'd? for the Diſcourſe roſe about me.

Mr. *Shewin.* One told me that there was one that did deſign to be returned upon this Jury, that was reſolved to hang him right or wrong.

Mr. *High Sheriff.* My Lord, I did hear there was ſuch a one, and I left him out of the Jury.

L. C. J. For Mr. Sheriffs Honour, we muſt take notice of what he hath ſaid. He ſays he heard of a Man that ſpoke ſomething of that nature, and therefore he left him out of the Jury.

Coll. Now 'tis poſſible theſe Witneſſes were at the ſame ſport.

Mr. *Shewin.* Was Mr. *Peacock* Mrs. *Fitz Harris*'s Maids Father, or ſhe here, either of them Witneſſes againſt you?

Mr. *Serj. Jeff.* No, they were not, Sir.

Coll. They did ſwear againſt me at the finding of the Bill.

Mr. *Serj. Jeff.* We have only called theſe Witneſſes, if you can ſay any thing againſt them, do.

Coll. Call *Henry Hickman*, (who appeared.)

Mr.

Mr. *Serj. Hollow.* Where do you live, Sir?

Mr. *Hickman.* At *Holborn-bridge.*

Mr. *Att. Gen.* What Trade are you?

Mr. *Hickman.* A Cabinet maker.

L. C. J. What do you ask him?

Coll. Do you know *Haynes?*

Hickman. Yes, very well; becauſe he uſed to come to my Houſe to a Popiſh Widow that was a Lodger in my Houſe where I live now; and this perſon was a Priſoner at *Haynes's* when he was a Priſoner in the *Fleet.* I always had a ſuſpicion he was a Prieſt, not that I could accuſe him really of any thing, but he ſeveral times uſing to come to my Houſe I thought ſo of him, and diſcourſing with my Landlady.

L. C. J. Your Tenant you mean?

Mr. *Hickman.* Yes, my Tenant. I asked her, what this Fellow was; ſaid ſhe, he is a very dangerous Fellow tho' he is a Papiſt, and I am one my ſelf, yet he is a dangerous perſon, and he does not much care what he ſwears againſt any one.

Mr. *J. Jones.* This your Tenant told you, what do you know your ſelf?

Mr. *Hickman.* Another time he came to ſpeak with my Tenant Mr. *Scot,* who is now gone into *Ireland;* when he came to the Houſe, he asked me, is Mr. *Scot* within? Yes, ſaid I Mr. *Haynes,* ſhe is above; and up he goes, and there they locked the door, and plucked out the Key; ſo I ſlipt off my Shoes, for I thought there might be more danger from ſuch people than I could diſcover any other way. So I went up Stairs, and ſtood at the door, and hearkned, hearing my Landlady talk ſomething to him, he wraps out a great Oath, *God damn me,* ſaid he, *I care not what I ſwear, nor who I ſwear againſt; for 'tis my Trade to get Mony by ſwearing.* Whereupon my Lord, I came down as faſt as I could, and a little after I ſaw him go out, and aſſoon as my Landlady came down, ſaid I, Mrs. *Scot,* I deſire you would provide your ſelf aſſoon as you can; I would be civil to you, and I would not put you to a Non-plus, becauſe your Goods by the Law will be ſeized for not departing according to the King's Proclamation. So a while ago ſince this Buſineſs of *Haynes's* ſwearing againſt my Lord of *Shaftsbury,* I bethought my ſelf of ſome other buſineſſes I had heard: To find out the Knavery I went to the *Flet,* where he hath a very ill Character as well amongſt the Papiſts as the Proteſtants. Whereupon I asked one Fellow that was a kind of a Porter, if he knew any thing of him; ſaid he, Go to ſuch an one———

Mr. *Serj Jeff.* We muſt not permit this for Example ſake, to tell what others ſaid.

L. C. J. Nothing is Evidence, but what you know of your own knowledge; you muſt not tell what others ſaid.

Hickman. This I do ſay, I heard him ſay; and there are thoſe that can produce a Letter——

Mr. *Serj. Jeff.* Bring thoſe people, but you muſt ſpeak nothing, but upon your own knowledge.

Hickman. I was at the Chamber door, and looked in at the Key-hole, and he ſat down at the Window.

L. C. J. How long ago was it, pray?

Hickman. A Year and an half.

Mr. *Att. Gen.* You are an Eves-dropper I perceive.

Hickman. I did not know what danger he might bring Men into, becauſe he was a Papiſt. I have taken an Oath to be true to the King, and I will as long as I live. For this Gentleman, I never beheld him till laſt night, in all my days; tho' he lived by me, I never ſaw him.

L. C. J. Well, call the next.

Coll. I never ſaw this Gentleman; but you ſee what *Haynes* hath declared.

Mr. *Serj. Jeff.* This man ſays, he did ſay ſo.

Coll. And, for ought I perceive, he does accordingly. Call *Elizabeth Oliver;* (who appeared.)

L. C. J. Mrs. *Oliver,* ſtand up. What do you ask her?

Coll. Do you know *Haynes,* pray? *Bryan Haynes?*

Mrs. *Oliver.* Yes.

Coll. Pray tell the Court what you know of him.

Mrs. *Oliver.* I know him very well.

L. C. J. What do you know of him?

Mrs. *Oliver.* He writ a Letter in my Father's Name, unknown to my Father.

L. C. J. Did you ſee him write it?

Mrs. *Oliver.* I ſaw him write it.

L. C. J. Read it. By whom is it ſubſcribed?

Clerk. By no body.

L. C. J. Why, how is it written in your Father's Name, when it is not ſubſcribed at all?

Mrs. *Oliver.* He writ it as from my Father.

Mr. *Serj. Jeff.* Whither did he bring it?

Mrs. *Oliver.* He ſent it into the Country.

Mr. *Serj. Jeff.* Can you write and read, Miſtreſs?

Mrs. *Oliver.* Yes.

Mr. *Serj. Jeff.* Who did he ſend it by?

Mrs *Oliver.* The Carrier.

Mr. *Serj. Jeff.* When is it dated?

Clerk. In 77.

L. C. J. Read the Letter. (Which was done.)

Clerk. Reads.

L. C. J. What is all this to the purpoſe? unleſs your Father were here to prove it was done without his knowledge.

Mrs. *Oliver.* My Father did not write it.

L. C. J. Was your Father in the *Fleet* then?

Mrs. *Oliver.* Yes, my Lord, he was a Priſoner then.

Coll. Mrs. *Oliver,* do you know any thing more of him?

Mrs. *Oliver.* I have known him a great while; I know him to be a very ill man.

Mr. *Serj. Jeff.* Muſt ſhe tell you all ſhe knows.

Mr. *Att. Gen.* Did you ever know him forſwear himſelf?

Mrs. *Oliver.* No, I don't know that.

L. C. J. Come, call another; this is nothing to the purpoſe.

Coll. Call Mrs. *Hall.* (Who appeared) Pray, do you know Mr. *Bryan Haynes?*

Mrs. *Hall.* Yes, if I ſee him I know him very well.

Coll. What do you know of him?

Mrs. *Hall.* He lodged at my Houſe, and came there the day before *Fitz Harris* was tried, and there was a great diſcourſe about his Trial, and I was enquiring of him; and I told him, I muſt expoſe my Ignorance, I did not know what it was he was tried for: And, ſaid he, if you pleaſe to ſit down, I will tell you: Madam *Portſmouth* came to him, and went upon her Knees, and begged of him, if he had any kindneſs for his Majeſty, that he would now ſhew it at this juncture; and ſhe told him ſhe had heard he had formerly acquaintance with one Mr. *Everard* abroad, and therefore deſired him to go now and renew it, and endeavour to get him over; and, if he could poſſibly, to get over ſome others to make a Preſbyterian Plot of it. This is true, I very well

know it; as for this Gentleman, I never saw his Face before, but those were the Words I am sure.

L. C. J. What were the Words?

Mrs. *Hall.* That they might make a Presbyterian Plot of it.

Coll. Did he say so?

Mrs *Hall.* He said that the Dutchess of *Portsmouth* did so.

L. C. J. What a Story is this?

Coll. Did not he say that the Dutchess of *Portsmouth* employed him too?

Mrs. *Hall.* No, this was about *Fitz Harris.*

Coll. What do you know more about *Haynes?*

Mrs. *Hall.* One Night he had been about some business for me in Law with one Mr. *Woodward* an Attorny at Law, and when he returned I was busie in the Kitchin with my Maid about the House, and he came up to me; Madam said he, this Night I had a Message from the King; a Justice of Peace met me, and brought me word, that the King had sent into *Ireland*, to enquire into the Loyalty of my Family, and he hath heard that my Father was a Loyal Subject, but he understood strange things of me; but if I would come in, he would grant me my Pardon. I told him, said he, I did not value His Majesty's Pardon a Pin, for I had done nothing that might make me stand in need of it; but I would do any thing that might tend to the preservation of his Majesty's Person or Honour; but to do such base things as are beneath a man, I will never do it; and he whisper'd me in the ear (as the accusing of several Persons;) and since, he sent me a Letter by his Mother in Law, Mrs. *Wingfield*, that I should not believe it, if I heard he should accuse any body; but I might be confident he had not, nor would accuse any body.

Coll. Was he to swear against the Protestants?

Mrs. *Hall.* I did not enquire any Questions; but he said, such base things he would never do as the accusing of several persons.

Mr. *Att. Gen.* Pray Mistress, did you believe him when he told you he was so honest a man?

Mrs. *Hall.* How do you mean, Sir?

Mr. *Att. Gen.* When he said he would not do those base things, did you believe him?

Mrs. *Hall.* I never saw his face before he came there to lodge; but I saw him to be a man that made but little Conscience of what he said or swore.

Mr. *Att. Gen.* Did you find him a bragging man?

Mrs. *Hall* I had little discourse, but what he said of himself. But there is one thing more about an Intelligence: When *Thompson* had written something in his Intelligence concerning *Bryan Haynes*, he said he would write an Answer to it; and accordingly he reads it to us: he said, he was going that Evening to get it put into one of the Intelligences: The Words were to this purpose, 'Whereas one *Nathaniel Thompson* 'had falsly and maliciously accused one *Bryan* 'Haynes for speaking Treasonable Words; he 'the said *Bryan Haynes* doth declare that he chal-'lenges any man to charge him with it; but he 'owned he had an hand, or was employed to 'put the Plot upon the dissenting Protestants.

L. C. J. Did he publish that in the Intelligence?

Mrs. *Hall.* I never read it published; but he had writ it, and read it to us several times.

Mr. *Att. Gen.* Do you go to Church, Mistress?

Mrs. *Hall.* I hope I do.

Sir. *Geo. Jeff.* To what Church?

Coll. Call *Mary Richards*, Mrs. *Hall*'s Maid. (Who stood up.)

L. C. J. What will you ask her?

Coll. Do you know this *Bryan Haynes*, pray?

Richards. Yes, he lodged there where I lived.

Coll. What do you know of him?

Richards. I know he writ that in the Intelligence my Mistress spoke of; *Thompson*, in his Intelligence, accusing him of having spoken Treason, he reads what he said he would put into the Intelligence: That he never spake one Word of Treason, and he writ it for his own Vindication; that whereas *Nathaniel Thompson*, in his Intelligence of the 18th of *June*, had maliciously accused one *Bryan Haynes* of Treasonable Words; there was no such thing.

L. C. J. And that was to vindicate him, that he never did speak any Treasonable Words.

Richards. Yes.

L. C. J. Will you ask her any thing else?

Coll. I cannot tell what she says.

L. C. J. She says, he writ something that was in Answer to *Thomson*'s Intelligence, to vindicate himself that he never did speak any Treasonable Words.

Coll. But did you hear him say any thing of these Words, that he was employed in a Plot against the Protestants?

Richards. I read that, in what he writ to put in the Intelligence, that he challenged any one to appear, and charge him with Treason; but, said he, I own that I was employed, or had a hand in putting the Plot upon the dissenting Protestants; and he telling my mistress he had a message from the King, offering him his Pardon; I ask'd him why he did not accept the King's Pardon. Alas, said he, you do not understand what I was to do for it; I was to do such base things, so beneath a man, that I will never do them: I had five hundred pounds offer'd me, besides the King's pardon, to do such base things as are beneath a man to do.

Coll. What were the base things he said he was to do, and would not do?

Richards. I cannot tell, he did not say to me what they were.

Mr. Att. Gen. When was this?

Richards. It was a Week before he was taken.

Mr. Att. Gen. That is two months ago.

Coll. It was since the Parliament sat at *Oxford*: But what was that he was employed to do, did he say?

Rich. Why, he said in his Answer to the Intelligence, he was one that had an hand to put the Plot upon the dissenting Protestants.

Coll. Call Mrs. *Wingfield.* (*Who appeared.*)

L. C. J. What is your Christian Name?

Mrs. *Wingfield.* *Mary.*

L. C. J. What do you ask her?

Coll. Do you know this *Bryan Haynes*, pray?

Mrs. *Wingfield.* Yes, very well.

Coll. What do you know of him?

Mrs. *Wingfield.* I know nothing of him, but he is an honest man; he married my daughter, and always carried himself like a Gentleman; he scorns the thing that is unhandsome, and never did any thing that is unhandsome in his Life.

Mr. Serj. Jeff. Pray how came you by this Witness? Have you any more of them?

Coll. I never saw her before, but I believe she hath said something else in another place. Did you ever say the contrary, pray?

Mrs. *Wing.* No body can say so; and I had done the Gentleman a great deal of Wrong if I had.

Coll. Call Mr. *Whaley.* (*Who appeared.*)

L. C. J. What is your Name, Sir?

Mr. *Whaley.* *John Whaley.*

Coll.

Coll. Did you know *Bryan Haynes?*

Mr. Att. Gen. Where do you dwell, Sir?

Mr. *Whaley.* At the *Hermitage*, beyond the *Tower.*

Coll. I don't know you, Sir; but what do you know of him?

Mr. *Whaley.* I never ſaw you Sir, till to day; but that which I think I am called for is this, tho' it was upon *Sunday* that I receiv'd this ſame *Subpœna* to come down hither; but about ſix Years ago, *Bryan Haynes* was a Priſoner in the *King's Bench*, and he came down to the Cellar which I had taken of the Marſhal to ſell Drink in; and coming down to drink in one of the Rooms of the Cellar that belong to me, he took away a Tankard, and went up with it. One of the men followed him up; ſo I went to the Marſhal to complain, and told him of it; and the Marſhal took him from the Maſter's Side, and put him into the Common Side. That is all I know of him any way, directly or indirectly.

L. C. J. Why did you not indict him of it?

Mr. *Whaley.* I acquainted the next Juſtice of the Peace, who was the Marſhal; and he put him from the Maſter's Side, into the Common Side.

L. C. J. He was no good Juſtice of the Peace in the mean time.

Coll. Call Mr. *John Lun.* (*Who appeared.*) Do you know *Bryan Haynes*, Mr. *Lun?*

Mr. *Lun.* I have ſeen him twice; the firſt time I ever ſaw him was, I went into the *Derby Ale-Houſe*, to enquire for one *Micklethwayte*, a Kinſman of mine, and there this *Bryan Haynes* was, in a little Room next the Ditch, near the Door that goes out there, as if he were aſleep, and he rouſed himſelf up; and, as I was walking there, Sir, ſaid he, will you take part of a Tankard with me, (that was his expreſſion:) With that, ſaid I, I do not care if I do. And the firſt thing he began was the King's Health, then the Queen's, then the Duke of *York's*; then he fell very foul againſt the Grand Jury, becauſe they had not found the Bill againſt *Colledge*, who is a Gentleman that I never ſaw before in my life but once, as I know of: And he ſaid, my Lord *Shaftsbury* was a little Toad, but he would do his buſineſs very ſuddenly. Then he railed upon the Parliament, and ſaid they were a Company of Rogues, they would give the King no mony, but he would help him to mony enough out of the Fanaticks Eſtates. And he ſaid, they would damn their Souls to the Devil before the Catholick Cauſe ſhould ſink.

Mr. Serj. Holloway. When was this?

Mr *Lun.* It was three or four days after the Bill was brought in *Ignoramus* by the Grand Jury.

Mr. Juſt. Jones. Was he alone?

Mr. *Lun.* Yes, he was.

Coll. Is that all you have to ſay?

Mr. *Lun.* One thing more, my Lord. On *Monday* laſt I was at *Uxbridge*, and a Gentleman ſent his man on purpoſe to let me know I muſt go to *Colebrook*, and ſtay till they came thither. When I came there, I met *Bryan Haynes* at the *Crown* Kitchin Window, and he was ſtirring a Glaſs of Brandy, and ſweetning it with Sugar; ſaid he, Sir, will you drink? here is the King's Health to you: So I drank, and ask'd him how he did. Do you know me Sir, ſaid he. Yes, ſaid I, I drank with you once. Says he, you have a good memory. So then a Pint of Sack was call'd for, and after that another, and then came down Mrs. *Peacock*; and being very fine, all in her flower'd Silks, I ask'd what Gentlewoman that was? Said he, it is Mrs. *Fitz-harris.* No, ſays I, it is not; they ſay ſhe is gone. But, ſaid he, it is her maid; and Sheriff *Bethel* is to marry her: As I have a Soul to ſave, I tell you nothing but what is truth. Thereupon, ſaid I, Sheriff *Bethel* is able to maintain her, he hath a good Eſtate. But, ſaid he, it ſhall be the King's e'er long,

Coll. So that here is a plain deſign againſt all the eminent Proteſtants.

Mr. *Lun.* So with that, my Lord, if it pleaſe your Honor, I clapp'd my Groat down at the Bar, and went out of the Room. Nay, ſaid he, let us have one Health more: And ſo he had his Tankard, and I had mine.

Haynes. I humbly deſire you to call for Mr. *White*, the King's Meſſenger, who was by. I never ſaw the man before he was at *Uxbridge*; and asking Mr. *White* who he was? Said he, his name is *Lun*, he was my Priſoner two Years.

L. Ch. Juſt. What ſay you to the diſcourſe he talks of at *Fleet-Bridge?*

Haynes. My Lord, I am upon my Oath, and I never ſaw him in my life before I ſaw him at *Uxbridge.*

Mr. *Lun.* I will take the Sacrament upon it, that what I have averr'd is true.

Mr. Serj. Jeff. I ſuppoſe you are both known, and then your Credit will be left to the Jury.

Mr. Att. Gen. There is Mr. *White*; pray ſwear him. (*Which was done.*)

L. C. J. Do you remember that *Haynes* ask'd who Mr. *Lun* was?

Mr. *White.* It was at the Bar of the *Crown Inn* at *Uxbridge*, and I being there, Mr. *Lun* came into the Yard, and I knowing Mr. *Lun*, ask'd him how he did; he ſaid, he was glad to ſee me, and he called for a Pint of Sack to make me drink. *Haynes* ſtood by, and he ask'd who he was, and I told him; and we drank the King's health; but for any thing of thoſe Words that were ſpoken there, Sir, I did hear not one Word of them, but he thank'd me for my civility when I ſummon'd him up to the Court, and ſeeing Mr. *Haynes* by, he ask'd who he was?

Mr. Serj. Jeff. And you take it upon your Oath, that he ask'd you who *Haynes* was?

Mr. *White.* Yes, I do.

Mr. Serj. Jeff. Pray did you hear any diſcourſe that time as if there had been a meeting upon *Fleet-bridge?*

Mr. *White.* Not one Word of that?

Mr. *Lun.* I will take the Sacrament upon it, what I ſay is true.

Mr. Serj. Jeff. We know you, Mr. *Lun*; we only ask Queſtions about you, that the Jury may know you too, as well as we. We remember what once you ſwore about an Army.

Coll. I don't know him.

Mr. *Lun.* I don't come here to give Evidence of any thing but the truth; I was never upon my knees before the Parliament for any thing.

Mr. Serj. Jeff. Nor I neither for much; but yet once you were, when you cried, *Scatter them good Lord.*

Coll. Call Mr. *Broadgate.*

L. C. J. What is your Chriſtian name, Sir?

Mr. *Broadgate.* *Jeremiah.*

L. C. J. What do you ask him?

Mr. *Broadg.* My Lord, I am a Stranger to the Priſoner at the Bar; what I have to ſay is concerning Mr. *Turbervile*, whom I met one day, and he ask'd me how I did? Said he, I owe you a little mony, but I will pay you in a ſhort time; but if you will go to drink a Glaſs of Ale. No, ſaid I, I am in haſte, and do not care for going to drink. Said he, You ſhall go; ſo away we went,

and when we were ſat, ſaid he, When did you ſee *Turbervile* that was my Lord *Powis*'s Butler; ſaid he, he was a great Rogue to me, and when I ſtood up for the Nation's good, he villified my Evidence, and afterwards he came to me with Doctor to beg my Pardon; but I would not forgive him for the whole World. And ſpeaking of the King's Evidence, ſaid he, The King's Evidence are look'd upon as nothing, as poor inconſiderable mean Fellows, and their Salaries are leſſened; and, ſaid he, I have had the greateſt proffers from Court of Preferment and Rewards, if I would go from what I have ſaid, and come upon the contrary; and he repeated it, Yes, upon the Faith of a man, and from the higheſt: But, ſaid he, I have a Soul and a Body; a Body for a Time, but my Soul for Eternity, and I cannot go from it. He went over it again; I might have what I would if I would go from what I have ſaid, and come upon the contrary.

Mr. Att. Gen. But he does not go from any thing of what he hath ſaid.

Coll. Did he ſay what he was offered, and by whom?

Mr. *Broadg.* He ſaid he had very great offers from the Court if he would diſown the Plot, and go upon the contrary.

L. C. J. But he does not diſown it.

Mr. *Juſt. Jones.* Nay, he had a Soul to ſave, and could not go from it.

Mr. *Serj. Jeff.* You talk of the contrary, and the contrary; What did he mean by that? what Plot ſhould he diſown?

Mr. *Broadg.* The Popiſh Plot.

L. C. J. He does not diſown it, nor never did diſown it.

Coll. He would make a Presbyterian Plot of it now, for he cannot ſay I am in the Popiſh Plot. Sir, do you know any thing more of him? Or did he name me? Or that he was to ſwear againſt me, or any Proteſtant?

Mr. *Broadg.* No, only he ſaid the King's Evidence were vilified, and look'd upon as poor inconſiderable Fellows; but it ſeem'd if he would go on the other ſide, he might have great Preferments and Rewards.

L. C. J. You make a wrong Comment upon it, Mr. *Colledge*; it was if he would retract his Evidence, and diſown the Plot.

Coll. I leave it to your Lordſhip and the Jury, to make the Senſe of it.

Mr. *Broadg.* I ſaw Mr. *Turbervile* ſince I came hither, and he ask'd, Are you come, Mr. *Broadgate*, to give Evidence againſt me? Says I, I am come to declare the truth, and nothing but the truth.

Mr. Serj. *Jeff.* You might have ſtaid at home for any thing material that you do evidence.

Coll. Call Mr. *Zeal* (*Who appeared.*)

L. C. J. What is your Chriſtian name, Sir?

Mr. *Zeal. John.*

L. C. J. What would you ask him?

Mr. *Serj. Holloway.* Where do you dwell, Sir?

Mr. *Zeal.* In *London.*

Mr. *Serj. Jeff.* Whereabouts?

Mr. *Zeal.* In *Fetter-lane.*

Mr. *Serj. Holl.* What Countryman are you, Sir?

Mr. *Zeal. Somerſetſhire.*

Mr. Att. Gen. Whereabouts in *Somerſetſhire* were you born?

Mr. *Zeal.* By Sir *William Portman*'s, within ſix miles of him.

Mr. Serj. Jeff. What Trade, Sir?

Mr. *Zeal.* No Trade.

Mr. Serj. Jeff. Have you any Eſtate?

Mr. *Zeal.* My Father has. I was bred to wait upon a Perſon of Quality.

Coll. Do you know *Turbervile*, Sir?

Mr. *Zeal.* Yes Sir, I do.

Coll. What do you know of him?

Mr. *Zeal.* Sir, I know nothing but what Mr. *Ivy* told me with his own mouth.

L. C. J. Do you know any thing of your own knowledge?

Mr. Att. Gen. Has Mr. *Turbervile* told you any thing?

Mr. *Zeal.* Not concerning Mr. *Colledge*, he has not.

Coll. Ivy was amongſt them.

Mr. *Zeal.* Yes, my Lord, he was the firſt that ſwore this Presbyterian Plot.

L. C. J. We know of no Presbyterian Plot.

Coll. Can you ſay nothing of your own knowledge concerning *Turbervile*?

Mr. *Zeal.* Nothing but what Mr. *Ivy* told me.

Mr. Serj. Jeff. That is not of your own knowledge, and ſo it is nothing, for he is not produced in this Cauſe.

Coll. Pray, my Lord, give me leave to call Mr. *Ivy*.

Mr. Serj. Jeff. Do if you will. (*He ſtood up.*)

Coll. What was that you heard *Turbervile* ſay of me, or of any Presbyterian Plot?

Ivy. I never heard him ſay any thing concerning a Presbyterian Plot in my life.

Coll. Did not you tell *Zeal* of ſuch a thing?

Ivy. No, I never did.

Coll. Hark you, Mr. *Ivy*, you have ſworn againſt me, have you not?

Ivy. What I have ſworn againſt you, or any other perſon, is true.

Coll. What have you ſworn againſt me?

Ivy. I am not bound to anſwer you.

Coll. Did not you call me out, with *Macnamarra* and *Haynes*, to the *Hercules Pillars*?

L. C. J. Look you, Mr. *Colledge*, I will tell you ſomething for Law, and to ſet you right; whatſoever Witneſſes you call, you call them as Witneſſes to teſtifie the truth for you; and if you ask them any Queſtions, you muſt take what they have ſaid as truth: Therefore you muſt not think to ask him any Queſtion, and afterwards call another Witneſs to diſprove your own Witneſs.

Coll. I ask him, was he the firſt time with us, when I was call'd out of the Coffee-houſe to hear *Haynes*'s Diſcovery?

L. C. J. Let him anſwer you if he will; but you muſt not afterwards go to diſprove him.

Coll. If he were ſworn againſt me, I would not ask him any Queſtions, for he is among them.

L. C. J. Ask him what you will.

Coll. I deſire not if he have ſworn againſt me, for truly I can't expect a good Anſwer from him; but he was by when *Haynes* made his Diſcovery.

L. C. J. Will you ask him any Queſtions?

Coll. I ask whether he hath given any Evidence againſt me any where?

Ivy. I am not bound to anſwer you.

L. C. J. Tell him if you have.

Ivy. Yes, my Lord, I have.

Coll. Then I think he is no good Witneſs for me, when he hath ſworn againſt me.

Ivy. I have ſworn againſt him and others. You know that you and I have had a great many Intrigues about this buſineſs in hand, and how we dealt with Mr. *Haynes*.

L. C. J. Look you, he does not call you for a Witneſs for him, you can teſtifie nothing, and ſo you muſt be quiet.

Coll.

Coll. Call Mr. *Lewes.* *(Who appeared.)*

L. C. J. What is your Chriſtian name?

Mr. *Lewes.* *William.*

Coll. Pray Mr. *Lewes,* what do you know about *Turbervile?*

Mr. *Lewes.* I know nothing at all, I aſſure you of him that is ill.

Coll. Do you know any thing concerning any of the Evidence that hath been given here?

Mr. *Lewes.* If I knew any thing relating to you, I would declare it; but I know ſomething of Mr. *Ivy*; it has no relation to you, as I conceive, but againſt my Lord of *Shaftsbury.*

L. C. J. You would call *Ivy* for a Witneſs, and now you call one againſt him; and that I told you, you muſt not do; but *Ivy* is not at all in this Caſe.

Coll. Do you know any thing of the reſt of them, *Haynes,* or *Smith,* or *Dugdale?*

Mr. *Lewes.* No more than what Mr. *Zeal* told me, was told him.

Coll. Do you know any thing of a Presbyterian Plot?

Mr. *Lewes.* If the Court pleaſe to hear me, I will tell my Knowledge of that; but I know nothing that affects him in the leaſt, only that which concerns my Lord of *Shaftsbury.*

L. C. J. That is nothing to the purpoſe, call another.

Mr. *Lewes.* There was not, to my knowledge, a Word mention'd of your name: I will do you all the Juſtice I can; if I knew any thing concerning you, I would be ſure to relate it.

Coll. I cannot ſay who can, or who cannot; I am a Stranger to all of it.

L. C. J. Well, call your next Witneſs.

Coll. My Lord, there was a Petition preſented to the Common Council of *London,* wherein they ſet out, that they were tamper'd withal about a Plot againſt the Proteſtants.

L. C. J. A Petition, from whom?

Coll. I cannot tell from whom; from ſome of theſe Witneſſes.

L. C. J. Who preferr'd and ſign'd it?

Coll. Mr. *Turbervile* was one. Pray call Doctor *Oates.*

L. C. J. The Priſoner calls upon you, Mr. *Oates.* What would you ask him Mr. *Colledge?*

Coll. Where is the Petition to the Common Council, Doctor?

Dr. *Oates.* I have it here in my hand.

L. C. J. By whom was it preſented?

Dr. *Oates.* It was given by Mr. *Turbervile* and Mr. *Macnamarra,* to Mr *Wilmore?*

L. C. J. Was you preſent when it was deliver'd?

Dr. *Oates.* Mr. *Wilmore* did deliver it to me before he was apprehended; for, being to come down as a Witneſs, he was taken up and committed to Priſon.

L. C. J. Whoſe hands are to it?

Dr. *Oates.* I know Mr. *Turbervile's* hand, he will not diſown it.

Clerk reads. It is ſubſcribed *Edward Turbervile, John Macnamarra.*

L. C. J. Look you, Mr. *Colledge,* what Word is there in all this Petition that is a contradiction to what they have ſaid now?

Coll. I did not hear it, my Lord.

L. C. J. They ſay, they are conſtant Witneſſes for the King againſt the Papiſts; and they have been tempted to unſay what they have ſaid: How does that contradict what they ſay now?

Coll. I ſuppoſe they ſay they have been tempted to turn the Plot upon other people, and to make a Plot upon the Proteſtants.

L. C. J. They have been tempted, they ſay, by the Papiſts, to unſay what they have ſaid; but the Jury have heard it read, and will give it its due weight. Will you ask Mr. *Oates* any Queſtions?

Coll. What do you know of Mr. *Turbervile?*

Dr. *Oates.* As to *Turbervile,* my Lord, a little before the Witneſſes were ſworn at the *Old Baily,* I met with Mr. *Turbervile;* I was in a Coach, but ſeeing Mr. *Turbervile,* I ſtept out of the Coach, and ſpoke with him; for, hearing that he was a Witneſs, I did ask him whether he was a Witneſs or no, againſt *Colledge?* Mr. *Turbervile* ſaid, he would break any one's head, that ſhould ſay ſo againſt him; for he neither was a Witneſs, nor could give any Evidence againſt him. So, after he came from *Oxon,* I met with Mr. *Turbervile* again; and, hearing he had been there, I ask'd him if he had any thing againſt *Colledge?* He ſaid, Yes, he had been ſworn before the Grand Jury. Said I, did not you tell me ſo and ſo? Why, ſaid he, the Proteſtant Citizens have deſerted us; and, *God damn him,* he would not ſtarve.

L. C. J. Would he ſay ſo to you?

Dr. *Oates.* Yes, my Lord, he ſaid thoſe very Words.

Mr. Serj. Jeff. 'Tis Mr. *Oates's* Saying, 'tis Mr. *Turbervile's* Oath.

Dr. *Oates.* Several times he did repeat it; but when I ask'd him what he had ſworn, he ſaid I am not bound to ſatisfie people's Curioſities.

L. C. J. What ſay you to it, Mr. *Turbervile?*

Mr. *Turbervile.* My Lord, the firſt part of the Doctor's diſcourſe, in part is true; I met him juſt at my Lodgings, and the Doctor alighted out of his Coach, and ſpoke to me, and invited me to come to my old Friends; for he told me, they had ſome jealouſie that I was not true to them: and he told me, if I would come to the King's Head Club, I ſhould be received with a great deal of kindneſs: And never afterwards did I ſpeak with the Doctor a tittle about any Evidence.

L. C. J. He ſaid, you ſaid you would break any one's head, that ſaid you were an Evidence againſt *Colledge*; for you were not, nor could be.

Mr. *Turb.* There was no ſuch thing ſaid by me.

Mr. Att. Gen. Upon your Oath, did you tell him ſo?

Mr. *Turb.* Upon my Oath, I did not.

Mr. Serj. Jeff Did you tell him that other paſſage, when you ſwore you would not ſtarve?

Mr. *Turb.* No, I did not.

Dr. *Oates.* Upon the word of a Prieſt, what I ſay is true. My Lord, I do ſay, as I am a Miniſter, I ſpeak it ſincerely, in the preſence of God; this Gentleman did ſay theſe words to me; which made me afraid of the man, and I went my ways, and never ſpake with him afterwards, nor durſt I; for I thought he that would ſwear and curſe after that rate, was not fit to be talk'd with.

L. C. J. 'Tis very improbable that he ſhould ſay ſo to you.

Mr. *Turb.* I always look'd upon Dr. *Oates* as a very ill man, and never would converſe much with him.

L. C. J. Will you ask him any thing more?

Coll. Do you know any thing of the reſt, Doctor?

Dr. *Oates.* I know nothing of *Turbervile* further, but that he did preſent this Petition, wherein he ſays, he lay under great temptations to go on the other ſide, and accuſe ſome Proteſtants. And truly till I heard he was an Evidence at *Oxon,*

after

after what he had ſaid to me, I did not believe it.

Mr Att. Gen. Doctor *Oates*, Mr *Turbervile* hath not changed ſides, you have; he is ſtill an Evidence for the King, you are againſt him.

Dr. *Oates.* Mr Attorny, I am a Witneſs for Truth, againſt Falſhood and Subornation; and it can plainly be made to appear there is Subornation againſt the Proteſtants. And moreover, my Lord, ——

L. C. J. Mr. *Oates*, you would do well to explain yourſelf.

Mr Serj. Jeff. If there be any Subornation relating to Mr *Turbervile*, or any of the other Witneſſes that have now ſworn againſt *Colledge*, make it out Doctor.

Dr. *Oates.* There is, my Lord, and there will be made further to appear in time to come. To my own knowledge as to Mr. *Smith*, Mr. *Colledge* and Mr. *Smith* had ſome provoking Words paſſed betwixt them at *Richard*'s Coffee-houſe, and Mr. *Smith* comes out and ſwears, *God damn him he would have* Colledge's *blood.* So, my Lord, when I met him, ſaid I, Mr. *Smith*, you profeſs your ſelf to be a Prieſt, and have ſtood at the Altar, and now you intend to take upon you the Miniſtry of the Church of *England*, and theſe Words do not become a Miniſter of the Goſpel: His reply was, *God damn the Goſpel:* This is truth, I ſpeak it in the preſence of God and man.

L. C. J. Can you ſay any thing of any of the other Witneſſes?

Dr. *Oates.* As for Mr. *Dugdale*, I was engaged for him for 50 *l.* for laſt Lent Aſſizes, he wanted mony to go down to the Aſſizes, having paid ſome debts, and paid away all his mony; and ſo I engaged for 50 *l.* that he borrowed of *Richard* the Coffee-man. After he came from *Oxon*, I called upon him to haſten to get his mony of the Lords of the Treaſury, which, as near as I remember, was order'd him upon his Petition, for ſo I heard. And at that time, ſaid he, Sir, I hear there is a great noiſe of my being an Evidence: Againſt whom? ſaid I: Againſt ſeveral Proteſtants, my Lord *Shaftsbury*, and others: ſaid I, I never heard any thing of it: ſays he, there is no body hath any cauſe to make any ſuch report of me, for I call God to witneſs I know nothing againſt any Proteſtant in *England.* After that I met with *Dugdale* at *Richard*'s Coffee-houſe, and preſſing him for the mony, and he ſaying he had it not juſt then, but would pay it in a little time: Mr. *Dugdale*, ſaid I, you have gone I am afraid againſt your Conſcience, I am ſure againſt what you have declared to me: ſaid he, it was all long of Colonel *Warcup*, for I could get no mony elſe.

Mr Att. Gen. Mr. *Oates* is a thorough-paced Witneſs againſt all the King's Evidence.

Mr Serj. Jeff. And yet Dr. *Oates* had been alone in ſome matters, had it not been for ſome of theſe Witneſſes.

Dr. *Oates.* I had been alone perhaps, and perhaps not; but yet, Mr. Serjeant, I had always a better Reputation than to need theirs to ſtrengthen it.

Mr Serj. Jeff. Does any man ſpeak of your Reputation? I know no body does meddle with it; but you are ſo tender!

Coll. Sir *George*, now a man is upon his Life, I think you do not do well to affront his Witneſſes.

Mr Serj. Jeff. I do not affront him; but now, my Lord, pray give us leave to call our Witneſſes. Mr. *Smith*, pray ſtand up.

L. C. J. Mr. *Smith*, do you hear what Mr. *Oates* hath ſaid?

Mr. *Smith.* No, my Lord.

L. C. J. Then ſpeak it again, Mr. *Oates.*

Dr. *Oates.* Yes, my Lord, I will ſpeak it to his face. He ſaid coming out of *Richard*'s Coffee-houſe, they having had ſome provoking words, as I underſtood when I came in, *God damn that* Colledge, *I will have his blood:* and, my Lord, when I did reprove him, and ſaid to him, Mr. *Smith*, you have been a Prieſt, and ſtood at the Altar, and intend to be a Miniſter of the Church of *England*; theſe words do not become a Miniſter of the Goſpel; and he replied, *God damn the Goſpel*; and away he went.

L. C. J. What ſay you to it, Mr. *Smith?*

Mr. *Smith.* Not one word of this is true, upon my Oath. 'Tis a wonderful thing you ſhould ſay this of me; but I will ſufficiently prove it againſt you, that you have confounded the Goſpel, and denied the Divinity too.

Mr Serj. Jeff. Mr. *Dugdale*, you heard what was ſaid againſt you?

Dr. *Oates.* My Lord, now *Dugdale* is come I will tell you ſomething more. There was a Report given out by *Mr. Dugdale*'s means, that *Mr. Dugdale* was poiſoned; and in truth, my Lord, it was but the Pox. And this Sham paſſed throughout the Kingdom in our Intelligences; and this I will make appear by the Phyſician that cured him.

Mr Serj. Jeff. That is but by a third hand.

Dr. *Oates.* He did confeſs that he had an old Clap, and yet he gave out he was poiſoned; but now, my Lord, as to what I ſaid before of him, I was engaged for 50 *l.* for *Mr. Dugdale*; do you own that?

Mr. Dugdale. I do own it.

Dr. *Oates.* I did preſs upon you to haſten the payment of it.

Mr. Dugdale. Yes, you did.

Dr. *Oates.* And did not you come to me and tell me, there was a noiſe of your being an Evidence? it was in time juſt before my Lord *Shaftsbury* was taken up.

Mr. Dugd. I never ſpoke to you till you ſpake to me.

Dr. *Oates.* My Lord, he came and ſaid to me, there is a noiſe of my being an Evidence; now I had not heard it then, but the day after I did hear it; and I did juſtify *Mr. Dugdale*, becauſe he had ſaid to me that he had nothing againſt any Proteſtant in *England.* So I did ſtand up in Vindication of him; but, my Lord, after he had ſworn at the *Old Baily* I met him again, and preſſed him for the mony, and urged him with it, why he had ſworn againſt *Colledge*, when he had told me ſo and ſo before; and he ſaid it was all long of Colonel *Warcup*, for he could not get his mony elſe; and Colonel *Warcup* did promiſe he ſhould have a place at the Cuſtom-houſe.

Mr. Dugd. Upon the Oath I have taken, and as I hope for Salvation, it is not true.

Mr. Serj. Jeff. Here is *Dugdale*'s Oath againſt Dr. *Oates*'s ſaying.

Dr. *Oates.* Mr. Serjeant, you ſhall hear of this in another place.

Mr. Att. Gen. 'Tis an unhappy thing that Dr. *Oates* ſhould come in againſt theſe men that ſupported his Evidence before.

Mr. Dugd. My Lord, I ſay further, if any Doctor will come forth and ſay he cured me of a Clap, or any ſuch thing, I will ſtand guilty of all that is imputed to me.

L. C. J. Mr. Colledge, will you call any other Witneſſes?

Coll.

Coll. My Lord, I think this is not fair dealing with a man for his Life; becauſe theſe men be upon their Oaths, and deny the things again that my Witneſſes prove, therefore what they ſwear muſt needs be taken for truth: but if my Witneſs comes and ſays ſuch a thing upon the word of a Miniſter, and in the preſence of God, and which he is ready to maintain by an Oath, ſure it is not to ſtand for nothing, nor to be hooted out of Court, becauſe *Mr. Dugdale* denies it upon his Oath; I do ſuppoſe he will not acknowledge it. But, my Lord, I am the Priſoner, and cannot be heard as a Witneſs for myſelf: but God is my Witneſs, he hath ſaid a great deal more to me formerly; and he hath told me when I have ſeen him with *Warcup*, and ask'd him why he kept Company with *Warcup*, and others; ſaid he, I know they are ſuſpected men, but I muſt keep Company with them to get my mony; what would you have me do, ſtarve? And when I lent him mony out of my Pocket, and truſted him with my Horſe, I dun'd him for mony and could not get it; ſaid I, Will you pay me the 5 *l.* I lent you: he put me off, ſaid he, I ſhall have it, for the Attorny General hath made up his Accounts, and is very kind to me: why then, ſaid I, why have you it not? ſaid he, he is my friend, and I do not queſtion the getting of it; but here is new work to be done, ſuch work as my Conſcience will not ſerve me to do; there is more Roguery, they will never have done plotting, and counterplotting; but they will make a thouſand Plots if they can to deſtroy the real one.

L. C. J. Can you prove this now?

Coll. No, it was ſpoken to myſelf; and no body was by but myſelf.

L. C. J. Then you ſhould not ſpeak it. But you ask'd the queſtion whether a man may not be believed upon his word, as well as he that is upon his Oath. Your Witneſſes are not upon their Oaths, but they may be Witneſſes, and their weight is to be left with the Jury; they will conſider how improbable it is, that theſe men ſhould come, three men to one man, and all of them ſhould ſpeak that which would make themſelves Rogues and Villains; and that one man of them, *Smith*, ſhould ſay ſuch vile words, as, *God damn him, he would have his blood*; and, *God damn the Goſpel*: that *Dugdale* ſhould confeſs he was wrought upon by *Warcup* to teſtify againſt his Conſcience; and that *Turbervile* ſhould ſay to that purpoſe, he would not ſtarve; they have ſworn the contrary, and ſo there are all theſe three mens Oaths againſt one mans Affirmation; but it muſt be left to the Jury.

Coll There is his Affirmation againſt what they three ſay. He charges every one of them, and 'tis but the ſingle denial of every one of them to his Charge.

L. C. J. 'Tis improbable they ſhould own themſelves ſuch Villains to him.

Dr *Oates*. They muſt be ſo, if they will do what they have undertaken. I hope my Word will be believed as ſoon as their Oaths.

Coll. It is not to be thought, but when they have ſworn ſo againſt me, they will deny any ſuch thing when they are charged with it.

L. C. J. Have you done with your Witneſſes? Or will you call any more?

Coll. What is ſaid upon an honeſt man's Word in the face of a Court, is certainly to be believ'd as well as what is ſworn.

L. C. J. 'Tis a Teſtimony, that is moſt certain, and muſt be left to the Jury, they muſt weigh one againſt the other. But pray Mr. *Colledge* will you call your Witneſſes, for it begins to grow late.

Coll. There is Mr. *Wilmore*, that was a material Witneſs for me, who was Fore-man of the Grand Jury, that would not find the Bill upon this Evidence. What he had to ſay I don't know, but I am informed it was very material for me.

L. C. J. It will be enough for him to clear himſelf, for he is charged with High Treaſon, and by two Witneſſes too.

Coll. Call *Alexander Blake*.

L. C. J. What do you ask him?

Coll. Do you know *John Smith*?

Mr. Blake. Yes, Sir.

Coll. Pray will you tell the Court what you know of *John Smith*?

Mr. Blake. I ſuppoſe you mean this Gentleman. Mr. *John Smith*, Gent. came to me one morning, and told me there was one *Haynes* under Examination, and this *Haynes* had diſcovered very material things againſt ſome great Perſons: This paſſed, and within few days after I met Mr. *Smith* at the *Exchange Coffee-houſe*, and having ſaluted him, I deſired him to drink a Glaſs of Wine, and ſo we went to the *Sun* Tavern, and when we were there, I ask'd him, what his Senſe was of *Haynes* and his Diſcovery? Said he, 'tis a Sham Plot: I ask'd him, what he meant by that Sham Plot? Said he, 'tis a meal-tub Plot. This is all that I know.

L. C. J. Would you ask him any thing elſe?

Mr. Blake. I know nothing more.

Coll. Do you know any thing of *Turbervile* or *Dugdale*?

Mr. Blake. Sir, I have no Acquaintance with him, nor deſire it: But I was acquainted with this Gentleman Mr. *Smith*, I know him very well.

Mr Serj. Jeff. You ſay well, ſtand down.

Coll. Call Mr. *Samuel Smith*.

L. C. J. What ask you him?

Coll. What he knows of Mr. *Smith*?

Mr S. Smith. Mr *John Smith* and I have had an Intimacy and Acquaintance ſeveral months, and ſince *Mr John Smith* ſwore at the *Old Baily* againſt *Mr Colledge*, and was gone out of Town, ſeveral People have talk'd with me concerning him, and asking me what I thought of him? I told them, I believed he was an honeſt man, however I would not believe otherwiſe till I knew a Reaſon of it. They told me, that he had ſworn againſt *Mr Colledge*, that he was to ſeize the King at the Parliament at *Oxford*, and that there was 1500 Barrels of Powder, and it was to carry on a Presbyterian Plot: Said I, I will never believe it, and the rather becauſe he hath ſaid to me often, there was a Popiſh Plot, but he does not believe any Presbyterian or Proteſtant Plot; and, ſaid I further, as to his giving any Evidence with *Iriſhmen*, I believe it the leſs for that, for I have heard him often ſay, they were a company of Rogues that had done the Proteſtant Intereſt more harm than ever they could do it good, and bid me have a care of coming into their company, and many other ſuch things, that *Mr Smith* here knows to be true. Then, my Lord, when *Mr Smith* came home (for I was very impatient till he did come home, to hear every day ſuch things ſaid againſt him) I went to him to ſee him. Said I, Couſin *Smith*, I have had great confronts about you ſince you went away, but I hope you can't be that ill man you are repreſented to be, and truly I ſhould be ſorry it ſhould be ſo: Pray Couſin, ſaid I, I have put every man off with this,

that

that I would ſuſpend my belief of you till I had ſpoken with you yourſelf; what is the Evidence you have given? They ſay, you have ſworn a Presbyterian Plot, or a Proteſtant Plot, a deſign of ſeizing the King at *Oxon*, and of ſo many Barrels of Gun powder that were provided. Says my Couſin, I did ſwear no ſuch thing, nor never a word of any ſuch thing as a Proteſtant Plot, or a Presbyterian Plot, and pray do not believe it of me. No, ſaid I, I thought you could not ſwear any ſuch thing, becauſe you have ſaid often to me, you believed there was no ſuch thing. I do not believe it yet ſaid he, and as to whatſoever *Colledge* ſaid, I did not believe it, for he did not believe it himſelf. And *Mr. Smith* told me after his return, that he did not know of any Proteſtant concerned in the Plot.

L. C. J. He does not ſay now 'tis a Proteſtant Plot.

Mr S. Smith. So far from that, that he told me after his return, he did not know any Proteſtant concerned in the Plot.

L. C. J. Mr *Smith*, thus I underſtand you: You ſay that he ſaid to you, that he had not teſtified any thing of a Proteſtant Plot, nor did believe there was any Proteſtant Plot, for he did not believe what *Colledge* ſaid himſelf: So by that diſcourſe it ſeems he did not deny, but he had teſtified againſt *Mr Colledge*, but he did not believe there was any Proteſtant Plot?

Mr S. Smith. No, my Lord, he did not deny but he had ſworn againſt *Colledge*.

Mr Juſt. Jones. Nor that what he had ſaid againſt *Colledge* was true?

Mr S. Smith. No, my Lord, but he did not believe him, and he thought *Colledge* did not believe it himſelf.

Mr Serj. Jeff. It ſeems *Mr Colledge* thinks the whole Proteſtant Intereſt concerned in him.

L. C. J. The Queſtion is, *Mr Colledge*, what you had in your mind, not what was in the mind of all the Proteſtants.

Mr S. Smith. This I do ſay, I would not ſpeak more or leſs than the truth, he did not deny but he had heard *Colledge* ſpeak thoſe Words he ſwore, but he did not believe him, and I think *Mr Smith* hath ſaid that, at another time before *Mr Gardner*.

Coll. If he knew of no Proteſtant Plot, it was very unlikely that I ſhould attempt ſuch a thing myſelf.

Mr S. Smith. My Lord, I find *Mr Smith* hath been very paſſionate and very inveterate of late againſt other men that he hath given me a very good report of before; and when I was talking of this, I was ſaying, If it be true that people ſay of you, a man goes in danger of his life to converſe with you. *Mr Smith*, ſaid he, I do not care for all the men between *Wapping* and *Charing-croſs*, there is never a man that will forbear my company, but would do or ſay as much as *Colledge* hath done or ſaid.

Mr J. Smith. 'Tis true, and I ſay ſo ſtill.

Coll. 'Tis a contradiction in itſelf, that there ſhould be ſuch a deſign, and none but myſelf to do it. God my righteous Judge knows my innocency.

Mr Juſt. Jones. You might ſay thoſe Words in hopes they would be of your party, and made ſo by your Libels and poiſonous Pictures.

L. C. J. Come, call another Witneſs.

Coll. Call *Mr Tho. Gardner*. But my Lord, how likely is it that I ſhould ſay, that I would ſeize the King, when he it ſeems ſays, he did not believe there was one man to ſtand by me?

L. C. J. What ſay you to this Gentleman?

Coll. I never ſaw him in my life.

Mr Gardner. Nor I you, Sir.

Coll. I know not three of all that come here.

L. C. J. Well, will you ask him any thing?

Coll. Pray do you know *Mr Smith*?

Mr Gardner. Yes.

Coll. What do you know of him? Can you ſay any thing concerning this matter that is ſworn againſt me of Treaſon?

Mr Gardner. My Lord, this day fortnight I think it was, *Mr S. Smith*, the Gent. that was juſt now up before me, ſent for me to the *Rummer* in *Queen-ſtreet*, to drink a Glaſs of Wine, where when I came, I found him and *Mr J. Smith* that is here, whom they call Narrative *Smith*, talking very briskly concerning one *Colledge*, I ſuppoſe that is the Gentleman, and the Jury that acquitted him, and he ſaid that two or three of the Jurymen were Raſcals and Villains; and ſays he, they talk up and down the Town, as if I did intend to ſham the Popiſh Plot, and to make a Proteſtant Plot, which ſaid he, I vow to God, and I will juſtifie it before God and all the World, that I know of no Proteſtant Plot, nor is there any Proteſtant concerned in a Plot to my knowledge, but this *Colledge*, and upon his Trial I believe he will be made appear to be more a Papiſt than a Proteſtant: But ſays *Mr Smith* to him, Now you are known to be a Witneſs in this Caſe, it will be a dangerous thing for a man to converſe with you.

Coll. Will it be now known that I am a Papiſt? No man could ever ſay ſo in this World.

Mr Gardner. Says he, I care not what all the World ſays of me, and I do not value all the men from *Wapping* to *Charing-croſs*, but that man that will ſhun my company will ſay and do as much to the King as *Colledge* hath done. But then I was ſaying, methinks it ſeems an improbable thing, that ſuch a man as *Colledge* ſhould ſeize upon the King, or provide 1500 Barrels of Powder, and thoſe other things Upon my word, ſaid he, with ſome paſſion, clapping his hand upon his breaſt, when *Mr Colledge* did ſay it, I did not believe a word of it, and upon my faith I believe *Colledge* himſelf did not believe it when he told me ſo.

Coll. Do you know any thing more, Sir?

Mr Gardner. No indeed *Mr Colledge*.

Coll. Call Dr. *Oates* again.

L. C. J. Well, what ſay you to him?

Coll. Pray Dr. *Oates*, *Mr Smith* charges me that I ſhould ſpeak ſome treaſonable words that time that Alderman *Wilcox* gave you a Treat at the *Crown* Tavern; you were there, and pray how long ago was it?

Dr. *Oats.* My Lord, I heard Mr. *Smith* ſpeaking of it at the *Old baily*, and if you pleaſe to take notice, it was thus, This Summer was twelve-month, or I am ſure a great while before *Chriſtmas*, the Alderman had invited me ſeveral times to give me a Treat, and I had not time, other buſineſs calling me off; but finding a time, I ſent him word I would come and ſee him. He ſaid he was a Brewer, and troubled at home with Cuſtomers, but he would give me a Dinner at the *Crown Tavern* without *Temple-bar*, that was the place fixed upon; there was Mr. *Smith* the Counſellor, who had been ſerviceable to me in ſeveral inſtances, I did get him to go along with me, and Mr. *Colledge* was with us, and I heard *Smith* ſwearing at the *Old-baily* that Mr. *Colledge* and he had diſcourſe from the *Rainbow* Coffee Houſe where we met, and went together.

Col.

Colledge. There I was invited by Alderman *Wilcox.*

Dr. *Oats.* But my Lord, I will tell my ſtory, I am not to tell Mr. *Smith*'s. *Colledge* did tell me he was invited; ſaid I, You ſhall be welcome as far as I can make you welcome. So *Colledge* and I went together from the *Rainbow* Coffee Houſe to the *Crown* Tavern: Now indeed *Colledge* was very pleaſant and merry, and as I think, the diſcourſe betwixt the *Rainbow* Coffee Houſe and the Tavern was betwixt Mr. *Colledge* and me; for Mr. *Smith* ſtayed ſomewhat behind or walked before, I cannot tell which: When we came to the *Crown* Tavern we did, to divert our ſelves till Dinner came up, enter into a Philoſophical diſcourſe with one Mr. *Savage* who was formerly a *Romiſh* Prieſt, but this *Savage* is ſince pardoned by the King, and is a Member of the Church of *England*, and hath been Profeſſor of Divinity and Philoſophy beyond Sea. This as I remember was the Diſcourſe before we dined till we went to Dinner, it was concerning the Exiſtence of God, whether that could be proved by natural demonſtration, and whether or no the Soul was immortal. My Lord, after Dinner *Smith* went away, I did not hear the leaſt Diſcourſe of any ſuch thing as he ſpeaks of, and *Mr. Smith* and *Colledge* had no diſcourſe in my hearing from the Coffee Houſe to the Tavern; and when we were in the Tavern we did diſcourſe about thoſe two Points. Counſellor *Smith*, my Lord, will juſtify a great deal of this, and my Brother too, who was with us. But when I heard *Mr. Smith* ſwear as he did about this matter at the *Old-baily*, I did really, my Lord, in my Conſcience, look upon him to be forſworn in that particular.

Mr. Serj. Jeff. And he does ſwear you are out in this.

L. C. J. Will you ask him any more Queſtions?

Dr. *Oats.* If your Lordſhip pleaſe he ſpeaks of *Mr. Wilcox* to be a Man that contributes mony to buy Arms, Powder and Shot, I think Sir *George Jefferies* knows Alderman *Wilcox* is a man of another Employment.

Mr. Serj. Jeff. Sir *George Jefferies* does not intend to be an Evidence I aſſure you.

L. C. J. Do you ask him any more Queſtions?

Dr. *Oats.* I do not deſire Sir *George Jefferies* to be an Evidence for me, I had Credit in Parliaments, and Sir *George* had diſgrace in one of them.

Mr. Serj. Jeff. Your Servant Doctor, you are a witty man, and a Philoſopher.

Coll. Call *Mr. Tho. Smith.*

L. C. J. What would you ask of him now?

Coll. Counſellor *Smith*, here is *John Smith*, or Narrative *Smith*, which you pleaſe to call him, hath charged me with ſpeaking Treaſon at our going to Dinner at *Mr. Willcox*'s; I remember you were there, and I think you and I and Dr. *Oats* and his Brother and *Mr. Goodwin Wharton* went together; I did tell *Mr. Smith* of it, but I did not ſtir a ſtep out of the Coffee Houſe with him, but went away before him. How long ago is it ſince we had that Dinner?

Mr. T. Smith. My Lord, if your Lordſhip pleaſe, I do very well remember Mr. Alderman *Wilcox*, ſo they called him, did deſire to give Dr. *Oats* a Treat, with ſome other of his Friends at the *Crown* Tavern without *Temple-bar*; but really my Lord, as to the certain time I do not remember it, but to my beſt remembrance, my Lord, it was before *Chriſtmas* laſt, and ſome time before *Chriſtmas* laſt. And, my Lord, I was there all the time; *Mr. Smith* was at that time ſomewhat a Stranger to me, ſomething I had heard of his Name, and I did ſtay there all the while; I remember Mr. Alderman *Wilcox* was to go out of Town that day; and truly as to any matter of Treaſon, or treaſonable Words, or any thing tending towards it, I am confident nothing was, or could be ſpoken, and the Room was a very ſmall Room, and our Company did fill it up, and the Table was ſo big, that there was little more than for the Servitors to go about, ſo that any man might eaſily hear from the one end of the Room to the other. I remember there was ſome Diſcourſe betwixt Dr *Oats*, and *Mr. Savage*, who I think hath been a Jeſuit, and it was about ſome points of Philoſophy and Divinity; but for Treaſon, I do not remember the leaſt of it, and I am confident *Colledge* ſaid not any thing at that time, and my reaſon is this, I very well remember *Mr. Colledge* did ſet himſelf down upon one ſide of the Table, and fell aſleep, and unleſs he talked Treaſon in his ſleep, there could not be any ſuch thing ſaid, and if it had been ſaid, it would have been heard.

Mr. Att. Gen. Mr. Smith, did you never hear *Mr. Colledge* ſpeak any ill Words of the King?

Mr. T. Smith. Never in my Life. And if I were now to take the Sacrament upon it, I could ſay ſo.

Mr. Serj. Jeff. You uſed to converſe with him, *Mr. Smith*, did he never ſay any thing like it to you?

Mr. T. Smith. Good *Mr. Serjeant*, you know I can take the Sacrament; pray, let us have no Reflections.

Mr. Serj. Jeff. Who did reflect upon you? I did not reflect upon you.

Mr. J. Jones. Mr. Smith, did he never deliver you any of thoſe Pictures?

Mr. T. Smith. No, Sir, he never did.

Coll. Good Sir *George*, don't reflect upon my Evidence. It ſeems *Mr. Smith* is miſtaken in the time, for he ſays, it was at *Chriſtmas*, but *Mr. Smith* ſays, it was ſome time before.

L. C. J. Mr. Smith does not ſay ſo, the certain time he cannot tell exactly; but your Witneſſes ſay, it was then.

Mr. T. Smith. I do ſpeak as much as if I were upon my Oath; and I do know what an Oath is, I thank God, and what it is to ſpeak before a Court of Judicature, and I know, and do ſpeak truth as much as if I were upon my Oath; and I do ſay I did not hear *Colledge*, or any one elſe that was in that Company, at that time ſpeak any thing reflecting upon the King and Government, or any thing tending towards it.

Mr. J. Jones. Can you remember a matter ſo diſtinctly, which Dr. *Oates* ſays was a year and half ago?

L. C. J. No, this Summer was twelve month.

Mr. J. Jones. And can you tell ſo long ago, not only your own Actions, but teſtifie to all other mens Actions too that were in the Room?

Mr. T. Smith. I cannot tell what Dr. *Oats*'s memory is as to the time, but I remember the place, the occaſion, and the Perſons that were there.

Mr. J. Jones. And you take upon you to have ſuch a perfect memory, as to the Actions of all the perſons that were in the Room?

Mr. T. Smith. I do not ſpeak of all that was done; but I ſay, I remember no ſuch thing that was ſaid, and I believe no ſuch thing was ſaid, and I have given you my reaſons why. But my

Lord, that which I ſay further for *Mr. Colledge*, is this; I do hear ſomething pretended, as if he provided Arms to go to *Oxford*. I have known him this three years, or thereabours; and my Lord, I do know that he did uſually ride with a Caſe of Piſtols before him. And before that time I had occaſion to borrow his Horſe of him, at the Election for *Weſtminſter* the laſt Parliament that ſat there, and I had it then with a Caſe of Piſtols. I likewiſe borrowed it at *Michaelmas* laſt, the ſame Horſe, and the ſame Piſtols they were, I did at the ſame time ſee a Suit of ſilk Armour, which he told me he did provide againſt the Papiſts, for he ſaid, he did expect we ſhould have a bruſh with them. Said I, do not trouble your ſelf for that, they dare not meddle; ſaid he, this will do no harm. And as I remember, it was a Suit of Armour made of Silk to wear under a Coat.

Coll. It was ſilk Armour only for the thruſt of a Sword. And I aſſure you my Lord, I had but one Suit, but one Caſe of Piſtols, and but one Horſe, I had two before, but they did not then make a Traitor of me, that was all that ever I had, but if I had had ten Horſes, and never ſo many Armours, I declare it upon my Salvation, I intended it for nothing but againſt the Papiſts, if they ſhould make a diſturbance, and whatever I did was with that deſign, and truly by the Grace of God, I would not have been the laſt man then, but I ſee whatever I provided my ſelf with for that, they have turned it all another way, that it might be believed the Proteſtants were againſt the King and the eſtabliſhed Government.

L. C. J. Thoſe Obſervations may be proper for you at laſt, Go on now with your Evidence.

Coll. My Lord, I am not a man of that great memory, I may forget it, and therefore I ſpeak it now whilſt I think of it.

L. C. J. Set it down in your Paper.

Coll. Smith ſays I talked with him coming from *Richard*'s Coffee Houſe till we came to the Tavern, I do declare it, I went away before him, and went away with Dr. *Oates*.

L. C. J. Ask *Mr. Smith* that Queſtion if you will.

Coll. Pray Sir, do you know who went together thither?

Mr. T. Smith. I dare not undertake to ſay that, I cannot tell whether he went from the *Rainbow* Coffee-Houſe with us, or no.

Coll. He ſays after we had dined we divided our ſelves into Cabals, two and two together, I do declare it is that which is the real truth, I fell aſleep behind the Table, if any body was divided it is more than I know, but *Mr. Smith* you can tell, becauſe he ſays I ſpoke Treaſon to him when I was in the Room, he and I in one Cabal.

Mr. *Tho. Smith.* My Lord, I remember nothing of that, nor do believe it, for I told you the Room was ſo little that we could not divide our ſelves: And it is impoſſible in ſuch a little Compaſs where we was ſo many as we were, fourteen or fifteen of us; it may be one might talk to another that was next to him, but then the Company muſt hear, and whether they did ſo or no, I cannot tell, I do not remember *Mr. Smith*'s ſaying any thing to any particular Perſon, but the great ingagement was between Dr. *Oates* and *Mr. Savage*, and about ſome Queſtions in Divinity, and that is the great matter I took notice of.

Coll. However, my Lord, I declare it, that was above a twelve month ago, and I hope your Lordſhip and the Jury does obſerve that there was no new Arms were found, but what were provided a great while ago; All that know me, know I was never without a Caſe of Piſtols and an Horſe, tho' I was but a Joyner, and there is no more that you ſee now. And as to what *Smith* ſaid about going into Cabals, that you hear *Mr. Smith* denies.

L. C. J. Will you call any other Witneſſes?

Coll. Yes, if it pleaſe your Lordſhip. Do you know no more Sir?

Mr. *Tho. Smith.* I know no other thing, if I did I would declare it.

Coll. Call Dr. *Oates*'s Brother, *Mr. Samuel Oates*. My Lord, thus you ſee *Smith*'s Teſtimony is falſe.

L. C. J. I do not ſee this contradicts his Oath, for he ſpeaks of ſeveral times that he did ſpeak with you, one was at *Wilcox*'s, which is this they ſpeak of.

Coll. Mr. *Smith* ſays there was only that great Diſcourſe going on in the Room, and there was no ſuch things as Cabals which he ſpeaks of.

L. C. J. What do you ſay as to this Witneſs?

Coll. Do you know Narrative *Smith*?

Mr. *Oates.* Yes Sir.

Coll. What do you know of him; Were you at the Dinner which Mr. *Wilcox* gave your Brother?

Mr. *Oates.* Yes, yes, I was at that Dinner.

Coll. Were you at the Coffee Houſe when I went along with your Brother?

Mr. *Oates.* Yes, we went with you.

Coll. Did *Mr. Smith* go with us?

Mr. *Oates.* Yes, *Mr. Smith* followed us.

Coll. Did you hear any treaſonable diſcourſe between us?

Mr. *Oates.* Not the leaſt of a little Word.

Coll. Did we go into Cabals two and two together there?

Mr. *Oates.* There was nothing at all of Cabals that I ſaw, from the time of going to dinner; for we came juſt as Dinner was going into the Room as I remember.

Mr. *Serj. Jeff.* What do you mean by Cabals?

Mr. *Oates.* That is as I diſcern by Mr. *Colledge*, as if there had been Cabals amongſt the Company.

Mr. *J. Jones.* That is going by couples.

Mr. *Oates.* Yes, yes.

Mr. *Serj. Jeff.* What did they talk of?

Mr. *Oates.* There was nothing at all ſpoken of.

Mr. *Serj. Jeff.* What did they ſay nothing all the while?

Mr. *Oates.* Nothing but matter of common diſcourſe, matters of eating and drinking, and talking of Country Affairs, there were ſeveral that had Lands in the Country, and they were talking of thoſe things.

Mr. *J. Jones.* Were you there all the while?

Mr. *Oates.* Yes.

Mr. *Serj. Jeff.* Hark you Sir, Were there no Diſputations in Divinity?

Mr. *Oates.* Not at all.

Mr. *Serj. Jeff.* Nor of Philoſophy?

Mr. *Oates.* No.

Mr. *Serj. Jeff.* Why pray Sir did not Dr. *Oates* and Mr. *Savage* talk very pleaſantly of two great Queſtions in Divinity, the Being of God, and the Immortality of the Soul?

Mr. *Oates.* There was not a Word of that, but only common diſcourſe.

Mr. *Serj. Jeff.* Are you ſure there was no ſuch thing?

Mr.

Mr. *Oates*. Not that I know of in the leaſt, I ſat at Table with them.

Mr. *Serj. Jeff.* Was it ſuch a little Room that you could hear all was ſaid?

Mr. *Oates*. There was Room enough.

L. C. J. People cannot give a perfect account of all things that have paſſed ſo long ago.

Coll. I did not hear that diſcourſe my ſelf, becauſe I was aſleep behind the Table; and perhaps Mr. *Oates* cannot remember it.

Mr. *Soll. Gen.* Was it before dinner, or after dinner that *Colledge* fell aſleep behind the Table?

Mr. *Oates*. He was not aſleep to my remembrance all the while.

Mr. *Serj. Jeff.* Recollect your ſelf, pray, was Mr. *Colledge* aſleep there?

Mr. *Oates*. I do not remember he was.

L. C. J. 'Tis impoſſible to give an account, and therefore Witneſſes in Negatives are of little value.

Coll. Did Mr. *Smith* and you and I go together?

Mr. *Oates*. Mr. *Smith* followed us.

L. C. J. How do you know that?

Mr. *Oates*. For you and I, and my Brother went together; you were a ſaying when we came out of the Coffee-Houſe, in a jocoſe way, Come Doctor, I will go along with you, and be one of your Guard. You ſpoke it in a jeſting way. So you may if you pleaſe, ſaid my Brother. And ſo he went by my Brother's ſide, and I went by Mr. *Colledge*'s ſide.

Coll. Do you remember how long ago that was?

Mr. *Oates*. It was the laſt Summer, but to ſay exactly what month I cannot.

Mr. *Soll. Gen.* Mr. *Oates*, anſwer me this Queſtion, pray Sir. Mr. *Oates*. Yes, Sir.

Mr. *Soll. Gen.* From what place did you go?

Mr. *Oates*. From *Richard*'s Coffee-Houſe.

Mr. *Soll. Gen.* Who went along with *Colledge*?

Mr. *Oates*. He came along with my Brother and me; for he ſaid to my Brother, I will be one of your Guard.

Mr. *Soll. Gen.* Who went along with Mr. *Smith*?

Mr. *Oates*. I don't know, I took very little notice of things

Mr. *Serj. Jeff.* 'Tis ſufficient that he can tell who went with *Colledge*.

Mr. *Oates*. I remember one thing: *Mr. Smith* would fain have perſwaded me into ſomething that my Brother ſhould talk, but I heard nothing; ſaid I, do not examine me upon ſuch things, for I took little notice of any thing; but this I can ſay, whereas he does charge Mr. *Wilcox*, the Gentleman did not ſpeak five Words all the time he was there.

Mr. *Serj. Jeff.* He does not uſe to be ſo melancholy, I aſſure you.

Mr. *Oates*. I did wonder at it my ſelf, but he was not long with us, for I do not think he was there a quarter of the time; it ſeems he had a Son ſick in the Country, and he was going thither.

Coll. Have you any thing againſt *Macnamarra*?

L. C. J. He is no Witneſs here.

Coll. Do you know any thing againſt Mr. *Dugdale*? Mr. *Oates*. No, not I.

Coll. Then I can ſay no more to you.

L. C. J. Call another Witneſs.

Coll. Call *Bolron*.

L. C. J. What do you ask him?

Coll. Do you know *John Smith*? Mr. *Bol.* Yes.

Coll. What ſay you againſt him?

Mr. *Bolron*. May it pleaſe your Lordſhip, the laſt 25th of *July*, Mr. *Smith*, and Mr. *Mowbray*, were travelling from *York* towards *London*. We lay the 24th at and the 25th we were travelling towards *London*: Mr. *Smith* did ask me if I did remember what diſcourſe there was betwixt Sir *John Brooks* and I at *Ferry-bridge* when we were coming up before to *London*? I deſired him to tell me what diſcourſe, and I would tell him if I did remember it or no So my Lord he did ſay, the diſcourſe was, that Sir *John Brooks* did ſay, there would be cutting of Throats at *Oxford*, and that the Parliament did go provided, ſome with 8, ſome with 6, ſome with 4 men, and they were to meet at *Grantham*, and go together. This diſcourſe I did remember, That Sir *John Brooks* ſaid they went with Horſe and Arms to ſecure them from Highway-men; and Sir *John Brooks* did then further declare, that the diſcourſe was, there would be cutting of Throats at *Oxford*, which made them go with Arms to defend themſelves. Mr. *Smith* did further upon the 25th, 26th, 27th and 28th of *July* (and it was our frequent Diſcourſe) tell me, that he had given His Majeſty an Account of it, which occaſion'd the diſſolving of the Parliament: That Diſcourſe that was made to the King, was, that Sir *John Brooks* ſhou'd ſay, that there would be cutting of Throats at *Oxford*, and that the Parliament-men went provided with 4 or 5, 6 or 10 men apiece; and he did tell me, he had given a further Account, that there was to be a Conſult at *Grantham*, wherein it was reſolved, that it was better to ſeize the King, than to let him go on. Now, this I knew nothing of but he would have perſwaded me to have given in this Evidence againſt Sir *John Brooks*, as to this Diſcourſe. But I declare, I did never hear it, and Mr. *Smith* was the firſt man that ever I heard it from, I never heard it before in my Life.

Colledge. Would he have had you been an Evidence, and ſwore it?

Mr. *Bolron*. Yes, he ſaid he had given an Account of it to the King, and if I did manage it rightly againſt my Lord *Shaftsbury* and *Colledge*, he would make me for ever; thoſe two Perſons were mentioned all along. But I do declare it, I did never hear them ſpeak Treaſon againſt the King in my Life. And he did further tell me, that I muſt ſay ſo and ſo; for if we did not agree, it would ſignifie nothing. But my Lord, I know nothing of the matter, I never heard any one ſpeak of it but Mr. *Smith*. My Lord, this is true, Mr. *Mowbray* was the man that was by when it was diſcourſed.

Mr. *J. Jones*. He would have had you ſworn it, would he?

Mr. *Bolron*. I diſcovered it to my Lord Mayor.

Mr. *Att. Gen.* When did you diſcover it?

Mr. *Bolron*. Soon after I came to Town.

Mr. *Att. Gen.* When was it?

Mr. *Bolron*. Some time laſt Week.

Mr. *Att. Gen.* Was it on *Saturday* laſt?

Mr. *Bolron*. It was the beginning of the Week.

Mr. *Serj. Jeff.* Thou art ſuch a Diſcoverer.

Mr. *Bolron*. My Lord, 'tis very true what I ſay. If I had known any ſuch thing, I would have diſcovered it. Mr. *Serj. Jeff.* Thou wouldſt have diſcovered it before that time, of my Conſcience.

Coll. My Lord, he hath been an Evidence againſt the Papiſts as well as Mr. *Smith*, and therefore pray Sir *George* don't make your Flouriſhes upon him.

Mr. *Serj. Jeff.* He was an Evidence, but had the misfortune never to be believed.

Mr. *Att. Gen.* Do you know of any Pictures of Mr. *Colledge*'s making? Have you ſeen *Rary Shew*?

Mr. *Bolron*. Never in my Life.

Mr. *Att. Gen.* Did not you ſhew it in *Oxford*?

Mr. *Bolron*. No, never in my Life.

Mr. *Serj Holl.* Did you never declare to any Gentleman of *Oxford*, that *Colledge* made this Picture?

Mr. *Bolron.* I have ſeen the Character of a Popiſh Succeſſor, but I never ſaw *Rary Shew*.

Mr. *Serj. Holloway.* Here is the very Gentleman that will make Oath of it.

Mr. *Bolron.* He was ſuppoſed to make them, I did not know that he did.

Mr. *Serj. Jeff.* I do only deſire one thing, I do not ſay, that you ever had *Rary Shew*, but did you ever tell any body that *Colledge* made any of theſe Pictures?

Mr. *Bolron.* I have heard of ſuch a Paper, but I did never ſee it in my Life.

Mr. *Serj. Jeff.* Do you know that Gentleman, Mr. *Bolron?* Mr. *Bol.* I know him not.

Mr. *Serj. Jeff.* I would ask you, whether you ever had any Diſcourſe with that Gentleman?

Mr. *Bolron.* Never in my Life.

Then the Gentleman was ſworn, being a Maſter of Arts.

Mr. Serj. Jeff. What is the Gentleman's Name?

Mr. Serj. Holl. Mr. Charlett, of *Trinity* Colledge.

Mr. Serj. Jeff. Pray Sir, do you know that Perſon there?

Mr. Charlett. My Lord, in the new Coffee-Houſe that was by the Schools, that was ſet up in the Parliament-time, there was a Gentleman that is in the Court (I think) one *Mr. Daſhwood*, and one *Mr. Box*, were there together to drink a Diſh of Coffee, and hearing that ſome of the Evidence were there, we deſired their Company up, and that Gentleman was one; and among other diſcourſe, they were ſpeaking of ſome Pictures, and they ſhewed us the Picture of the *Tantivies*.

Mr. Serj. Jeff. Did this man ſhew it you.

Mr. Charlett. This very man. It was the Pictures of the *Tantivies* and the *Towzer*, and he told me they were made by *Colledge*, he was a very ingenious man.

Mr. Bolron. I know nothing of it, the Character of a Popiſh Succeſſor I have ſeen, but never the other, I never ſhewed him any ſuch thing.

Then the Pictures were ſhewn him.

Mr. Charl. It was ſomething like this, but I cannot ſay for any of the other.

Mr. Bolr. The Character of a Popiſh Succeſſor I ſay I have ſeen, and *Colledge* himſelf hath told me he made the Character of a Popiſh Succeſſor, I do not deny that I have ſeen that.

L. C. J. Would you ask him any more Queſtions?

Mr. Bolr. My Lord, I have ſomething to ſay concerning *Mr. Bryan Haynes*; in *January*, *February* and *April* laſt, ſeveral times I was in his Company, and I heard him ſay, he knew nothing of a Popiſh Plot, nor of a Presbyterian Plot neither, but if he were to be an Evidence he did not care what he ſwore, but would ſwear and ſay any thing to get mony. *Mr. J. Jones.* Did he tell you ſo?

Mr. Bolr. Yes, I did hear him ſay, To day he would be a Papiſt, to morrow a Presbyterian, he did not care for Religion, he would never dye for Religion, he would be of that Religion that had the ſtrongeſt Party. My Lord, he told me ſo at my own Houſe in *Fleet-ſtreet*.

Coll. He would ſay any thing for mony, pray my Lord take notice of that, for ſo I find he does.

Mr. Bolr. Then there is *Dennis Macnamarra*, and *John Macnamarra*.

Mr. Serj Jeff. We have nothing to ſay to them.

Coll. They have been Evidences againſt me, tho' you do not now produce them, they are all in a ſtring, but they are not now brought becauſe my Witneſſes are prepared to anſwer them.

L. C. J. Will you call your next Witneſs?

Coll Mr. Mowbray, pray Sir, do you know Narrative *Smith*, as he calls himſelf?

Mr. Mowbray, Yes, my Lord.

Coll. What do you know of it?

Mr. Mowbray. I came up from *York* with him when I returned, after I was commanded down upon the King's account to give in Evidence againſt Sir *Miles Stapleton*, he came to me the third of *Auguſt* and called at my Houſe in *Yorkſhire*, and was very importunate for me to come up to *London* with him, for he ſaid, he had a Letter come to him which commanded his Preſence at *London* very ſuddenly, and he produced that Letter which he ſaid came from a Gentleman of the Court, or ſome Court-dependent; ſo he read the Letter in Mr. *Bolron*'s hearing. We ſet forward on *Sunday*, and upon our Journy to *London* he told me he had ſomething of importance to impart to me; ſo upon the road he began to diſcourſe of the Parliament and of the illegal Proceedings and Arbitrary Power of the two laſt Parliaments, he ſaid their Proceedings were very Illegal and Arbitrary, and he began to open ſome of the Votes, as that which they voted, that thoſe that ſhould lend the King mony upon the Crown Lands, ſhould be Enemies to the King and Kingdom, and thoſe that counſelled the King to diſſolve the Parliament; and he repeated many Votes, and ſaid he, theſe are ſigns of Arbitrary Power, and certainly they deſign to take off the King; ſo he proceeded further to ask me what was the diſcourſe of Sir *John Brooks* when he came up before, and he did much importune me to ſay, that Sir *John Brooks* did affirm there would be cutting of Throats at *Oxford*, and that the King was to be ſeized there. I told him I could have no plauſible pretence, becauſe I had no acquaintance with Sir *John Brooks*, nor did I come up with him, upon which he applied himſelf to *Bolron*, and importun'd him for the ſame, he asked me who I came up with, I told him I came up with three Members of Parliament, my Lord *Fairfax*, Sir *John Hewly*, and Mr. *Stern*; he asked me what Diſcourſe we had upon the Road? And he asked, whether they had any Diſcourſe that tended to juſtifie their former Votes? For he ſaid, if they did think to juſtifie any of thoſe Votes, or if they would not allow the King mony, and ſtood upon the Bill of Excluſion, he ſaid, that was pretence enough for any man to ſwear that there was a Deſign againſt the King, and that the King was to be ſeized at *Oxford*.

Coll. An excellent pretence indeed, and like the reſt.

Mr. *Mow.* He would have tempted me to ſwear againſt my Lord of *Shaftsbury* the ſame. And he ſaid, it would be well if I did appear on *Colledge*'s Trial at *Oxon*, for it was a thing of great Conſequence; the Popiſh Plot was thrown out of doors, and no man was look'd upon that did ſpeak of it.

Mr. *J. Jones.* Was all this in the preſence of *Mr. Bolron?*

Mr. *Mowb.* No my Lord. When he was diſcourſing about Sir *John Brooks*, *Mr. Bolron* rid up to us, and he applied himſelf to him, becauſe I told him I had no plauſible pretence to ſwear againſt him, having no acquaintance with him.

Mr. *Serj. Jeff.* Pray Sir, let me ask you one Queſtion, When came you from *York?*

Mr. *Mowb.* We ſet forward the 3d day of *Auguſt* from *Wentbridge*.

Mr. *Serj. Jeff.* Pray who came with you in the Company? Mr. *Mowb. Mr. Bolron.*

Mr. *Serj. Jeff.* That was a Sunday as I take it.

Mr. *Mowb.* Yes.

Mr. *Serj. Jeff.* Then pray how long did you continue before you came to *London?*

Mr.

Mr. *Mowb.* I think we came in on the Thurſday after. Mr. *Serj. Jeff.* When was the firſt time *Mr. Smith* came into your Company?

Mr. *Mowb.* Upon the Road on Sunday.

Mr. *Serj. Jeff.* Was that the firſt time?

Mr. *Mowb.* Yes. He had been at *York*, and went further, and afterwards came to us.

Mr. *Serj. Jeff.* When did you come from *York?*

Mr. *Mowb.* About the Thurſday before, if I be not miſtaken.

Mr. *Serj. Jeff.* Was it in a Week before?

Mr. *Mowb.* Yes, within a Week it was.

Mr. *Serj. Jeff.* And you and *Mr. Bolron* came together? Mr. *Mowb.* Yes.

Mr. *Serj. Jeff.* And you left *Mr. Smith* behind?

Mr. *Mowb.* Yes.

Mr. Serj. Jeff. And he overtook you upon the Road?

Mr. *Mowb.* Yes, he was to go further into the North as ſoon as the Trial of Sir *Miles Stapleton* was over, and therefore he did very much importune me to ſtay in the Country till he came to go up with me.

Mr. *Serj. Jeff.* What day was the Trial of Sir *Miles Stapleton?* Mr. *Mowb.* On the Monday before.

Mr. *Serj. Jeff.* You are ſure of that, and that *Mr. Smith* went further into the North.

Mr. *Mowb.* I ſee him take Horſe.

Mr. Serj. *Jeff.* But he did not come into the Company of you and *Mr. Bolron* till the Sunday after that.

Mr. *Mowb.* See ye, Sir, He did deſire me to ſtay in the Country till he came, for he had a buſineſs of great Concernment to impart to me, but it would be a Week or a Fortnight e'er he came, but yet he came in a ſhorter time, for he ſaid, he had receiv'd a Letter that brought him up.

Mr. S. *Jeff.* You are ſure of this? Mr. *Mow.* Yes.

Mr. Serj. *Jeff.* And you did not ſee him from the Monday before, till that Sunday?

Mr. *Mowb.* No, no.

Mr. Serj. *Jeff.* Now then, I ask you, where was that place he met with you?

Mr. *Mow.* At *Wentbridge.*

Mr. Serj. *Jeff.* And then you came from thence towards *London* the next day. Mr. *Mowb.* Yes.

Mr. Serj. *Jeff.* Now would I deſire to know of you, for I perceive he did attack you to ſay ſomething againſt Sir *John Brooks*, and finding that you could not do it, becauſe you had no Acquaintance, he applied himſelf to *Bolron.* I would know, was it between that place and *London?*

Mr. *Mowb.* Yes, it was.

Mr. Serj. *Jeff.* And after the 3d of *Auguſt?*

Mr. *Mowb.* Yes, it was after we ſet out.

Mr. Serj. *Jeff.* I thought it had been the 24th of *July* that you ſet out, and continued your Journy the 25th, 26th, 27th, 28th and 29th. Alas, we have loſt a great deal of time between *Mr. Bolron* and *Mr. Mowbray. Bolron* ſaid, it was the 25th they lay at ſuch a place, and you are gotten to the 3d of *Auguſt;* you are miſtaken certainly, as to point of time.

Mr. *Mowb.* See Sir, I will look in my Almanack, 'tis all ſet down there.

Mr. Serj. *Jeff.* Let us ſee now if your *Oxford* Journy be as well ſet down, as your Journy to *London* is?

Mr. *Mowb.* Here is my Almanack, Sir.

Mr. *Jones.* Here, look upon his Almanack.

Mr. Serj. *Jeff.* *Mr. Jones,* I don't care for his Almanack, I had rather *Mr. Mowbray* and *Mr. Bolron* could bring their Almanacks together, and I would have them compared to ſee whether the 3d of *Auguſt* in one be the 25th of *July* in the other. Did you diſcourſe with him upon the Road the 3d of *Auguſt,* and not before, and *Bolron* that came up with you, diſcourſe with him the 25th of *July?*

Mr. *Mowb.* I am miſtaken, I find.

Mr. Serj. *Jeff.* Ay, that you are, one of you moſt groſly.

Mr. *Mowb.* See, Sir, here is my Almanack, whereby I find that it is my miſtake; but pray ſee, Sir, here it is ſet down, the day we came out was the 24th, the day we came up to *London* was the 27th.

Mr. Serj. *Jeff.* How didſt thou ſet out the 3d of *Auguſt* from that place, and yet come to *London* the 27th of *July?*

Mr. *Mowb.* I will refer myſelf to *Mr. Smith,* as to the time we came up, and here is my Almanack.

Mr. S. *Jeff.* I will believe thy Almanack to ſpeak truth, tho' it have never ſo many Errors about the Changes of the Weather, ſooner than I will believe thee. *Coll.* I perceive the man is miſtaken in the month and the times; but pray my Lord will you pleaſe to ſee, for Juſtice ſake, if the Almanack be new writ. *L. C. J.* Look you, here is the matter, *Mr Colledge,* he was asked again and again, what day it was, and he was poſitive to the 3d of *Auguſt.*

Coll. He was miſtaken, but his Almanack is right.

L. C. J. He ſpeaks raſhly, that is the beſt can be ſaid. Mr. *Mowb.* It was a miſtake of mine, Sir *George,* but my Almanack is right.

Mr Serj. *Jeff.* Nay, *Mr. Mowbray,* don't enter into Dialogues with me, I only make a little Obſervation upon your Almanack.

Mr. *Mow.* It was only my miſtake.

L. C. J. You are a raſh man to affirm ſo; if you had an Almanack, you ſhould have conſulted it, or referred to it.

Mr. Serj. Jeff. Nay, we have loſt a day even by your Almanack; for yours ſays it was the 27th you came to Town, *Bolron* the 28th.

Mr. *Mowb.* I refer myſelf to Mr. *Smith,* he can't deny but he came up with us at that time.

Mr Serj. Jeff. You were examined at Sir *Miles Stapleton's* Trial, was you not, Mr. *Mowbray?*

Mr. *Mow.* I was an Evidence there.

Mr Serj. Jeff. Did the Jury believe you?

Mr. *Mow.* They did acquit Sir *Miles Stapleton.*

Coll. That is nothing to the purpoſe, ſo was Mr *Smith* too. *L. C. J.* Would you ask any thing further? *Coll.* Call Mrs. *Mary Bolron.*

L. C. J. If you have any more Witneſſes, pray call them. *Mr J. Jones.* Mr. *Mowbray,* was Mr *Bolron's* Wife by when this Diſcourſe was?

Mr. *Mow.* No, ſhe was in Town, ſhe did not go down with him at all.

L. C. J. Are you Mr. *Bolron's* Wife?

Mrs. *Bolron.* Yes.

L. C. J. Well, what do you ask her?

Coll. Mrs. *Bolron,* pray do you know Mr. *John Smith?* Mrs. *Bolron.* Yes, I do know him.

Coll. What can you ſay of him?

Mrs. *Bol.* He ſent ſeveral times for my husband and Mr. *Mowbray* to my houſe, ſomething he would have them be concerned in, ſome buſineſs he had in hand. *L. C. J.* When was that?

Mrs. *Bol.* Within this three weeks, ſince he came up from *York* Aſſizes.

Coll. You may ſee there was an underſtanding between them then.

Mr J. Jones. Did they go accordingly?

Mrs. *Bol.* Now and then they have gone to him, but they knew his buſineſs, becauſe they had diſcourſe with him, as they ſaid, upon the Road, and they would not go.

L. C. J. Would you ask her any thing elſe? What do you know more?

Mrs. *Bol.* Nothing, for I am not one that ſtirs much abroad. *Coll.* Call Mr. *Everard.*

L. C. J. What do you ask him?

Coll. As for Mr. *Everard,* I need not ask him whether he knows him, for they know one another well enough. But Mr. *Everard,* that I would ask you is this, What do you know of Mr. *Smith,* and of this contrivance againſt me? *Mr.*

Mr Ever. *Mr Smith* I have been to see of late, and he told me he knew of no Presbyterian or Protestant Plot, and when my Lord *Howard* was tried, that is, the Bill brought against him, he said, he wonder'd how my Lord *Howard* could be guilty, and that both himself and I were join'd as Evidence to that Jury, only to put a gloss upon the Evidence, for says he, I have nothing material to say.

Coll. Mr. *Everard*, do you know any thing more concerning him, what he hath said at other times concerning me?

Mr. *Ever.* I have told you already, what I have heard him say, that he thought there was no Protestant or Presbyterian Plot, and that now of late within this little while.

Coll. Pray Sir, was there not some discourse betwixt Justice *Warcup* and you in *Lincolns Inn* Walks?

Mr. *Ever.* Is Justice *Warcup* an Evidence here?

L.C.J. No, no.

Coll 'Tis all but Evidence of a Prebyterian Plot, therefore pray Sir, what was the discourse between Justice *Warcup* and you? What would he have had you done? *L.C.J.* I think it is not material, there is nothing of Mr. *Warcup* in this Trial.

Mr. *Ever.* If the Court does allow of it, I will freely tell it.

Coll My Lord, the Papists design is to make a Protestant Plot to turn off their own, and they begin with me, but if I should go, they would not be satisfied with me, they would be as others.

L.C.J. There is nothing concerning a Presbyterian or Protestant Plot in the Case.

Coll. My Lord, if there be no Presbyterian Protestant Plot, and others to join in it, how could I do it by myself? 'tis impossible I should have such a design of seizing the King, and improbable I should speak it. Now my Lord, this man was solicited to come in for an Evidence of such a Plot.

Mr Everard. That is true.

L.C.J. I tell you it is not material, *Mr Warcup* is not concerned in your Trial.

Mr Ever. Justice *Warcup* would have perswaded me to have sworn against some Lords a Presbyterian Plot, but I deny that I know any such thing of them. *Coll.* The Papists aim is not at me only, but at others.

Mr Serj. Jeff. We have nothing to do with what you and Justice *Warcup* talk'd of. For Example sake my Lord, let us have no discourses that concern third persons brought in here.

L.C.J. Would he have perswaded you to say any thing that was not true?

Mr Ever. He did not say positively those words, but this he said, I knew several Lords——

Mr J. Jones. Now here is Mr Justice *Warcup*'s fame traduced behind his back, in the face of the Country, and it is nothing to this Cause before us.

Coll. My Lord, I desire to know what he knows of these things, and that he may speak it out; 'tis a material thing for me and others: Here is a design of the Papists to turn a Plot upon the Protestants; they begin with me, and if they have my blood, who may feel the effects of it next I cannot tell.

L.C.J. Truly I think it not material to your Case, and indeed 'tis of ill consequence to have any man traduced behind his back, as Mr *Warcup* is.

Coll. My Lord, *Macnamarra* told me, that that man would have seduced him to have retracted his Evidence; upon my Salvation 'tis true.

L.C.J. We meddle not with *Macnamarra* neither, he is no Evidence against you.

Coll. *Macnamarra* hath sworn against me at the *Old Baily*, and at the finding of this Bill, but they have laid him by upon some trick or other; I desire Mr *Everard* may tell what he knows.

Mr Ever. I would not reflect upon any person, nor will I answer it, if the Court do not think fit.

Coll. My Lord, this is foul play, if I die myself for my Country's sake, I can do it freely, and the Will of God be done, I would have the truth out for the sake of the Protestants.

Mr Ever. I am very willing to tell the truth, if the Court think fit.

L.C.J. I see not that he says Mr *Warcup* would have had him swear that which was not true.

Mr Ever. But this he said, if the Court will allow me to speak it, Justice *Warcup* said, that certainly there was a Presbyterian Plot, and such things; and that some Lords, some of the Protestant protesting Lords must be guilty of it; and said he, certainly you know much of it, you know such and such things, therefore you may safely swear it, if I knew it; so by argument he would prove first there was a Plot and Combination amongst those Lords, and then said he, this you may safely swear.

Mr J. Jones. What is this to your purpose, *Mr Colledge*? only *Mr Warcup*'s name is brought upon the Stage when he is not here to vindicate himself.

L.C.J. Would you ask him any thing else?

Coll. If he does know any thing more of any of them, I desire he would speak it.

Mr Ever. Concerning *Mr Haynes*, he told me it was necessity that drove him to speak any thing against the Protestants, and the hard P. and the gratitude he did receive from the Citizens.

L.C.J. Where did he tell you this?

Then Mr. Jones *acquainted the Court, that Mr.* Warcup *was just come in, and desired to vindicate himself. But the King's other Council waved it, saying, there was no weight in it.*

Mr Ever. In the fields near *Grays-Inn.*

L.C.J. How long since?

Mr Ever. About three weeks ago. I ask'd him, *Mr Haynes*, said I, I would not draw you from your Testimony in any thing; but how can this be congruous to what you have said formerly, that you knew nothing by them? The truth is, said he, I will not say much to excuse myself, but my Wife was reduced to that necessity, that she begg'd at *Rouse*'s door, and craved some Salary, and Mr *Rouse* would not give her any; and, said he, meer necessity drove me to it.

Coll. He found better Pay in another place.

Mr Ever. And, says he, 'tis Self-preservation in the next place; for I was brought in guilty when I was taken up, and therefore I was obliged to do some things to save my Life.

Coll. Pray, my Lord, and Gentlemen, observe what this Gentleman says, *Haynes* takes this course to destroy innocent persons for his own preservation.

Mr Ever. Besides, he told me there is a Judgment impending upon the Nation, said he, either upon the King, or upon the People, I know not which; but these *Irish-mens* swearing against them, is justly fallen upon them for their Injustice against the *Irish* in outing them of their Estates.

Coll. So he did it then by way of revenge; for his Countrymen, I have nothing of their Estates, I am sure; therefore they had no cause to swear against me. But, Mr *Everard*, have you any more to say concerning any of them?

Mr Ever. No more concerning those persons that have sworn against you; I can say no more.

Coll. As to *Dugdale* or *Turbervile*?

Mr Everard. No indeed.

Coll. As to this Presbyterian Plot, Sir?

Mr Ever. If the Court does allow concerning other persons; but I would not intrude any thing but what the Court shall think fit.

Coll. I know not but they may come in against me; therefore pray tell what you know. Mr *Everard*, do you know any thing more? Pray let me know what you know.

Mr Ever. Nothing of any perſon that hath appeared againſt you as yet, but what I have told you. *Coll.* They may do, Sir.

L. C. J. And then we may properly hear him to them, and not before.

Coll. I deſire to know who they are; pray let me know their names. *Mr Everard. Fitzgerald.*

L. C. J. He hath been no Witneſs here.

Coll. Call *Thomas Parkhurſt.*

L. C. J. What do you ask him now he is here?

Coll. What do you know concerning Mr *Dugdale?*

Mr Parkh. Sir, the latter end of the laſt *November*, when the Parliament ſat at *Weſtminſter*, ſeveral times Mr *Dugdale* having promiſed me his further Narrative to publiſh, which he printed, I met him ſeveral times; one time I met him at *Richard's* Coffee-houſe, and it was towards the evening before we went away; he told me and Mr *Symonds*, that he was to ſpeak with Dr. *Tongue*; and he told us, that this Dr. *Tongue* did lie at Mr. *Colledge's*; and he having ſpoken the day before, and ſeveral times, of the danger he was in of his being aſſaſſinated by the Papiſts, Mr. *Symonds* and I offer'd to go with him, and we took a Coach; for we did not know where Mr. *Colledge* lived: he had then a Rheum in his eyes, and was not well; ſo we accompanied him to Mr. *Colledge's* to ſpeak with Dr. *Tongue.* It was the evening when we went; and whilſt we took a Pipe of Tobacco, in our diſcourſe we were ſpeaking of the times, and of the danger of the Papiſts; ſo *Colledge* took down a ſteel Hat that hung up there, which he ſaid he had, and he ſaid he had a quilted coat of defenſive Armor, and he ſaid he had a Blunderbuſs in his houſe, and two Piſtols. But I little thought of any thing of this, neither did I know well what I was ſubpœna'd down for: But theſe Arms I ſaw in his houſe, and it was only in diſcourſe that he was provided againſt the Papiſts; ſo I put the ſteel Hat upon my head, and pull'd it off again, and ſo did Mr. *Symonds.*

Coll. Did I ſay any thing, Sir, who I had thoſe Arms againſt?

Mr Parkh. At that time there was no diſcourſe in the world, but of the danger from the Papiſts; and he ſaid he was provided for them, if they did come to make any diſturbance.

L. C. J. When was it, Sir?

Mr Park. It was about the latter end of *November.* I have the Narrative that I printed, which was the 23d or 24th, and I have no directions but that to remember the exact time. So we carried Mr. *Dugdale* home again in a Coach, and gave him a pint of Wine at his Lodgings.

L. C. J. This does not contradict Mr *Dugdale* at all.

Mr Parkh. Mr *Dugdale* does own this for a truth.

Mr Serj. Jeff. So may any body own it.

Coll. Where is Mr *Symonds?* Pray, Sir, what do you know of Mr *Dugdale?*

Mr Symonds. What about, Sir?

Coll. I have your name here, Sir, but I know not for what.

Mr Symonds. I can ſay the ſame that Mr. *Parkhurſt* did; that I ſuppoſe is the buſineſs. All I know of it is this; I was with Mr. *Parkhurſt* and Mr. *Dugdale* at *Richard's* Coffee-houſe ſome time in *November*, I think it was about the printing of Mr. *Dugdale's* further Information; and Mr. *Dugdale* was ſaying, Dr. *Tongue* had ſent for him, but ſpoke as if he was fearful of ſome danger in going alone; ſo we proffer'd to go along with him, and we took a Coach at the Coffee-houſe door, and went with him to Dr. *Tongue*, who lodged at Mr. *Colledge's.* When we came into the Room, Mr. *Parkhurſt* and I thought fit we ſhould in civility withdraw, which we did; and Mr. *Colledge* brought us down into another Room, where we ſat and took a Pipe of Tobacco, and talking about the common diſcourſe of the times, about the Papiſts, and the danger from them, there hung up in Mr. *Colledge's* Room ſome Arms; what they were, I dare not charge my memory with to ſwear particularly, but I do think there was a ſilk coat of mail, and there was a cap of ſteel, and as I take it, it was cover'd with cloth, or ſome ſuch thing, what elſe I can't well ſay; I think there was a Blunderbuſs and a Caſe of Piſtols: And all the diſcourſe that I remember then, was only this, ſpeaking of the Papiſts, and ſome fears as if there would be an Inſurrection amongſt them, ſaid he, Let the Papiſt Rogues begin when they will, I am ready to defend myſelf for one. This is all I know.

Coll. Pray Sir, how long ago was this? Dr. *Tongue* died before *Chriſtmaſs* at my houſe.

Mr. *Sym.* I cannot tell exactly when it was; but during the Seſſion of Parliament I am ſure it was, and as I take it, in *November*, the latter end.

Coll. So then, pray my Lord, ſee that theſe Arms they charge me withal, were provided before *Chriſtmaſs.*

L. C. J. But there is nothing that contradicts *Dugdale's* Teſtimony in all this.

Coll. It does ſufficiently contradict him.

L. C. J. I do not ſee that this does at all contradict what he hath ſaid; but do you obſerve what you will upon it, when you come to make your defence.

Stranger. A Gentleman below deſires you to call Mr. *Yates.*

Coll. Pray Sir, what do you know concerning *Dugdale?*

Mr. *Yates.* I know that Mr. *Dugdale* ſent for me to a Coffee-houſe to beſpeak a Piſtol for you and told me that when I had made the Piſtol, I ſhould deliver it to Mr. *Colledge*, and Mr. *Dugdale* promiſed to pay for it when I had done it. Now ſome time after I did ſome ſmall matter for Mr. *Dugdale*, clean'd his Piſtols, or ſome ſmall buſineſs, and Mr. *Dugdale* ask'd me if I would drink a pint of Wine, which I agreed to; and being at the Tavern, Mr. *Dugdale* ask'd me if Mr. *Colledge's* Piſtol were done. I told him no, it was not as yet. So I ask'd Mr. *Dugdale*, becauſe he had promiſed to give Mr *Colledge* a Piſtol, what obligation there was betwixt *Colledge* and him, that he ſhould give him a Piſtol? to which he anſwer'd, that Mr. *Colledge* had been ſerviceable to him, in lending him a pair of Piſtols to ride withal ſometimes: So he gave him a Piſtol to ſatisfy him for the wearing of his Piſtols now and then. I thought, ſaid I, Mr. *Colledge* did impoſe upon your good nature too much, not but that I believe Mr. *Colledge* is a very honeſt man, and ſtands up for the good of the King and the Government. Yes, ſaid Mr. *Dugdale*, I believe he does, and I know nothing to the contrary.

Mr Att. Gen. When was this?

Mr Yates. A little after the Parliament ſat at *Oxford*; for I never knew Mr. *Colledge* before Mr. *Dugdale* ſet me at work for him.

Coll. Mr. *Yates*, pray was there nothing in the Coffee-houſe about one that he ask'd to go with him, when he ſaid he knew nothing againſt me?

Mr. *Yates.* I heard one ſay——

Mr. Serj. Jeff. You muſt ſpeak your own knowledge, you muſt not tell a tale of a tub of what you heard one ſay. Mr. *Yates.* I heard it affirmed——

Mr Serj. Jeff. But by whom?

Mr. *Yates.* By a perſon in the Coffee-houſe.

Mr Serj. Jeff. Who was that perſon?

Mr *Yates.* By one of the Servants of the houſe.

L. C. J. That is no Evidence at all; if you know any thing of your own knowledge, ſpeak it.

Mr Serj. Jeff. Is he here?

Mr.

Mr *Yates.* No, I think not.

Mr J. Jones. How long do you think muſt we ſit here to hear other peoples ſtories?

L. C. J. If you know any thing of your own knowledge, I ſay, ſpeak it.

Mr Att. Gen. Pray let me ask you that queſtion again; When was this that he ſaid he believed he was an honeſt man?

Mr. *Yates.* It was about three weeks after the Parliament ſat at *Oxford.*

Coll. Then he does me wrong now; for if I were an honeſt man then, it cannot be true that he ſays of me. *L. C. J.* Who do you call next?

Coll. Pray, my Lord, who hath been ſworn againſt me?

L. C. J. There is *Stephen Dugdale, John Smith, Bryan Haynes, Edward Turbervile,* Sir *William Jennings,* and Mr. *Maſters.*

Coll. Call Mr. *Clayton.* My Lord, at his Houſe it was I lay in *Oxford,* and that *Dugdale* ſays I ſpake ſome of the treaſonable Words. Pray Sir, do you know what time I came to *Oxford?*

Mr. *Clayton.* I remember it very well, it was at the time the Parliament ſat at *Oxford,* about two or three days after it began.

Coll. Pray what Arms did I bring to your houſe, Sir?

Mr. *Clayton.* As to the matter of Arms, there was no other but a Sword and a pair of Piſtols, a pair of Piſtols in his Holſters, and his Sword by his ſide.

Mr Att. Gen. Was there no Silk Armor?

Mr. *Clayton.* I ſaw none, if it pleaſe you; ſuch a thing might be.

Coll. My Lord, I continued at his houſe from my coming in to my going out, and that was till after the Parliament was diſſolved; and I came after they were ſat: But hark you Mr. *Clayton,* Mr. *Dugdale* ſays, he was with me at your houſe, did you ever ſee him there?

Mr. *Clayton.* I remember I have ſeen *Dugdale* at my houſe, but never in your company.

Coll. Did you ſell any Mum?

Mr. *Clayton.* No, I never did ſell any in my life.

Coll. Becauſe he ſays we had Mum there.

Mr. *Clayton.* I never ſaw him there with you, nor changed a word with him, as I know of.

L. C. J. Was he never in the company of *Colledge* at your houſe? *Mr Clayton.* Not that I ſaw.

Mr J. Jones. You don't know all the Companies that come into your houſe.

Coll. My Lord, I am told there are ſome that came from the Town where I was born, that know me, and have known me for 24 or 25 years together, if you think that material for me to prove whether I am a Proteſtant or no.

L. C. J. If you will make that out, you may. But 'tis your Loyalty that is in queſtion. If you will produce any that can make it appear, that you uſe to honor the King in your diſcourſe, or ſo, that is ſomething.

Coll. If I am a Proteſtant, then the deſign is plain, theſe men ſwear to make a Proteſtant Plot, and turn the Plot off the Papiſts.

Mr Serj. Jeff. What Church do you frequent in *London* to hear Divine Service?

Coll. I have received the Sacrament ſeveral times, Sir *George.*

Mr Serj. Jeff. When were you laſt at the publick Church?

Coll. I hope I may be a Proteſtant if I have not gone thither; but however, I do uſe to go to Church. *L. C. J.* Well, call whom you will.

Coll. Is *Thomas Deacon* there? *Mr Deacon.* Yes.

Coll. He lives my Lord in the Pariſh where I was born. If you pleaſe *Mr Deacon* to give my Lord an account what you know of me from my Childhood?

Mr Deacon. I have known *Mr Colledge* ever ſince he was a youth, he was born in the Town where I live. *L. C. J.* Where is that?

Mr Deacon. At *Watford,* a Town in *Hertfordſhire.* There he lived till he was a man, and married a Neighbor's Daughter of mine, and lived there while he had two Children; I never knew but that he was a very honeſt man, frequented and kept to the Church of *England* all along, and paid every man his own.

Mr Att. Gen. How long is it ago ſince he left that place?

Mr Deac. I can't directly tell how long it is truly, but I think 'tis eighteen years ſince you left *Watford.* *Coll.* 'Tis fourteen years ago.

Mr J. Jones. You ſay fourteen, and they ſay eighteen. *Mr Deac.* I ſay, I can't exactly tell.

Coll. But, *Mr Deacon,* I have been in your Country lately.

Mr Deac. He uſed to come there once or twice a year generally to ſee his friends. I have heard him declare himſelf againſt the Popiſh Church always very much.

L. C. J. Did you never hear him talk againſt the Government? *Mr Deac.* No, never in my life.

Mr Serj. Jeff. Nor againſt the King?

Mr Deac. Nor againſt the King.

Mr J. Jones. Was he in your Country the laſt *Eaſter?*

Mr Deac. I think it was about *Eaſter* he was there.

Mr J. Jones. Was he at Church there then, and received the Sacrament?

Mr Deac. I know not whether he was there on the Lord's-day or no: He did quarter at another Town, at *Buſhy,* where he has a Brother-in-law.

L. C. J. Well, call another.

Coll. Mr *Whitaker.*

L. C. J. What is your Chriſtian name?

Mr *Whit. William.* *L. C. J.* What do ask of him?

Coll. Whether he knows me and my Education?

Mr *Whit.* Sir, I have known him this 26 years: I knew his Parents, I know his mother, ſhe lives now at *Watford:* I have known his behaviour to be very civil and good; a very good Church-man he was when he lived with us; and I have inquired, and find he has the ſame Reputation in the Pariſh where he laſt lived in *Black-fryers:* He was no Jeſuit nor Papiſt I dare aver; he hath flouted them and mock'd them with their wooden Gods, and the like; for he could never endure that Perſwaſion.

L. C. J. He is not queſtion'd for that, but for Treaſon.

Coll. Did you ever hear me ſpeak any thing againſt the Government?

Mr *Whit.* I never knew any ill behaviour of him in my life.

Coll. But did you ever hear me ſay any thing againſt his Majeſty or the Government?

Mr *Whit.* Never that I know of. I knew him a Soldier for his Majeſty, in which Service he got a fit of ſickneſs, which had like to have coſt him his life; he lay many months ill, to his great charge.

Mr Serj. Jeff. Where was it he was in his Majeſties Service?

Mr *Whit.* At *Chatham* buſineſs.

Coll. It was under my Lord *Rocheſter.* But my Lord, I have a Teſtimonial under the hands of ſeventy people of *Watford,* to give an account of my good behaviour.

Mr *J. Jones.* He hath been gone thence theſe eighteen Years.

Mr *Whit.* He hath come there almoſt every half Year, ſometimes three or four times in a Year, becauſe his mother lives there now, and he came to pay his reſpects to her. His Children lived and went to School with us.

L. C. J.

L. C. J. Come, who do you call elſe?

Colledge. Mr. *Neale.*

Mr. Neale. I can ſay no more than the other Men before me. *I* know the Man, he was bred and born at *Watford*, he lived there ſeveral Years, he married a Wife out of the Neighbourhood, frequented the Publick Worſhip.

L. C. J. How long ago is this?

Mr. Neale. Sixteen or ſeventeen Years ago. But then he uſed to come once or twice a Year into the Country.

Colledge. Did you ever hear me ſpeak any thing againſt the King or the Government?

Mr. Neale. No, never in my Life.

Colledge. How long is it ago ſince you were in my Company laſt?

Mr. Neale. When you were in Town laſt, I never heard you ſay any thing that was ill.

Colledge. How long ago is it ſince we were at the *White-Hart* together?

Mr. Neale. It was about Spring.

Colledge. I ſaid right, my Lord, I was there about *Eaſter*. Pray, did you ever hear me ſpeak for the King?

Mr. Neale. Truly, the Diſcourſe we had I never uſed to keep in my Mind, but I never heard him ſpeak any thing againſt the King or the Government.

L. C. J. Were you much converſant with him?

Mr. Neale. When he came down to give his Mother a Viſit, and ſee his Neighbours, we uſed always to ſee one another.

Colledge. Pray will you call Mr. *Tanner* and Mr. *Remington*.

[*Mr.* Remington *ſtood up.*]

Mr. Remington. I ſay I have known *Stephen Colledge* theſe Forty Years, and I have known that he always was an honeſt Man. He was a Soldier ſome time, but he always went to Church, was no Conventicler; and uſed to viſit his Neighbours when he came down to ſee his Mother, and was always looked upon to be a very good Man.

Mr. Serj. Jefferies. You ſay you knew him a Soldier, pray when was that?

Mr. Remington. About the time of *Harwich* buſineſs. That is all I can ſay.

[*Then Mr.* Tanner *ſtood up.*]

L. C. J. Come, what ſay you? what do you ask him, Mr. *Colledge?*

Mr. Tanner. I have known *Stephen Colledge* from a Child Forty Years, he was born at *Watford*, his Father worked with my Father, and great intimate Acquaintance we had with him, and ſaw him very often; I never knew any Fault in him, and I never heard a bad report of him in all the Town of *Watford*.

Mr. Serjeant Jefferies. Have you ſeen him at Church lately?

Mr. Tanner. No, I have not.

Mr. Att. Gen. I would fain know whether this Man hath been at Church himſelf; he looks as if he had not.

Colledge. I know not whether he hath been at the Church you mean, or no; but he may be an honeſt Man and a Proteſtant for all that.

L. C. J. Call another.

Colledge. Mr. *Peter Norreys.*

L. C. J. What do you ask him, Mr. *Colledge?* here he is.

Colledge. Do you know any thing concerning Mr. *Smith?*

Mr. Norreys. I was once in the *Hercules Pillars* where was Sir *William Waller*, *Macnamarra*, Mr. *Ivy*, and five or ſix of us together: and Mr. *Smith* was there, and we were talking concerning the Parliament approaching at *Oxon*.

Mr. Serj. Jefferies. Tell the Names of the reſt.

Mr. Norreys. Sir *William Waller*, *Macnamarra*, Mr. *Ivy*, Mr. *Lewes*, *Macnamara*'s Brother, and I, and Mr. *Smith*.

Mr. Serj. Jefferies. Well ſaid; we don't meddle with any of theſe, but Mr. *Smith*.

L. C. J. Was *John Smith* there?

Mr. Norreys, He was there.

L. C. J. Well, go on then.

Mr. Norreys. We were talking of the Parliament at *Oxon*: Says Sir *William Waller*, Moſt of the Parliament-men are afraid to go up to the Parliament. Truly, ſaid Mr. *Smith*, I hope they will be provided to go, if they do go. Says Sir *William Waller*, I ſhall be provided with the reſt of my Friends: And Mr. *Colledge* ſaid, I will go up with the reſt of the Parliament-men; I ſhall be provided too, ſays moſt of the Evidence: ſays Sir *William Waller*, Will you go along with me, and I will provide you with an Horſe? ſaid he, I have a Horſe of my own, and if it pleaſe God I will have nothing elſe to do but to go with the Parrliament, and I will not neglect it. This was all the Diſcourſe of the Company for that Night.

Colledge. Did you hear Mr. *Smith* ſay any thing againſt me?

Mr. Norreys. No, not a word at all.

Colledge. But this were a material Evidence againſt others of the Confederates, if they had been examined.

Mr. Norreys. My Lord, I was at the *Amſterdam* Coffee-Houſe the twenty third of *June* laſt, and there was Mr. *Denis Macnamara*; ſaid he, Will you go, and I will give you a Pot of Ale.

L. C. J. There is nothing of *Denis Macnamara* in queſtion before us. If you have any thing to ſay againſt any of the Witneſſes that have been Sworn, go on with your Evidence, we muſt not hear Stories of other People.

Colledge. He would ſpeak againſt ſome Men that have Sworn againſt me, but are left out, for ſome Reaſons I know not. Pray call Mr. *Thomas Norreys.*

L. C. J. What do you ask him?

Colledge. My Lord, he knew me in this Country ſome fifteen or ſixteen Years ago.

Mr. T. Norreys. My Lord, I have been acquainted with Mr. *Colledge* about ſixteen or eighteen Years, and he hath always carried himſelf very civilly and well, and he kept to the Church for a conſiderable time, as duly as any Pariſhioner did.

L. C. J. How long have you known him?

Mr. T. Norreys. This ſixteen Years.

L. C. J. You live in this Country, don't you?

Mr. T. Norreys. Yes, at *Aylworth*.

Colledge. I was at *Aſtrop-Wells* laſt Year. I believe Mr. Juſtice *Levins* ſaw me there.

Mr. T. Norreys. Yes, I was there with you.

Colledge. We did diſcourſe commonly then con-

concerning the Papiſts. Pray, Sir, did you find me inclined to the Popiſh Intereſt?

Mr. T. Norreys. You ſpoke very much againſt them.

Colledge. Did you ever hear me ſpeak againſt the King or the Government?

Mr. T. Norreys. No, I never heard it; for if he were my Brother, I ſhould have diſcovered it.

L. C. J. How often have you ſeen him?

Mr. T. Norreys. Very often, and converſed much with him.

Colledge. My Lord, as to the Papers charged upon me that they were mine, I declare I know not of them. *Dugdale* ſays I owned them, and the Letter and ſeveral Prints; but truly, my Lord, I had done my ſelf a great injury if I had done or owned thoſe things he hath charged me withal. I never could make a Picture, nor never did draw a Picture in my life; and that very Perſon that he ſays I owned I got it to be printed by, hath denyed it before the King and Council; for he there teſtified, that he did not know the Perſon that cauſed it to be printed.

L. C. J. How came you to have ſo many ſeized in your Houſe?

Colledge. My Lord, here is *Elizabeth Hunt*, the Maid by whom they were taken in, and who can give you an account of it. I cannot deny but that they were in my Houſe; but that I was the Author, or did take them in, is as great a miſtake as ever was made. Call *Elizabeth Hunt*. I do not know whether *Curtis* be in Town; but this I am confident, he was examined before the King and Council, and he and his Wife denyed it.

L. C. J. He ſhall be called if he be here.

Colledge. I know nothing of the printing of them, nor was I the Author of them.

L. C. J. They were diſperſed by you up and down.

Colledge. That they were in my Houſe, I believe, my Lord; and this Woman will tell you how, my Lord. Pray tell the Court how theſe Papers that are called the *Raree-ſhew* came to be in my Houſe.

El. Hunt. A Porter brought three bundles to our Houſe, and asked whether my Maſter was not within. I told him, no, he was not. Said he, Theſe Papers are to be left here; ſaid I, Who do they come from? ſaid he, 'tis all one for that, you muſt pay me, and I muſt leave them here; ſo I gave him ſix pence, and he left the Papers, but I never ſaw the Man ſince nor before. And, my Lord, I never read them what they were, but I ſaw they were ſuch ſort of Prints as thoſe.

L. C. J. How long was it before they were ſeized?

El. Hunt. A matter of ſeven or eight Weeks.

Colledge. My Lord, it ſeems they were put in a Box, and left in my Counting Houſe: I never touched them, but there they ſtaid, for ought I know, till they were taken.

L. C. J. You were *Colledge's* Servant, were you not?

El. Hunt. Yes, my Lord.

Colledge. My Lord, I neither knew the Printer nor the Author; but I heard a Man was in Trouble about them, upon a By-Law in the *Stationers* Company.

Mr. Att. Gen. How came you by that Original?

Colledge. Have you it there? I know of none was produced. But if I were a Perſon concerned, it were no Treaſon, and, my Lord, I hope you will do me that Juſtice, to let the Jury know they are not Treaſon, none of theſe Papers. And I do declare I know nothing of the Original, the Printer, nor the Author.

L. C. J. You ſpend time in making Obſervations out of Order of Time: when you have given your Evidence, then make your Obſervations.

Colledge. I confeſs I may err, as to matter of Order, for I never was in this Capacity before. But, pray, do you tell the Court how the Papers came there, and all the Tranſactions. For I was a Priſoner when they came and ſearched.

L. C. J. No, it was eight Weeks before you were taken they were left there.

Mr. Serj. Jefferies. Did you not tell your Maſter ſoon after they were left there?

El. Hunt. No.

Mr. Serj. Jefferies. Within what time did you tell him?

El. Hunt. I believe it was a Week or a Fortnight.

Mr. Att. Gen. Where was your Maſter all that time?

El. Hunt. He was in the Country.

Colledge. My Lord, I did ſee them there, I muſt confeſs, I do not deny but I ſaw them there, but I knew not whence they came, nor whoſe they were. Nor did I ever intend to meddle with them, nor concern my ſelf about them. What have you to ſay more?

El. Hunt. Concerning Mr. *Dugdale*, if I may ſpeak.

L. C. J. Ay, go on.

El. Hunt. I went to receive the Money of *Mr. Dugdale* that he owed my Maſter, and asking him for it, he ſaid, he would pay me ſuch a time to morrow morning, if I would come for it; but when I came, he had not the Money ready for me. Sir, ſaid I, I think 'tis very hard that you ſhould keep my Maſter's Money from him, and yet you go and Swear againſt his Life too: what do you think we ſhall do at home in the Family, if you keep my Maſter's Money and he be in Priſon? Said he, There is a great deal of do about my Swearing againſt your Maſter, more than needs; but as I hope for Salvation, I do not believe *Mr. Colledge* had any more hand in any Conſpiracy againſt His Majeſty, than the Child unborn. Here is *Dugdale*, let him deny it if he can.

Mr. Dugdale. As I hope for Salvation I did not ſay ſo.

El. Hunt. Upon my Salvation 'tis true what I ſay.

Stevens. This was the Maid that hid her Maſter's Papers when they were ſearched for.

Mr. Serj. Jefferies. Be quiet; art thou got into Dialogues with the Maid now?

Colledge. *Mr. Stevens*, 'tis well known what a Man you are to propogate Witneſſes. My Lord, ſhe gave me an account of this in the *Tower*, before I came away, that *Dugdale* deſired to ſpeak with Mr. *Smith*, and told her, that nothing that he had to ſay would touch my Life.

El. Hunt. As I am alive 'tis true.

L. C. J. Mr. *Dugdale* denies it now.

El. Hunt. He is not a right Man if he denies it, for he told it me twice.

Colledge. I told Mr. *Smith* of it, when he had leave

leave to come to me: I told him what the Maid ſaid he had ſaid to her, and this was three Weeks ago; ſaid he, I will ſpeak with him with all my Heart, if he has a mind to ſpeak with me; for he hath ſaid that he hath nothing againſt her Maſter that can touch an Hair of his Head, nor nothing that can touch his Life, that he knew nothing of a Plot or contrivance againſt the King; and if I could help it, I had as lieve have given a hundred Pound I had never ſpoken what I have. This he ſaid to her.

L. C. J. You tell her what to ſay.

El. Hunt. Sir, he does not tell me; for Mr. *Dugdale* ſaid thoſe very things to me.

Colledge. This is an account I had when I was a Priſoner; I could not direct her.

L. C. J. Do you deny what they ſay to be true, Mr. *Dugdale?*

Mr. Dugdale. My Lord, ſhe came to me for Money; I told her I had it not ready, but would pay her: And in the Shop, before the Apprentice-boy, ſhe deſired of me that I would write two or three Words what I had to ſay againſt her Maſter; and I told Mr. *Graham* of it. So, ſaid I, I cannot tell, I have not the Papers, nor what Informations I have given againſt him. So ſhe came again the next Morning, and ſhe was at me to write down what I ſaid. I wonder, ſaid I, your Maſter will ſend you! had not he as good ſend Mr. *Smith*, who is his Counſel? And this was all the Words we had.

El. Hunt. My Lord, I do ſolemnly aſſure you, he ſaid he would write down what he had ſaid againſt my Maſter, and would fain ſpeak with Mr. *Smith*; for there was more ado made about it than needs.

Mr. Dugdale. Mr. *Graham* can tell what it was; for I came and told him immediately.

L. C. J. Did you tell her you had nothing to ſay againſt her Maſter that would touch his Life?

Mr. Dugdale. I could not ſay that I had ſaid nothing againſt her Maſter; for ſhe asked me that I would write down what I had ſaid; but I told her I knew not what was Treaſon, that muſt be referred to the Court.

Mr. Juſt. *Jones.* Did he ſpeak it openly or privately to you?

El. Hunt. He did not ſpeak it aloud; no body heard him but my ſelf.

Mr. *Dugdale.* It was in the Shop, and the Apprentice-boy was by.

Mr. Juſt. *Levins.* Was this after he had been at the *Old-bayly*, or before?

El. Hunt. Yes, it was after he had been at the *Old-bayly*, and after he had been at *Oxon* too.

Mr. Juſt. *Levins.* Then it was before the Court, what could be made of it.

Colledge. She hath gone forty times for the Money I lent him out of my Pocket; and I lent him that, when I had little more my ſelf.

El. Hunt. I did tell him, Mr. *Dugdale*, if you can't let me have my Maſter's Money, if you pleaſe to tell me what you have made Oath againſt my Maſter. Said he, I can't let thee have it now; but thou ſhalt have what I have to ſay againſt him: I will draw it up in Writing, and thou ſhalt have it to Morrow-morning. The next Morning I came to him again, and, ſaid I, I am come again; what muſt I do? Said he, I have no Money; ſuch an one hath not helped me to it. Sir, then ſaid I, I hope you will be as good as your Word, to let me know what you have made Oath againſt my Maſter. Said he, I was about it Yeſterday, but could not do it: But, Sweetheart, ſaid he, (and took me by the Hand) I will give you a Copy of it to Day at ten of the Clock; and if I do not, I will tell it thee by Word of Mouth. So I came to the Houſe at ten, and ſtaid till eleven, but did not ſee him.

Mr. Juſt. *Jones.* You had a great mind to be tampering.

El. Hunt. The firſt time, he asked me who was his Council; I told him, Mr. *Smith*; then ſaid he, I have a great deſire to ſpeak wit hhim So I told my Maſter of it.

Colledge. My Lord, you ſee it is but black and white, all this whole contrivance upon me. She hath proved I knew nothing of theſe Papers; and indeed I did not.

L. C. J. Do you call any more Witneſſes?

Colledge. There is my Brother-in-law that received thoſe Papers. Call *George Spur* and *Sarah Goodwin.*

[*Mrs.* Goodwin *appeared.*]

Colledge. Do you know any thing of the Papers that were carried to my Brother *George Spur's?*

Mrs. Goodwin. Yes, I do. The Saturday after my Brother's Confinement, about eight of the Clock in the Morning, I having heard of it, came into the Houſe, and in a quarter of an hour's time, in comes a Waterman and deſires an handful or two of Shavings. I knowing not who he was, nor what he deſired them for, told him, he ſhould have them; ſo he went up to the working Shop to gather them, for he pretended that to be his buſineſs.

L. C. J. Whoſe Waterman was it?

Mrs. Goodwin. A Waterman I ſuppoſe that belonged to His Majeſty, for he had a Coat marked with *R. C.*

Colledge. This is after I was in Cuſtody.

Mrs. *Goodwin.* Yes, it was the *Saturday* after. So no ſooner had he the Shavings, but he goes out of the Shop, and comes in again with Three of His Majeſty's Meſſengers, and they made enquiry after Papers, and I being innocent of concealing any Papers, or any thing, ſaid I know of none; ſo they came to one Box that had the Tools for the Men to work with, and they demanded the Keys. I told him I knew not where the Keys were. So they went to the next and found it open, but nothing did they find there; there was a Bed wherein formerly my Brother's Servants did lie: Said one to the other, Look well whether there be not ſomething hid in that Bed; ſaid I, I ſuppoſe there is no ſuch thing as you inquire for: if you pleaſe, you may take off the Cloths, and gave them free toleration to look; but for the Cheſt, I would not deliver the Keys, becauſe the Man was not there that owned it. In their ſearching, they flung down the Wainſcote, and did a great deal of damage to his Goods. *Gentlemen*, ſaid I, *I ſuppoſe you have order to ſearch, but none to ſpoil a Man's Goods.* When they were gone, having found none, they threatned, *God damn* them they would have them, for there they were. But I being ignorant of the concealment of the Papers, I requeſted the Maid and my Brother's Son, whether they knew of any Papers, and they ſatisfied me they knew of ſome Prints that were brought by a Porter, to be left at my Brother's, but they knew not whence they came

came, nor what they were: and the ſame anſwer gave my Brother's Son, that he did not know whoſe the Papers were. But ſince his Father's Confinement they were laid up ſure and ſafe, for they knew not what they concerned. Upon this, my Lord, my Brother-in-law, *George Spur*, he comes into the Houſe, and if it pleaſe your Honour, I requeſted him to carry them into the Country to his Houſe, to ſecure them till we knew what they did concern, and who they did belong to. Whereupon he replied, my Lord, That he was fearful to carry any thing out of the Houſe; ſaid I, if you will pleaſe to take them of me, I will carry them out of the Houſe for your Security, becauſe his Wife looked every Hour (being with Child) when ſhe ſhould be delivered, and he was fearful of troubling her. So I carried them out of the Houſe, and delivered them to him.

L. C. J. To whom?

Mrs. *Goodwin.* To my Brother-in-law Mr. *George Spur.* So at my going out, after I had delivered them to him, in my way back again, I found a ſmall Paper-Book, and a ſmall parcel of Writings; who dropped them, or who laid them there, I cannot tell. But taking them up unadviſedly, I put them among the Prints which I carried out, I delivered them to my Brother-in-law. This is all I have to ſay, as to the Papers.

Stevens. Three parts of what ſhe hath ſaid is falſe.

Mr. Serjeant Jefferies. Well, hold you your Tongue.

Stevens. Mr. *Atterbury* is here, my Lord, that ſearched the Houſe.

Atterbury. Be pleaſed to give me my Oath, I will tell you what paſſed.

Mr. Att. Gen. We don't think it material, but you were Sworn before, ſtand up.

L. C. J. Tell the manner of finding the Papers. This Woman gives us an account of a Waterman that came in, pretending to fetch Shavings.

Atterbury. Upon my Oath it was not ſo. The Waterman was a Waterman that brought me and two more of my Fellows, and the Waterman followed us into the Yard, but came after us: and being order'd to look for Papers, I did ſearch the Houſe; for I had Intelligence that there were Papers there, but I did not find them there. But upon finding the firſt Papers, I made the more diligent ſearch, but could not find the reſt I moſt chiefly ſought after.

Mr. Serj. Jefferies. Did the King's Waterman take any Shavings by himſelf?

Atterbury. We were altogether, we did not move out of any one Room, but together; this Gentlewoman was in the Houſe when I came, and there was a little Child, a Girl, and this Maid was there.

Mr. Serj. Jefferies. Did you come for Shavings there, pray Mr. *Atterbury?*

Atterbury. No, I did not.

Mrs. Goodwin. The Waterman did though firſt.

Colledge. Call *George Spur.* (But he did not appear.) But Mr. *Atterbury*, before you go down, pray tell the Court, did you take any of theſe Papers at my Houſe, or at my Brother-in-law *Spur*'s Houſe?

Sewel. My Lord, I took the Papers, and I took them at *Buſhy* at *Spur*'s Houſe. And this Woman carried out one half to *Spur*, and the Maid carried out the other.

L. C. J. When did he carry them?

Mrs. *Goodwin.* The ſame Day they ſearched for them, for my Brother came in at the ſame time.

L. C. J. How do you know *Spur* carried any away?

Mrs. *Goodwin.* He carried none out of the Houſe, I carried them out of the Houſe and delivered them to him.

L. C. J. Then they were in your Houſe?

Mrs. *Goodwin.* They were in the Counting-houſe.

Colledge. My Lord, if they were in any other place, I know not how they came there, for this was all done after I was a Priſoner; and *Sewel* ſays they were removed when I was a Priſoner. Where is *George Spur?*

Mr. Serj. Jefferies. It is admitted they were at your Houſe, and taken thence; and afterwards carried to *Spur*'s.

Colledge. They carried them abroad and handed them from one to another, and took them into the Country, I know not what they did with them: but, my Lord, I neither know the Printer nor the Author, I declare it upon my Life.

L. C. J. Have you any more Witneſſes?

Colledge. No, my Lord, I have not.

L. C. J. Will you that are of Council for the King call any more?

Mr. Att. Gen. One or two if you pleaſe, my Lord. Call *John Shirland.* And it is to this purpoſe; it ſeems very lately Mr. *Bolron* would have tempted him to have forſworn himſelf.

Colledge. My Lord, I hope if they bring in any Perſons of new Evidence, I may have leave to contradict them.

L. C. J. You need not fear but you ſhall be heard to them.

Mr. Att. Gen. We ſhall prove *Bolron* to be a Suborner of Witneſſes; and that the Jury may know what he is, he and *Mowbray* have gone to give Evidence at ſeveral Trials, and the Jury would never believe them when they were on their Oaths.

Mr. Serj. Jefferies. I think it needs not, time hath been ſpent enough already.

Colledge. No Whiſpering, good my Lord.

Sir *G. Jefferies.* Good Mr. *Colledge*, you are not to tell me my Duty here.

Mr. Juſt. *Jones.* Is it not lawful for the King's Council to confer together?

Colledge. Not to whiſper, my Lord, all ought to be ſpoken out.

L. C. J. Nothing ought to be ſaid to the Jury indeed privately.

Mr. Att. Gen. But ſhall not we talk among ourſelves?

Colledge. No, I hope not, of any thing that concerns my Trial.

Mr. Juſt. *Jones.* You are deceived in that.

Colledge. I think 'tis Law, that all ought to be publick; I beg your Pardon if I am in the wrong.

Mr. Att. Gen. Swear *John Shirland.* (*Which was done.*) Pray give the Court and the Jury an account of *Bolron*, what you know of him,

Shirland. Bolron, my Lord, laſt *Whitſon-Tueſday*, would have given me Ten Pounds and an Horſe to go down and Swear againſt Sir *Miles Stapleton.* I was to ſwear I was ſuborned by his Friends, and ſeveral other Perſons, which I have diſcovered upon my Oath.

L. C. J. Is this Man Sworn?

Mr.

Mr. Att. Gen. Yes.

L. C. J. Now call *Bolron* to confront him.

Colledge. He offered you an Horſe, as much as I offered *Turbevil* an Horſe, and I never offered him an Horſe in the World.

[*Then* Bolron *appeared.*]

L. C. J. Is this the Man, *Shirland?*

Mr. Att. Gen. Did he give you Ten Pounds to Swear?

Shirland. He bid me Ten Pounds and an Horſe to ſwear againſt Sir *Miles Stapleton.*

Mr. Juſtice *Jones.* Did you ever ſee him, *Bolron?*

Mr. *Bolron.* Yes, my Lord, he was to have been a Witneſs againſt Sir *Miles Stapleton*, and he pretended that he was Suborned by Sir *Miles*, or ſome of his Friends.

Colledge. What are you, Sir? Mr. *Bolron*, what is Mr. *Shirland?*

Mr. *Bolron.* He is a Man that lives by his Shifts: He hath been whip'd in *Bridewel.*

Colledge. Do you know him, Sir? what is he?

Mr. *Bolron.* Even an idle Man.

Shirland. You, once when you ſaw me, drew your Sword on me, becauſe I would not do as you would have me.

Mr. *Bolron.* I profeſs, my Lord, 'tis not ſo.

Att. Gen. Here is Mr. *Smith*, hear what he ſays againſt Mr. *Bolron.*

Mr. Smith. As we were coming up along, he was ſpeaking to me of *Colledge*, and told me, he had as much to ſay againſt him as any body; and if I would ſpeak for him, he would evidence againſt Sir *John Brookes* for a Diſcourſe at *Ferrybridge.*

Mr. Bolron. I never did hear any ſuch thing.

Mr. Smith. No Man in your own Country will believe you.

Colledge. They believed you no more, it ſeems, neither.

L. C. J. Do you call any more Witneſſes, Gentlemen?

Mr. Serj. Jefferies. No, I think we need not.

L. C. J. Look you, Mr. *Colledge*, as I underſtand it, the King's Council will produce no more Witneſſes. You may make what Obſervations you will upon the Evidence to the Court, and then muſt them make what Obſervations they will to the Court; and then we will give the Charge to the Jury.

Colledge. My Lord, I have only Innocence to plead; I have no Flouriſhes to ſet off my Defence. I cannot take the Jury nor the Court with an Oratory; I am unhappy in thoſe things. But, my Lord I do declare, as to my own particular, in the preſence of God Almighty, That as to whatſoever is ſworn againſt me, as to the ſeizing His Majeſty, providing Arms, or having any deſign either at *Oxford* or *London*, or any other Place in the World, to ſeize upon the Perſon of the King, or to rebel againſt the Government eſtabliſhed; I vow to God Almighty, I never had ſuch a thought in me: 'tis a truth, my Lord. My Lord, they have ſworn deſperately againſt me, and it hath appeared, I think, by very credible Perſons, that they have contradicted one another. It hath been proved that this was a deſign; that they were tampered withal; that they complained they were in Poverty, that they wanted maintenance; and they did confeſs they were tempted to come over to ſwear againſt Proteſtants: and now the Lord knows they have cloſed with it, and they begin with me. I hope the Jury have taken notice that I have contradicted them ſufficiently in what they have ſworn; and that it is not poſſible, if I had a grain of ſence, for me to diſcover my ſelf to be ſuch an one to *Haynes* that was an *Iriſh*-man, and ſhould ſpeak all the Treaſon that he hath galloped thro' at firſt ſight, that as ſoon as ever I ſaw him, that I ſhould ſpeak ſo to him; I hope you will conſider whether it conſiſts with common Reaſon, when there could be no probability of making any uſe of him in the World. My Lord, all my Witneſſes that I have brought, your Lordſhip can, and I hope will ſum them up better than I can; for I declare it, I have been ſo concern'd, that I have not been able to write half of it down. But I think there is never a Man that hath ſworn againſt me, but hath been ſufficiently confuted by Perſons of Integrity and Honeſty, Men of Principles, and Men of Religion; they are ſuch, my Lord, that make Conſcience of what they ſay: they are Perſons altogether unknown to me, moſt of them, as to what they had to ſay, it was what they offered voluntarily; and I am certain they have had nothing but their bare Charges, if they had that, for their Pains in coming hither; and, my Lord, there is no probability that they ſhould come and atteſt any thing that is falſe, for me who am a Stranger, for nothing: No Man is a Knave for nothing, as I believe theſe Men are not. My Lord, I do declare it, I was bred a Proteſtant, and have lived ſo; I am ſo to this very Day; I have been a Lover of the Church of *England*, and of all the fundamental points of Doctrine believed in it; I own the ſame God, the ſame Saviour, the ſame Goſpel, and the ſame Faith; I never had a prejudice againſt any Man in the Church in my Life, but ſuch as have made it their buſineſs to promote the intereſt of the Papiſts, and ſuch I muſt beg leave to ſay there are amongſt them: for there is no Society in the World without ſome bad Men; and theſe do promote the intereſt of the Papiſts, by dividing the Proteſtants, and allowing none to be true Proteſtants but thoſe that are within the Church of *England* eſtabliſhed by Law; which is a Notion ſo wide I could never cloſe with that. I never had a prejudice againſt any Man but a Knave in my Life. I have heard, I confeſs, ſome of the Diſſenters, and I have found very honeſt, juſt, pious, godly Men among them; Men free from Oaths and all Debauchery; Men that make a Conſcience of what they ſay: not like ſome Perſons that ſay they are of the Church of *England*, that carry themſelves in their Lives and Actions, ſo as that no credit can be gained to the Church by them. My Lord, I have been an hearty Man againſt the Papiſts; I have been an hearty Man as any Perſon of my Condition, for Parliaments, which I look upon to be my Birthright, and under God Almighty, the Bulwark of our Liberty; and I am ſorry if any Man ſhould be an inſtrument to create a miſunderſtanding betwixt the King and the Parliament: for I always thought I ſerved my Country, when I ſerved the Parliament, and I ſerved my King when I ſerved my Country. I never made any difference between them, becauſe I thought them both one. I had the honour to be entruſted by them before, and upon that account I came voluntarily down hither. I rid my own Horſe, I

ſpent

ſpent my own Money, and eat my own Bread; I was not beholding to any Man for the value of ſix pence all the while I was here. My Lord, I have ever ſince the Plot hath been diſcovered, endeavoured with all my Heart, and all my Power, to detect and come at the very bottom of it: I have ſpared for no time nor pains, what lay fairly in my way, in every thing to encourage thoſe that diſcover'd the Villanies of the Popiſh Plot againſt the Life of the King, and for the Subverſion of the Religion and Government eſtabliſhed by Law. Now certainly it is not ſtrange to the World; for I think all Chriſtendom is aware how plain the Popiſh Plot hath been proved. Theſe Men that ſwear againſt me, were they that uſed to follow me ſometimes; they would ſay, it was they that had come to ſave our Lives, and yet we let them want Bread. That Argument, my Lord, was ſo fair, that I thought it unreaſonable to ſee them ſtarve: And I have ſaid ſometimes to ſome honeſt conſiderable Men, That it was hard they ſhould have this to ſay of us, That they ſhould want Bread to eat that were the King's Evidence, to detect a Popiſh Plot wherein we our ſelves were concerned; and that when they had ſaved our Blood in our Veins, they ſhould be ſuffered to ſtarve. And one time, I think, ſome three or four Gentlemen of the City did give me 42 *s.* or 40 *s.* and 18 *d.* or thereabouts; which I did diſtribute amongſt them: and they never came to me in my Life, but to ſeek Relief, they knowing that I had a general Acquaintance. And ſometimes they thought it might be fit to petition the Common-Council of the City of *London* to take care of them: Sometimes they would ſpeak to me to ſpeak to particular Men, that care ſhould be taken of them. At other times indeed it was not this ſort of Diſcourſe they had with me; but they would pretend they had ſomething to diſcover of the Popiſh Plot, and ſo they would apply to me as a Man of ſome Acquaintance. And the firſt time I ſaw *Haynes*, was upon ſuch an account, the beginning of *March* laſt, and it was thus: I was at *Richard*'s Coffee-Houſe at *Temple-Bar*, where *Macnamarra* did deſire me to go out, and *I* ſhould hear ſuch a piece of Roguery *I* never did hear in my Life, againſt my Lord *Shaftsbury*. So *I* did go out with them, and *I* called Captain *Brown*, who is ſince dead, to go with me; and we went to the *Hercules-Pillars*, and *Haynes* there diſcovered what *I* told your Lordſhip before, a deſign to deſtroy the Parliament at *Oxford*; an Army that was to land in the *North*, and another in *Ireland*, and the Duke of *York* was to be at the Head of them. My Lord, after I had heard all out, he did deſire us all to conceal what he had ſaid till the Parliament ſat, and then he would not only diſcover this, but much more. He at the ſame time told us, that there was a deſign of *Fitzgerald*'s againſt my Lord *Shaftsbury* to take away his Life, and he was employed to come to his Cozen *Macnamarra* to get him over to joyn in the deſign, and he ſhould never want for Money, if he would but come over and do as they would have him. After he had diſcovered himſelf, Sir, ſaid I, You are a Stranger to me; and I never ſaw him before in my Days, if he had ſeen me I can't tell: But, Sir, ſaid I, either this is true, or this is falſe. If it be true, ſaid he, 'Tis all true, and much more. So he up and told us much of *Coleman*, and of the Reconciliation between the Duke of *Ormond* and the Duke of *York*, and how he came to be Lord Lieutenant of *Ireland*, and how *Plunket* came to be Primate, and by means of whom, and the Letters that paſſed, and how ſo much a Year was given to *Plunket* for carrying on the Correſpondence; and he told us ſo much, that I did wonder to hear any Man talk after that rate. After I had heard what he had to ſay, I told him, Sir, ſaid I, this is either true or falſe that you have ſaid: if it be true, my Lord *Shaftsbury* ſhall know it to Night; for I will not conceal ſuch a thing concerning a Peer of the Realm: and if it were a colour, he ſhould know of it. And I did ſend him word that Night; and, ſaid I, Sir, you ought to go, for your own ſecurity and ours too, to ſwear it before a Magiſtrate. Said he, if I ſhould, I ſhould be diſcovered. Said I, I can't think you would be diſcovered; if you ſwore it before Sir *George Treby* or Sir *Robert Clayton*, they will not diſcover you. So he agreed he would ſwear before Sir *George Treby*; and he did go accordingly: But he being out of Town, I cannot have the Affidavit to produce it. There was a Letter ſent laſt Saturday-night to Sir *George* to *Briſtol*, and I hoped he might have been here to Day. This was the firſt Acquaintance *I* ever had with *Haynes*. The next time *I* heard of him, was upon this occaſion. *Ivy* comes to me in *Richard*'s Coffee-houſe, and, ſaid he, Yonder is the Man that made that diſcovery, which *I* told you before that *Haynes* had ſaid to me; it was about a Month or three Weeks before the Parliament was at *Oxford*. After the Parliament was diſſolved at *Oxford*, *Ivy* comes to me, and *I* think it was betwixt the two Terms wherein *Fitz-harris* was arraigned and tried: *I* know not the Names of them; but he comes to me and tells me he had been with my Lord *Shaftsbury*, and that there was a Friend of his that would confirm all that *Fitz-harris* had diſcovered concerning the Murder of Sir *Edmund bury Godfrey*; and, ſays he, my Lord of *Shaftsbury* hath ſent me to you to acquaint you with it. Where is your Friend? ſaid *I*. He is without, ſaid he. So we went out of the Coffee-Houſe; and when we came out of Doors, there was this *Haynes*: we went to the *Crown-Tavern* without *Temple-Bar*; it was in the Forenoon. When we came there into the Room, he examined all the Corners, and Cupboards, and Places about the Room, to ſee that no body was there. When he thought all was ſecure, he began to tell me he had been to acquaint my Lord *Shaftsbury* that there was a Friend of his that would diſcover the whole Intrigue of the Murder of Sir *Edmund bury Godfrey*, all that *Fitz-harris* had ſaid, and much more: and he deſired me that *I* would intreat my Lord *Shaftsbury* to be inſtrumental to get him his Pardon before he diſcover'd particularly. Then *I* told him, *I* think 'tis convenient, ſaid *I*, that you diſcover ſomething in Writing, and give under your Hand what you can ſay. He was not willing to do that. Can you believe, ſaid I, that my Lord of *Shaftsbury* will betray you? Says he, I will not truſt any body; I ſhall be aſſaſſinated. Said *I*, if you will not give it to any body elſe, Will you give it to Mr. *Michael Godfrey*, Sir *Edmundbury Godfrey*'s Brother? you can have no jealouſie of him that he will ever diſcover you. Said he, if my Lord *Shaftsbury* will engage to get me a Pardon, *I* will tell the whole Truth. Said *I*, *I* will go to my Lord and acquaint him: So *I* went to both my

Lord

Lord and Mr. *Godfrey*; and Sir *Edmundbury Godfrey*'s two Brothers both met me at my Lord of *Shaftsbury*'s Houſe. This is the thing that he tells me; he would have me get my Lord's Protection and a Pardon for Treaſon; but the real Truth is, he ſent me upon this Errand. So *I* came to my Lord *Shaftsbury*, and the two Mr. *Godfreys* were in the Room; and after *I* had told my Lord what Diſcourſe *I* had with him, ſays my Lord, *Colledge*, Theſe *Iriſh*-men have confounded all our buſineſs; and thou and *I* muſt have a care they do not put a trick upon us: This may be a trick of the Papiſts to ruine us; and if they have ſuch a deſign, if they will not put it upon you and *I*, they are Fools. Upon your Lordſhip, ſaid *I*, they may; but *I* am a poor inconſiderable Fellow. Says my Lord, I'll tell you, Mr. *Godfrey*, Mr. *Colledge* hath not only been an honeſt Man, but an uſeful and an active Man for the Proteſtant Intereſt. So *I* told my Lord how far *I* had gone with him, and that *I* deſired it might be put in Writing. Says my Lord *Shaftsbury*, If he will put it in Writing, *I* will go once again; for *I* have been ſince *I* ſaw the Fellow, with my Lord *Macclesfield*, and my Lord Chief Juſtice *Pemberton*, and my Lord Chancellor, and *I* have told them that there is ſuch a Perſon in general, but *I* knew not the Man; as indeed my Lord did not, for only *Ivy* was the Perſon between them that my Lord knew: And *I* told them, ſays my Lord, that he can confirm all that *Fitz-harris* has ſaid concerning the Death of Sir *Edmundbury Godfrey*, and that he would prove my Lord of *Danby* was in it, if he might have his Pardon; and my Lord ſaid, They promiſed to ſpeak to His Majeſty that it might be granted. But ſome time the latter end of the Week *I* heard it would not be granted; and both of theſe Men followed me to know what they ſhould do. Said *I*, My Lord *Shaftsbury* knows not but that it may be a Trick; and ſaid *I* to *Ivy*, *I* wonder why he ſhould conceal it all this while, being a neceſſitous Man, and 500 *l.* proffered by the King in his Proclamation. Why, ſays *Ivy*, do you think there is no Truth in it? ſays *I*, 'Tis not my Judgment, but my Lord *Shaftsbury* and Mr. *Godfrey*'s Judgment too. He anſwer'd me again, *Fitz-harris* hath deſired he may have a Pardon granted for himſelf and a Frenchman; and if ſo be there were nothing in in it, Do you think he would move for a Pardon? Says *I*, Did Mr. *Fitz-harris* move for *Haynes*'s Pardon? How do *I* know that, ſays *Ivy* again: *Fitz-harris*'s Wife told me ſo. Says *I*, Let me ſpeak with *Fitz-harris*'s Wife, let me hear her ſay ſo, and *I* will believe you. The next Day he did bring her to me to my Houſe: And this was the time and the occaſion that brought *Fitz-harris*'s Wife, and *Haynes*, and *Ivy*, and Mr. *Fitz-harris*'s Maid to my Houſe; and *I* never ſaw *Fitz-harris* in my Days, till his Trial, nor had any Communication with him. But, my Lord, ſhe did talk with *Haynes*, and confirmed it to me, That her Husband had deſired a Pardon for him: Why then, ſaid *I*, he would do well to diſcover what he knows to my Lord *Shaftsbury*; for *I* was with my Lord, and he ſays he will meddle no more, unleſs he will give it under his Hand what he has to ſay. And he did confeſs to me in my own Yard, for there we were together, That he ſaw my Lord of *Danby* come into the Chappel at *Somerſet*-Houſe, when the Body of Sir *Edmund-bury Godfrey* lay under the Altar.

L. C. J. Here hath been nothing of this made appear by Proof.

Colledge. My Lord, *I* only tell you which way they introduced themſelves into my Acquaintance.

L. C. J. You may obſerve what you will upon the Evidence, as we told you; but you ramble from the matter you are to ſpeak to. And as we told Mr. Attorney, that what he ſaid ſhould go for nothing, unleſs he made it out by Proof; ſo muſt we ſay to you, what you ſay goes for nothing, further than you have proved it. Now you have quitted the Proof quite, and not ſpoke to that, but run into other Stories. *I* would have you keep your ſelf to your Proofs, and make your Obſervations upon them.

Colledge. 'Tis, as I humbly conceive it, to my purpoſe, but I hope my ignorance may excuſe me, if I err. I tell you the truth of things, thus it was.

L. C. J. Truth! Why if yours or any Man's Word in your caſe ſhould go for Truth, No Man that ſtands at a Bar, could be convicted: for every Man will ſay he is an honeſt Man, and all the plauſible things in the World. Make you your Obſervations upon the Proof, that is proper for you to do; and urge it as well as you can, and to the beſt Purpoſe you can: but to tell us long Stories of Paſſages between you and others that are not a whit proved, that is not uſual, nor pertinent.

Colledge. I thought it had been to the point, when this Man pretends to have a familiarity with me, to ſhew how his Acquaintance begun.

Mr. Juſt. *Jones.* Why do you think 'tis an Anſwer to him in what he proves upon his Oath? Have you proved one jot of it? not that I have heard. 'Tis your part to ſum up the Evidence on your own ſide, and to anſwer that which is proved upon you, if you can. Do that, and we will hear you ſpeak to it as long as you can. But to tell Stories to amuſe the Jury with that are not proved, and to run out into rambling Diſcourſes to no Purpoſe, that is not to be allowed, nor never was, in any Court of Juſtice.

Mr. Juſt. *Raymond.* Not one of your Witneſſes have mention'd any thing that you ſay.

Mr. Juſt. *Levins.* I wonder, Mr. *Colledge*, you ſhould forget your ſelf ſo much: for you found fault with Mr. Attorney at the beginning for opening the Evidence, and you were told, and the Jury were told at your requeſt, that what he ſaid, and did not prove, paſſed for nothing. But I muſt tell you, 'tis much worſe in your caſe: for Mr. Attorney only opened what he might prove afterwards, but your Obſervations are upon what hath been proved already; and yet you run out into Stories of what hath not been proved at all, after your Proof is paſt.

Colledge. Sir, I could not prove this otherwiſe than by *Ivy*, who hath been ſworn againſt me.

Mr. Juſt. *Jones.* Would you have the Jury to believe you upon your Word?

Colledge. There is no more than his Oath againſt me; and why my Oath, being an Engliſh-man and a Proteſtant, ſhould not be taken as well as his that is an *Iriſh*-man, and hath been a Papiſt, I know not.

L. C. J. You go upon that Ground that your Word is to be taken, as appears by your defence; but I muſt tell you, all the Courſe of Juſtice were deſtroyed, and no Juſtice againſt Malefa-

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ctors were to be had, if the Word of him that is accuſed ſhould paſs for Proof to acquit him.

Colledge. My Lord, I have given your Lordſhip an account of theſe Fellows Converſations; and what other Proofs to make, I know not: for I knew not what they would ſwear againſt me, and I had not Witneſſes in my Pocket to confront them.

Mr. Juſt. *Levins.* Well, the Jury have heard it over and over again, firſt upon your requeſt, that nothing is to be taken notice of that is not proved.

Colledge. Pray, my Lord, then as to *Haynes.* My Lord, I do obſerve that there was a Witneſs for me that did prove, he owned he was one that was employed to make a Proteſtant Plot, and another that did hear him Swear, damn him, he would Swear any thing againſt any body for Money, for it was his Trade.

Mr. Juſt. *Levins.* Now you are right; ſpeak as much as you will as to your Proofs.

Colledge. My Lord, I think *Turbervile* and *Dugdale* Swear as to the tenth of *March* in *Oxon*; I deſire it may be proved I was in *Oxford* the tenth of *March.*

Mr. Juſt. *Jones.* You yourſelf came down the middle of *March.*

L. C. J. I do not remember that they ſaid the tenth of *March.*

Colledge. Did not the Indictment ſay ſo?

Mr. Att. Gen. It is only in the Indictment.

L. C. J. As to the time mentioned in the Indictment, it is not material; that is the conſtant rule in Tryals upon Indictments; as if an Horſe be laid to be ſtole the tenth, if it be proved the Priſoner ſtole it another Day, it will be ſufficient, the time is not material; the queſtion is whether the Indictment be true in ſubſtance. Mr. *Colledge,* my Brothers will all tell you that the Law is ſo.

Mr. Juſt. *Levins.* Though it is laid the tenth of *March,* yet if it be proved the firſt or twentieth before or after, it is all one; ſo the thing be proved, they are not bound to a Day.

Colledge. My Lord, the punctilio's of Law I know not, but it was the twenty fourth or twenty fifth er'e I came down.

L. C. J. Well, go on, Sir.

Colledge. Dugdale ſays I meant by the Word *Rowley,* the King.

Mr. Juſt. *Jones.* He does ſo.

Colledge How does he come to know, that by that Word I meant the King?

L. C. J. That we did ask hlm, and he ſays you uſed ſo to expound it.

Mr. Juſt. *Jones.* Why look you, he ſaid you and he uſed to have frequent Communication concerning the King, and you did moſt frequently ſpeak of the King by the Name of *Rowley.*

Colledge. But I ſay, my Lord, I never ſpake of the King by the Name of *Rowley* in my Life.

Mr. Juſt. *Jones.* You ſay it, and he ſwears the contrary.

Colledge. I don't remember that he ſays I declared it ſo, but he ſaid, I meant it; for if I had declared it, then it had been the ſame thing for me to have named the King downright.

Mr. Juſt. *Levins.* Look you Mr. *Colledge,* as to that, when any Witneſs had done his Evidence, you had liberty to croſs examine him.

L. C. J. Would you have him called up again to clear this?

Colledge. Yes, if you pleaſe.

L. C. J. Stand up Mr. *Dugdale.* I underſtood by your Teſtimony, when, Mr. *Colledge* and you diſcourſed of the King, you ſometimes diſcourſed of him by the Name of *Rowley,* and that he explained that Name to be the King.

Mr. *Dugdale.* The firſt Time I ever heard what *Rowley* meant, was from him, for I asked him what he meant by the Name *Rowley*; I heard it before, but I did not underſtand it.

Mr. Juſt. *Jones.* Where was it?

Mr. Dugdale. At *Richard*'s Coffee-houſe.

Mr. Juſt. *Jones.* What was the anſwer he made you?

Mr. Dugdale. He ſaid it was the King.

Colledge. Upon what occaſion did I explain it to you?

Mr. Dugdale. Upon the account of the Pictures.

Colledge. I know not which of the Pictures has the Name of *Rowley* in it.

Mr. Dugdale. It was when we were talking of one of the Pictures you brought in *Rowley,* and *Mack* and *Mac* was the Duke of *York,* and *Rowley* was the King.

Colledge. Upon what Picture was it, that I took occaſion to explain the Name *Rowley* to you?

Mr. Dugdale. I am not certain.

Colledge. Remember you have an account to give as well as I.

Mr. Dugdale. You have ſo many Pictures that I can't remember them; you have ſhewed me more than have been produced in Court.

Colledge. Where had you that Picture from me that they call the *Raree-ſhew?*

Mr. Dugdale. Truly I received of them twice at *Richard*'s Coffee-houſe.

Colledge. Twice, do you ſay.

Mr. Dugdale. Yes, two of them at two ſeveral times; for you having promiſed me one, you brought it according to your Word.

Colledge. When was that?

Mr. Dugdale. I did not keep an account of the Day of the Month; and another I do remember at the *Green-Dragon* Tavern you thruſt into my Pocket, and *Mr. Baldwin* was by at that time. And ſaid he, *Mr. Colledge,* You will be ſo open, that you will come to be diſcovered at laſt.

Colledge. Then will I be willing to dye for it, if he and I and *Mr. Baldwin* were at the *Green Dragon* Tavern together. When was it that I gave you any Pictures there? was it ſince the Parliament at *Oxon?*

Mr. Dugdale. Do I charge you ſince the Parliament?

Colledge. I never ſaw *Raree Shew* before the the Parliament at *Oxford.*

Mr. Dugdale. I do not ſay it was that; you gave me one of the others.

Colledge. 'Tis ſtrange you will ſtick to nothing; When was it we were at the *Green Dragon* Tavern?

Mr. Dugdale. We were there before the Parliament ſat at *Oxon*; it was ſince *Chriſtmaſs.*

Colledge. What Picture was it I gave you there?

Mr. Dugdale. It may be I can't remember which of them it was, it was not *Raree Shew*; I ſuppoſe you gave me one of them concerning the Biſhops, where you put Biſhop *Mew* kiſſing the Pope's Toe; for it was a Biſhop with a

Patch

Patch on, and that you told me was Biſhop *Mew*.

Colledge. I put it, did I make it?

Mr. Dugdale. You ſaid you were the Author.

Mr. Juſt. *Jones.* Mr. *Colledge*, Will you conſider upon what Mr. *Dugdale* was called up about, the Expoſition of the Name *Rowley*?

Colledge. I did examine him, and he hath contradicted himſelf; for he hath ſaid at the *Green Dragon* Tavern I gave him a Picture of *Raree Shew*.

Mr. Juſt. *Jones.* He ſaid no ſuch thing, he ſaid he did not know which it was.

Colledge. I am certain he meant that then when he ſpake it; for he named it before, that he had two from me at *Richard*'s Coffee-houſe, and one I thruſt into his Pocket at the Tavern? and I ſay, I never was at the *Green-Dragon* Tavern with Mr. *Dugdale* and Mr. *Baldwin*, nor in the Tavern theſe three quarters of a Year.

Mr. Juſt. *Levins.* Mr. *Colledge*, you were in the right Way juſt now to manage your Evidence, in oppoſition to the other Evidence, go on in that Way.

Colledge. My Lord, I don't know well what was ſaid, for I could not hear half, nor write a quarter of it; but, my Lord, I hope your Lordſhip hath taken Notes of it, and will remember it for me. You are my Council as well as my Judges.

L. C. J. In matter of Fact we are.

Colledge. My Life and your Souls lye at Stake to do me Juſtice; therefore I hope you will take notice of what I have not had the opportunity to write down. I have obſerved that every one of my Witneſſes have ſpoken materially to contradict what they have ſaid, to prove that this was done for Money, and that there hath been Confeſſions from every Man of them; that they were hired to do it; that they did it for a Livelihood; and one of them ſaid, It was a good Trade, Damn him, he would do any thing for Money: And I hope then you will conſider the improbability, that I ſhould ſpeak to an *Iriſh* Man who I had never ſeen before in my Life; and that I ſhould at the firſt daſh utter all that Treaſon that he gives in Evidence, I think it cannot conſiſt with any Man's underſtanding to believe me ſo mad or ſo weak.

Mr. Juſt. *Levine.* That is as to *Haynes* only.

Colledge. As to *Smith* now I ſuppoſe it does not come within the reach of the Statute; for the Dinner that was made by Alderman *Wilcox*, was made before laſt *July* was Twelvemonth; all the Witneſſes do ſay it was before *Chriſtmas*, and Dr. *Oates* ſays it was in the Summer; I know it by a very good Obſervation, becauſe I went to *Aſtrop* Waters after that, and I ſaw Sir *Creſwell Levins* at the *Wells*: Now Sir you were there before this time Twelvemonth. So then whatever he ſays I ſaid to him there, I cannot be charged withal by the Statute, more or leſs, if I had never a Witneſs againſt him; but I have Witneſſes that have contradicted him ſufficiently that he is forſworn in that; and if ſo, he is not to be believed in any thing elſe; for he ſays, he and I went to the *Coffee-houſe* together, and we diſcourſed ſuch and ſuch things, which is not above half a Bows ſhoot, and he made it I ſay a quarter of a Mile's diſcourſe; if I had had all the talk, the Diſcourſe could not be ſo long, tho' he had ſaid never a Word: So you ſee what a kind of Witneſs he is. And Dr. *Oates*'s Brother did ſay, That I did go along with Dr. *Oates*, and offered to be one of his Guard, and *I* did ſay ſo, and went along with them, but Mr. *Smith* he came after. And as to what he ſays he is ſufficiently confuted, that is, about the going into Cabals after Dinner; for it is proved, That *I* fell aſleep behind the Table, and Dr. *Oates* was diſcourſing with Mr. *Savage* upon Points of Divinity; but *I* took no notice of it, neither did *I* ſee *Smith* any more, but he went away, and ſo did the reſt of the Company. But, my Lord, when *Haynes* was taken, *Smith* comes to me that Day to my Houſe at the *Ditch-ſide*, and ſends in a Man for me, his Man; I was writing in my Parlour, and drawing the Deſign for Wainſcotting *Alhallows* Church, a Platform for it; his Man told me, His Maſter would ſpeak with me, and *Haynes* was taken that Morning: But as I underſtand ſince, it was by agreement and his own conſent, tho' he hath pretended otherwiſe. You hear, ſays he, *Haynes* is taken? Yes, ſays I, I do, he hath been ever ſince 9 a Clock before the Secretary upon Examination, and he was till 5 a Clock at Night examining, ſaid he: I believe he confeſſes a great deal, ſaid I: Of what, ſaid he? Of ſome deſign of the *Proteſtants*, ſaid I, What, againſt the Government? I do not know what they may affright him into; he is a great Rogue if it be true all that he hath ſaid of himſelf: He ſays, He was concern'd in the *Fire of London*, and knew of a Deſign to deſtroy the *Proteſtants* then; of a Rebellion that was to be in *Ireland*; of *Plunket*'s being made *Primate*, and a great many of thoſe things: So that if he ſpeaks truth, he hath been a great Rogue, and as he hath pretended alſo, he was a great Coward. So then I believe he may ſay any thing to excuſe himſelf; ſays Mr. *Smith*, I wiſh you are ſafe: This was the very Night before I was taken.

Mr. Juſt. *Jones.* Have you proved any thing of this?

Colledge. My Lord, Pray give me leave to tell you what is Proof.

Mr. Juſt. *Jones.* You are not to repeat this, unleſs you prove it, Sir.

Colledge. He ſpake cautiouſly to me, as if he would have intimated to me, he would have had me run away. Said he, I believe you are not ſafe, I would have you take care of your ſelf, for you were concerned with him. Now, my Lord, if I had been a guilty Perſon, I had time enough to get away; and to prove this, I can only ſay, this was betwixt him and I. But, my Lord, you hear Dr. *Oates* ſays, that this very *Smith* did ſwear he would have my Blood, and that was upon this occaſion of my vindicating *Sampſon*, whom he had ſtruck and abuſed; and I asked, Why he did it? Said he, I value no Man's Life, if he affront me, if 'tis any Man in *England*, I value him not. My Lord, upon this occaſion the Words riſe between us; and when he came out of doors, and was going away, Dr. *Oates* ſaid, He ſwore he would have my Blood, and that was the occaſion of his ſpeaking that Blaſphemy.

L. C. J. Dr. *Oates* did ſay ſo.

Mr. Juſt. *Levins.* Well you are right now if you will go on in that Way.

Colledge. My Lord, This is for *Smith* and *Haynes*, that *Haynes* ſhould ſay it was a good Trade, and damn him he would ſwear any thing for Money, and that *Smith* ſhould ſwear dam

him he would have my Blood. I cannot ſum up the reſt of them for I have not them here.

Mr. Juſt. *Jones.* There is *Turbervile*, and *Dugdale*, and *Smith*; we will help you as to the Perſons.

Mr. Juſt. *Levins.* Pray keep to the buſineſs, and do not run out.

Colledge. Pray, my Lord I have one thing to ſay about *Smith*; he ſays I ſhew'd him my Arms, which I have had for any time almoſt theſe three Years, ever ſince the Plot brake out. I have been Armed ready to oppoſe the Papiſts, and I did my duty in the City in Perſon in the Trained-bands, but *Smith* ſays theſe Arms were to deſtroy the King's Guards, but he does not prove that I was Confederate with any other Perſon, but inſtead of that there were other Perſons that ſay with his own Mouth, that he did not believe there was any Proteſtant Plot; nay, he did believe I ſaid it only in wantonneſs. This is all, then how probable was it, that I my ſelf ſhould ſeize the King, or deſtroy his Guards.

Mr. Juſt. *Jones.* You remember Captain *Brown*, Captain *Couton*, and Don *Lewes*, Mr. *Colledge*.

Colledge. Did he ſwear they were all in my company at *Oxon*?

Mr. Juſt. *Jones.* Yes, *Dugdale* did.

Colledge. My Lord, Captain *Brown* and *Lewes* were Friends to my Lord *Howard*, with whom and other Company I came down to *Oxon*, and they lay with me at the *Chequer*, and they were in my Company becauſe they were Gueſts in the Houſe, and we came along together, but he does not ſay they were either of them Armed more than my ſelf, nor was he ever in Company with us, how then does he know we were in a Conſpiracy?

Mr. Juſt. *Jones.* Becauſe you told him at *London* firſt that they were ſuch Perſons.

Colledge. I never ſaw *Lewes* in my Days till I ſaw him that Morning, I came down from *Oxon*, and *Brown* I was not acquainted with a Fortnight before. This is a truth, but however they have ſworn a Plot upon me at *Oxon*, and then come and prove I declared theſe were the Men, and ſpoke ſuch and ſuch Words at *London*; I deſire your Lordſhip's Judgment in this matter of Law, whether what be done at *London* can be ſufficient matter of Proof in Law to maintain an Indictment againſt me at *Oxon*? And if not; they do not prove legally that I have ſpoken ſuch Words. Beſides I conceive 'tis not a good Proof, becauſe there is but one Witneſs.

L. C. J. Yes, look you, there are two Witneſſes, *Dugdale* and *Turbervile*, as to what you ſaid at *Oxon*, and two Witneſſes as to what you ſaid at *London*, *Haynes* and *Smith*, who teſtifie what you ſaid you would do at *Oxon*. Now in caſe you came to *Oxon* with any ſuch intention, that coming to *Oxford* is an overt-Act, and the Witneſſes that ſpeak what you ſaid in *London*, is Evidence to maintain the Indictment here, and to prove what your intention was.

Colledge. Does that become an overt-Act if I go to *Oxon* upon an honeſt occaſion, any other occaſion, tho' I had ſaid thoſe Words before.

L. C. J. If you came with that intent to joyn with others, and with a real Purpoſe to ſeize the King, that is the overt-Act, and the Words before prove the intention.

Mr. Juſt. *Jones.* He declared it himſelf by his Words.

Colledge. *Smith* ſays that about a Week after *Wilcox*'s Dinner, I diſcourſed with him at the *Ditch-ſide*, that comes not within the compaſs of the Statutes. Then there is twice of the 3 times he ſpeaks of, the laſt Day I do not remember when it was.

L. C. J. All was in *London* that *Smith* ſpeaks of you.

Colledge. How comes that to be Proof here, then nothing he ſays is to go for any thing.

Mr. Juſt. *Jones.* Nothing will ſerve your turn; we have declared our Opinions once already, that if the Witneſſes ſwear true, here are two Witneſſes; nay, if one were of what was done at *London*, and the other of what was done at *Oxon*, if they be to the ſame Treaſon they are two Witneſſes in Law.

Colledge. My Lord, I obſerve one thing upon *Turbervile*'s Evidence, he ſwears there was a diſcourſe in the Room when *Brown* was upon the Bed, but afterwards if your Lordſhip minds it, he ſays, I diſcourſed with him as he and I lay upon the Bed. Before he ſaid when *Brown* lay upon the Bed, and in the Room, and afterwards when we lay upon the Bed.

Mr. Juſt. *Jones.* Both the one and the other.

Colledge. But he ſaid firſt one way, and then the other.

Mr. Juſt. *Jones.* Whilſt *Brown* lay upon the Bed, and when he was gone, whilſt you both lay upon the Bed.

L. C. J. We will do you no wrong, therefore if you will, *Turbervile* ſhall ſtand up and clear it.

Colledge. My Lord I believe thoſe that have taken the Paſſages can prove he contradicted himſelf in that.

L. C. J. He ſaid both. But the Jury have taken Notes of the Evidence, and will take notice of it.

Colledge. As to Mr. *Maſters*, the Evidence he gives was, he ſays that he and I ſhould diſcourſe of the Parliament in 40.

Mr. Juſt. *Jones.* And the juſtifiableneſs of the late King's Death, that they had done nothing but what they had juſt cauſe to do.

Colledge. He ſwears that I did ſay to him, that the late Parliament did not cut off the King's Head.

Mr. Juſt. *Jones.* And you ſaid the laſt Parliament that ſate at *Weſtminſter*, was of the ſame Opinion with that in 40.

Colledge. I dare appeal to Eſquire *Charlton*, in whoſe Shop the Diſcourſe was. I did not know that Mr. *Maſters* was to be an Evidence againſt me, and truly they have taken that courſe with me, by which any Man may be deſtroyed with half this Evidence, were they of good Credit, let his Innocence be what it will. I have been uſed ſo barbarouſly in the *Tower*, kept from all Converſation, and ſo in an utter ignorance of what was ſworn againſt me; for elſe I could eaſily have diſproved Mr. *Maſters*, if I had been in *London*, and had liberty to provide for my Defence, but they have taken a courſe to prevent that, and brought me hither becauſe 'tis impoſſible I ſhould here defend my ſelf.

L. C. J. You have not offered at any Witneſs to impeach Mr. *Maſters*'s Credit.

Colledge. Mr. *Maſters*'s Diſcourſe he ſpeaks of was in Mr. *Charlton*'s Shop, I durſt have appealed to him about it, for I know if he were here he would do me right. Mr. *Maſters* did ſay the Parliament

liament cut off the late King's Head. We held a diſpute upon that which I was not willing to enter into; I ſaid they did not, and we did then diſpute whether they began the War againſt His Majeſty: I ſaid they did not that I knew of, neither were they the Perſons, but the Papiſts that began that War, and that broke off the Treaty at *Uxbridge*, and that the Papiſts carried it on to that ſad iſſue, and put it upon the Proteſtants, that they had the *odium* of it, but it was another ſort of Men that carried it on. I ſaid that I did always underſtand that Parliament to be an honeſt Parliament, that minded the true Intereſt of the Nation, and much of the ſame Opinion with the Parliament that ſate laſt at *Weſtminſter*. But before I ſaid this, I ſaid they were Perſons altogether innocent of the King's Murder, and raiſing the War againſt the King, I did always underſtand that ſo the Parliament in 40 were.

L. C. J. But they were guilty of a Rebellion, and are declared ſo by Act of Parliament ſince His Majeſty came in.

Colledge. My Lord, I am unacquainted with the Law, I ſpeak only my ſenſe of it. And, my Lord, I did excuſe them as to the Murder of the King, and the beginning of the War, that according to my underſtanding they were not guilty of it, and from thence I did maintain they were an honeſt good Parliament, and much of Opinion with the Parliament that ſate laſt at *Weſtminſter*, which was for the true Intereſt of the Nation.

L. C. J. And was that the true Intereſt of the Nation, to cut off the King's Head?

Colledge. I did argue that with him ſome time, and I did tell him that it was the Papiſts that did all the Miſchief.

Mr. Juſt. *Jones.* But he ſays no, upon his Oath, that when he had ſaid the Parliament begun the Rebellion, and the Parliament did cut off the King's Head, you ſaid the Parliament did nothing but what they had juſt Cauſe for, and the Parliament that ſate laſt at *Weſtminſter* was of the ſame Mind.

L. C. J. Thoſe were his words.

Colledge. Pray let him be called again.

L. C. J. Let Mr. *Maſters* ſtand up again.

Colledge. Pray Sir relate the whole Diſcourſe that paſſed between you and I, whether I did not argue with you it was not the Parliament cut off the King's Head, nor begun the War, but the Papiſts.

Mr. *Maſters.* No, you did not ſay any ſuch thing. We had a great deal of Diſcourſe in the Shop, and under the Arch, and the thing that was ſaid, Mr. *Colledge* was this. You did ſay to me, that you did juſtifie the late long Parliament of 40, and their Proceedings, and you ſaid they were a Parliament that did nothing but what they had juſt cauſe for. Said I, *How can you be ſo impudent to ſay ſo, when they raiſed the Rebellion againſt the King, and cut off his Head?* Said he again, *They did nothing but what they had juſt cauſe for, and the Parliament that ſate laſt at* Weſtminſter *were of the ſame Opinion.*

Mr. Juſt. *Jones.* I did you no wrong in repeating the Evidence, you ſee, Mr. *Colledge.*

Colledge. Did I not firſt diſpute with you that they did not begin the War, nor cut off the King, but the Papiſts did it.

Mr. *Maſters.* Look you, Mr. *Colledge*, you would have had it the King began the War.

Colledge. Don't you ſay ſo, for I ſaid the Papiſts began the War. Sir, ſay no more to me than what you will anſwer to God Almighty; for I always ſaid the Papiſts did all the Miſchief in the late Times; and I wonder, Sir, you would not be ſo juſt to His Majeſty, as to detect me for what I ſaid then, if you apprehend it to be as you now ſay; but I am ſure you did not, nor could not.

Mr. *Maſters.* Mr. *Colledge*, it was ſo far from that, that I was afraid it was of dangerous Conſequence, and I gave ſome Perſons of Honour an account of it; and I was ſent to but on *Friday* laſt, to know what it was was ſaid, and I was deſired and commanded to come down hither.

Colledge. Pray, Mr. *Maſters*, you are upon your Oath, do me but Juſtice, and ſpeak upon your own Conſcience; look you to it that you ſpeak the Truth.

Mr. *Maſters.* I will do you all the Right I can in the World.

Colledge. Then before the Court do you declare whether we did not diſcourſe at that time as I ſaid, for this Diſcourſe was at Mr. *Charlton's* Shop at the further end.

Mr. *Maſters.* No, it was at the entrance into the Shop, Mr. *Colledge*; and did not we go into the Arch and talk there.

Mr. Serj. *Jefferies.* Mr. *Maſters*, don't trouble your ſelf, your Reputation is not upon the Level with that Gentleman's.

Colledge. I deſire he may ſpeak the very Truth, and nothing but the Truth.

Mr. *Maſters.* I do, as near as I can, and do you no wrong; you did in your Diſcourſe ſay the Parliament did not begin the War, nor cut off the King's Head.

Colledge. You did ſay to me they did cut off the King's Head, and I told you no, the Papiſts did.

Mr. *Maſters.* I think you did ſay that the Papiſts had an hand in it; but, Sir, you have left out the moſt material part of our Diſcourſe, which was, that you ſaid they did nothing but what they had juſt cauſe for.

Colledge. I do ſay, and it was my ſence always, That the Parliament did not cut off the King's Head, for they were long out of doors before that came to paſs, and a new unhappy War was begun.

L. C. J. The War was a Rebellion on the Parliament's part, let us not mince the matter, and ſo it was declared by Act of Parliament; and if you argued after that rate, it ſhews your Temper, and that you are a very ill Man; for they that juſtify ſuch things, as to the time paſt, would lead us to the ſame things again if they could. Therefore don't go about to palliate it, *ad faciendum populum*, here, 'tis nothing to the matter, but only to ſhew your Principles, and the Jury have heard what Mr. *Maſters* ſays.

Colledge. I was then a Child, and do not know all the Paſſages, but I ſpeak my ſence.

L. C. J. You ſhould not have juſtified ſuch things.

Mr. Juſt. *Jones.* Who appointed the High-Court of Juſtice that tried the King and condemned him, but the Parliament?

Mr. Juſt. *Levins.* It was the Garbage of that Parliament, I am ſure, that is the *Rump*, but they called themſelves the Parliament of *England*, and the Parliament it was that begun the War.

Colledge. My Lord, I did not know, nor don't know that it is proved yet, that the Parliament were thoſe that did cut off the King's Head. I don't know, Mr. *Maſters* is pleas'd to ſay this of me; but I thought no evil, nor did he underſtand it ſo, I believe, at that time, for he did not ſeem to take advantage of my Diſcourſe. I know he talked violently and paſſionately with me, as he uſed to do; and for Mr. *Maſters* to ſay this of me now, is a great unkindneſs; for I thought he was ſo much a Gentleman, that if I had ſpoken any thing that had not become me, he would have taken notice of it then.

Mr. Serj. Jefferies. He did then, he tells you.

Colledge. Had I known of it, I am ſure Mr. *Charlton* would have done me Juſtice, and ſet things right; but this I ſay, I did firſt excuſe the Parliament from being concerned in the Murder of the King, or that they did begin the War, but the Papiſts did it: If it were otherwiſe, it was more than I underſtood: And after that I ſaid, I thought that the Parliament that ſate laſt at *Weſtminſter*, did ſtand up for the Peoples Rights, after the ſame manner that the Parliament in 40 did.

Mr. Juſt. *Jones.* What, juſt after the ſame manner, in raiſing War and Rebellion againſt the King?

Colledge. After I had diſcourſed it thus, my Lord, as I told you, it could not be underſtood that I thought that Parliament would cut off the King's Head: And therefore you that are my Jury, pray conſider, and take it all together, there could be no ſuch meaning made of my words; for I did not conceive that that Parliament were concerned in thoſe things, but were a Parliament that ſtood up for the Rights of the People: Now, if it were ſo, then the Parliament at *Weſtminſter* were of the ſame Opinion.

L. C. J. I tell you the Long-Parliament's levying War is declared Rebellion by Act of Parliament.

Colledge. My Lord, if there hath been an Act ſince, that ſays they were guilty of Rebellion, I declare 'tis more than ever I knew before: This is the firſt time that ever I heard of it.

Mr. Serj. *Jefferies.* You are a mighty Learned Gentleman to talk of thoſe Points indeed.

Colledge. My Lord, I deſire to know whether any Words that were ſpoken ſix Months before they gave in their Depoſitions, can be a ſufficient Evidence in Law againſt me now?

L. C. J. 'Tis upon the Act of the 13th of this King you ſpeak.

Colledge. Yes, my Lord, I take it upon that Statute.

L. C. J. I tell you, as to that part of the Statute which concerns Miſdemeanors, there is a particular Clauſe for Proſecution by order of King and Council; but as to that part of the Statute that concerns Treaſon, it muſt be proſecuted within ſix Months, and the Indictment within three Months after.

Colledge. What Statute is this Indictment grounded upon?

Mr. Juſt. *Jones.* All Statutes that concern Treaſon.

L. C. J. Upon the Statute of the 25 of *Edw.* 3. which declares the Common-Law, and the Statute of the 13th of this King, which when you have done, I will have read to the Jury.

Colledge. Then, pray my Lord, let me ask you one Queſtion, Whether the Statute of 25 *Edw.* 3. does not ſay that there ſhall be two poſitive Witneſſes to Treaſon?

Mr. Juſt. *Jones.* No, but there is another that does.

Colledge. I am ignorant of the Law, and therefore I ask the Queſtion.

L. C. J. Well, I will tell you, there muſt be two Witneſſes in the Caſe, but one Witneſs to one Fact at one time, and another Witneſs to another Fact at another time, will be ſufficient Evidence to maintain an Indictment of Treaſon; this was told you in the Morning.

Mr. Juſt. *Jones.* And it was told you withal, That it was the Reſolution of all the Judges in the Caſe of my Lord *Stafford*, when he was tried in Parliament.

Colledge. They proved Fact in that Caſe, writing of Letters, and offering Money to kill the King: but nothing of Fact is proved againſt me, but riding in the Country with Arms that I had three Years before.

L. C. J. We will read the Statute of the 13th, wherein Words are declared to be Treaſon.

Colledge. I pray it may be read, if you pleaſe. (*Which was done.*)

L. C. J. Look you here, To compaſs or imagine the impriſonment of the King, and to expreſs it by malicious and adviſed ſpeaking, when proved by two lawful Witneſſes, is Treaſon by this Act.

Colledge. Now, whether you will diſtinguiſh, that there muſt be two Witneſſes to diſtinct Places or Times, or whether the Statute intends two Witneſſes to every particular Fact and Words.

L. C. J. We told you our Opinion before, That one Witneſs to one Fact, and another to another of the ſame Treaſon, was ſufficient. We are upon our Oaths in it, and ſpeak not our own Opinions, but what hath received publick Reſolution in Caſes of the like conſequence.

Colledge. What lies before theſe Gentlemen of the Jury, as done at *Oxon*, 'tis but upon a ſingle Teſtimony.

Mr. Juſt. *Levins.* Nay, Mr. *Dugdale* and Mr. *Turbevile* both ſwear the ſame thing, your deſign to ſeize the King at *Oxon.* And it would be the difficulteſt thing in the World to prove Treaſon againſt any Man, if the Law were not ſo, and a Man might commit all ſorts of Treaſon ſecurely; for to be ſure he would never ſay the ſame things before two Witneſſes in one time, and the King would be in no ſort ſafe; for there would never be two Witneſſes to one and the ſame thing: But that hath been reſolved often and often, over and over again, particularly in my Lord *Stafford*'s Caſe, as you have been told.

Colledge. My Lord, you ſay the King is not ſafe upon thoſe Terms, and no private Man is ſafe in the other way.

Mr. Juſt. *Levins.* We ſay that the Law is ſo, and there is good reaſon for it.

Mr. Juſt. *Jones.* We muſt not alter nor depart from the allowed received Law.

L. C. J. I ſay the thing hath been conſidered in other Caſes, and the Law hath been adjudged and ſettled. It was ſo reſolved in my Lord *Stafford*'s Caſe, when the Judges by the command of the Parliament, did deliver their Opinion upon that Point moved by him.

Colledge. There is nothing of Fact proved againſt me but a pair of Piſtols, a Sword, and an Horſe.

L. C. J.

L. C. J. We have told you the Law, and anſwered your Queſtion.

Colledge. But as the Caſe ſtands, if that be the Law, all Society and Converſation muſt be ruined by it.

Mr. Juſt. *Jones.* Pray go on, when do you think we ſhall have done elſe?

Colledge. However I do not inſiſt upon that ſo much, as that the Teſtimonies and Oaths of theſe Men are altogether invalidated, by ſubſtantial Perſons that have here teſtified againſt them. I do declare upon my Salvation, (I have nothing elſe to ſay) I am wholly innocent, and the Jury are my Judges, and I beſeech them, as they will anſwer me at the great Day of Judgment, where they muſt appear as ſure as I ſtand at this Bar now, that they do me right, and go according to their own Conſciences; for if a Man ſhall be ſworn againſt by ſuch Fellows as theſe are, no Man is ſafe.

Mr. Serj. Jefferies. The worſe, the better to be truſted by you.

Colledge. I am ſure it cannot be thought by Men of common Reaſon, that I ſhould ſpeak Treaſon at that rate that they have ſworn, and to ſuch Men, Men of their Profeſſion, *Iriſh* Men, and *Papiſts*, Traitors that have declared they have been in all manner of Rogueries, Murders, Plots and Treaſons. Therefore, my Lord, I cannot do any more for my ſelf, becauſe I have no Notes, and cannot recite what hath been ſaid for me or againſt me; but I do depend upon your Lordſhip, and I hope you will inform the Jury rightly, and do me Juſtice; and I do pray the Jury that they will let their Conſciences be ſatisfied, as they are *Engliſh* Men, and as they are Chriſtians, to conſider how the Caſe lies with me, whether there has not been more occaſion of talking of late, and whether a ſlip of the Tongue may be called a premeditated, malicious, adviſed ſpeaking, I mean, my Diſcourſe with Mr. *Maſters*. He talked with me as hot as fire, he was ſo violent, and I did diſcourſe him at that rate I have told you, and that is truth, as I have a Soul to be ſaved: I did excuſe the Parliament, that as I underſtood it, they had no hand in the beginning of the War, or the Murder of the King. My Lord, As for the reſt that have ſworn againſt me ſo deſperately, I muſt ſay, that if the Jury did not as well conſider my Evidence as theirs, yet they might well conſider, whether it conſiſts with common Sence and Reaſon, that I ſhould ſpeak to theſe Men after this rate, when I could lay no obligation upon them, nor have any confidence in them; neceſſitous Perſons, that could not aſſiſt me one Mite, Men that were beholding to me to borrow Money of me, and that eat of my coſt, that I had always been obliging to, and not they to me. But I hope I need inſiſt upon this no further; the whole Nation is ſenſible what is doing, and what this does ſignifie: They have begun with me in order to the making of a *Presbyterian* Plot, which they would carry on to ſtifle the noiſe of the *Popiſh* Plot; and this is not the 1*ſt*. the 2*d*. nor the 10*th*. time that they have been at this Game; how many Shams have they endeavour'd to raiſe —

Mr. Att. Gen. Who do you mean by *they*?

Colledge. The *Papiſts*.

Mr. Att Gen. There is nothing of *Popery* in the Caſe; they are all *Proteſtants*.

Mr. Juſt. *Jones.* They are all Perſons that have lately receiv'd the Sacrament.

Colledge. They were all *Papiſts*, and I believe are ſo ſtill; for Mr. *Dugdale* did juſtifie to me the Church of *Rome* in ſeveral things: And when I told him that they were all Knaves and Fools that were of that Religion, he told me, that many of their Prieſts were holy good Men.

Mr. Juſt. *Jones.* Have you proved that?

Colledge. I can't prove it, it was betwixt him and me, my Lord.

Mr. Juſt. *Jones.* Then I hope you have done.

Colledge. If I had ſworn againſt him, he had ſtood in my Place.

L. C. J. Have you done, Mr. *Colledge*?

Colledge. My Lord, I only deſire the Jury to take all into their ſerious Conſideration; I expect a Storm of Thunder from the learned Council to fall upon me, who have Liberty to ſpeak, and being Learned in the Law, underſtand theſe things better than I, who muſt defend my ſelf without Council. I know not whether it be the Practice in any Nation, but certainly 'tis hard meaſure, that I being illiterate and ignorant in the Law muſt ſtand here all Day, they being many, and taking all advantages againſt me, and I a ſingle Perſon, and not able to uſe one means or another either of writing or ſpeaking. But, Gentlemen, I do declare and proteſt, as *I* ſhall anſwer it at the Day of Judgment, that as to what theſe People have ſworn againſt me either as to Words, or as to any manner of Treaſon againſt the King, the Government, the Laws eſtabliſhed, *I* take God to witneſs *I* am as innocent as any Perſon upon Earth. And therefore *I* muſt beſeech you be not frightned nor flattered; do according to your Judgments and your Conſciences; you are to be my Judges both in Law and Fact; you are to acquit me or condemn me, and my Blood will be required at your Hands. And whatſoever is ſaid to you by others, you are my true Judges, you muſt give an account of the Verdict you give; and therefore you muſt ſee that you do Juſtice, as you will anſwer it at another Bar, where you muſt all certainly appear, and the Lord Almighty direct you that you do me true Juſtice, and *I* ask no more.

Mr. Sol. Gen. May it pleaſe your Lordſhip, and you Gentlemen of the Jury. Here hath been a great deal of time ſpent, and truly *I* think for no other Reaſon but to divert you from the matter that is before you, and that you might forget the Evidence that hath been given. And therefore I will briefly repeat it to you, that *I* may refreſh your Memories about what hath been ſworn. Gentlemen, the Crime charged upon Mr. *Colledge* is High Treaſon in imagining and compaſſing the Death of the King; the Proof of that hath been by a Conſpiracy to ſeize the King here at *Oxon*, which Conſpiracy he declared he was in, by ſhewing Arms prapared for that Purpoſe, and by coming down to *Oxon* with that intent, this is the Proof of his deſign to kill the King.

Colledge. Is the Conſpiracy proved of that Mr. Solicitor?

L. C. J. Mr. *Colledge*, We have had a great deal of Patience with you, you have ſpent a great deal of time, you muſt contain your ſelf now, and let them go on.

Colledge. Do not let him do me wrong, my Lord.

Mr.

Mr. Sol. Gen. *I* will do you no wrong Mr. *Colledge.*

Colledge. Sir, there is no Conſpiracy proved.

L. C. J. Look you Mr. *Colledge*, you have taken up a great deal of time, and we have had much Patience becauſe we conſider your condition, and had rather hear too much than be hard upon you, and becauſe the Evidence was long and difficult to repeat, now we have heard you, you muſt have patience to hear what the King's Council repeat and obſerve upon it.

Mr. Sol. Gen. As *I* was ſaying, the Fact that is charged upon him, is a deſign to kill the King, the manifeſtation of that deſign is by preparing Arms to that Purpoſe, and by coming down to *Oxon* to ſeize the King here, and that this was his Manifeſt intent to ſeize the King, the Proof of it hath been by Witneſſes, that *I* think by and by you will have no Objections againſt. Theſe Witneſſes were *Dugdale*, *Turbervile*, *Smith* and *Haynes*, theſe are the moſt material Witneſſes to the Treaſon, there are two other Witneſſes indeed, but they are to other circumſtantial matters that I will take notice of to you by and by, and make my obſervations upon them in their proper Place.

Mr. Dugdale was the firſt that was produced, and his Evidence is very full, he proves that Mr. *Colledge* declared to him at the Coffee-houſe here, that he was come down with an intent to ſeize the King, that he had an expectation ſome thing would be done, that he was Armed, and that he did adviſe Mr. *Dugdale* to be Armed too, for he was provided for the rooting out of Popery, which he explained himſelf what he meant by it, that was the Church of *England*, and the King and all his Adherents. He came hither Armed for that Purpoſe, Gentlemen, and did adviſe Mr. *Dugdale* to Arm himſelf too, that he did declare to him the King was a Papiſt, and all his Family were Papiſts, he was as deep in the Plot, and as Guilty of the Murder of Sir *Edmundbury Godfrey*, as any body elſe. This was what he declared to *Dugdale* here, and this he ſwore to you when he gave his Evidence.

The next Witneſs is Mr. *Turbervile*, and he is poſitive to the matter that is laid in the Indictment, and ſwears to you expreſly, that he did declare to him at the *Chequer-Inn*, that they came down here in expectation of ſome ſport, that ſomething would be done, that they did expect the King would begin with them, but if they did not, they would begin with him, and they would ſecure him till they had brought him to Compliance. He ſhewed him his Arms, that he was ready to ingage in that deſign, and adviſed *Turbervile* to be ready too. And rather than *Turbervile* ſhould not be ready he offered to procure him an Horſe.

Colledge. Every Man had the ſame Arms that I had, and I had had them long before that time.

Mr. Sol. Gen. But every one had them not with the ſame intent, but Gentlemen, becauſe Mr. *Colledge* interrupts me with an Objection, I will take notice of it now by the Way. He ſays thoſe Arms he had before, and therefore they were not provided for this Purpoſe, Gentlemen, we do not pretend to prove when this Traiterous intent firſt began, and how long this deſign hath been hatching, but ſuch a deſign there was, and ſuch a deſign he manifeſted to be in himſelf when he made the Declaration to *Turbervile*, and adviſed him to Arm himſelf; whether he prepared them againſt that time or no is not material, if he had them before, and if he had them firſt innocently, yet if he afterwards deſigned them for ſuch a Purpoſe, and ſhewed them in a readineſs for it, that is a ſufficient Evidence to prove this Treaſon.

So here are two Witneſſes you obſerve againſt the Priſoner of this matter that is laid againſt him in the Indictment, an intent to kill the King, they both prove it poſitively upon him at *Oxon.* Mr. *Dugdale* ſpeaks to matters precedent to, for he tells you, his Diſcourſe before they came down, that they would come down for that Purpoſe, that they had an expectation ſome thing would be done, and therefore he came down in an Equipage not ſuitable to his Profeſſion, for you ſee he was by Trade a Carpenter or a Joyner, but Armed on Horſeback with a Caſe of Piſtols, things that don't become ſuch Men to Travel with, and he did declare to Mr. *Dugdale* for what Purpoſe he came down. The next Witneſs is Mr. *Smith*, and Mr. *Smith* is as poſitive and full to this matter of Treaſon as any of the reſt.

Colledge. There is ſcarce a Carpenter or a Joyner in *London* but hath Piſtols when he rides.

L. C. J. Mr. *Colledge*, We muſt not ſuffer this, We had ſo much patience with you that we expect you ſhould be quiet now and not interrupt the Council.

Colledge. My Lord, Let me not be overborn upon, there is ſcarce a Poulterer in *London*, but what hath Piſtols.

Mr. Sol. Gen. We had great Patience with you Mr. *Colledge*, and did not interrupt you I am ſure, but let you ſay what you would. I think I do you no wrong, if I do, I am under the Correction of the Court, they will reprove me if I do that which does not become me.

Mr. Juſt. *Jones.* Did not you ramble I don't know how, and yet you were ſuffered to go on?

Mr. Sol. Gen. He tells you of a Diſcourſe as he came from the Coffee-houſe to go to a Dinner whither he was invited by Alderman *Wilcox*; and the Diſcourſe was, That the King was as great a Papiſt as the Duke, and much more to that Purpoſe, vilfying the King. That Alderman *Wilcox* was a Man that gave Money to buy Arms to bring the King to ſubmiſſion. He objects againſt this, and ſays 'tis impoſſible ſuch a Diſcourſe ſhould be, and that all this ſhould be talked in ſo little a time, as in paſſing from the Coffee-houſe to the Crown-Tavern without *Temple-Bar.*

Colledge. Pray remember whoſe Company it was proved I went in, Mr. Solicitor.

Mr. Sol. Gen. But, Gentlemen, when you conſider, how buſie a Man he was, and how ready at talking of Treaſon, you will not think, but that this Man might talk much more than this; but this I mention to do him right, it being one of the Arguments he uſed; and, to give an Anſwer to it, tho' when you conſider it, I believe you will think it not to need an Anſwer. But I would do him all the right I can, and now you have heard it, you will conſider the weight of it.

Gentlemen, he tells you of another Diſcourſe afterwards, that does relate to his being here at *Oxon*, he tells you he had Arms in his Houſe, and was ready upon all occaſions, and he ſhew'd Mr. *Smith* his Arms, and told him, theſe were the Things that were to deſtroy *Rowley*'s Guards, as he

he ſaid, which by the Evidence is made to appear he meant the King by that Name, his Arms he ſaid were for that purpoſe. That he would go down to *Oxon*, and there he expected ſome Sport. I know not what ſport he thinks there is in Rebellion; you ſee what Principles he is of, that does maintain and juſtifie the greateſt and horrideſt Rebellion that ever was in *England*, and ſays they did nothing but what they had good Cauſe for. He tells *Smith*, that he thought the King would ſeize upon ſome Members, and with that expectation he came down, but he was as ready as the King, and would be one in the ſecuring of him, if he medled with any of the Members. This Proof Mr. *Smith* made; and that after the Parliament was diſſolved, he ſaid, that the King ran away, and was very much afraid. This is proved by *Smith* likewiſe, and this *Colledge* did declare after he came to Town. *Smith* proves further, That he did wonder the King did not conſider how eaſily his Father's Head was brought to the Block; and for Mr. *Colledge*'s part he did declare, that he did believe this King would be ſerved ſo ſhortly. And this does confirm what his other Witneſſes have ſpoken of his Words at *Oxon*. Thus then there are three Witneſſes, tho' two are enough to convict a Man, if they be poſitive to the Treaſon.

Mr. *Haynes* is the fourth Witneſs, and he is as full as any of them. I do but repeat it in ſhort; you have had it ſo often canvaſſed by *Colledge*, that I believe you will eaſily remember it. He did adviſe *Haynes* that he ſhould not value the King at all, for the King ſhould be called to account for all his Actions; he ſaid he would ſeize the King and bring him to the Block as they did his Father, with an undecent Expreſſion of that bleſſed King, not fit to be repeated. And he ſaid, they did intend, when they had cut off him, never any more of his Race ſhould Reign. This it was *Haynes* ſays, tho' there are other Matters. I would take notice of one thing more, and I need not but mention it, you will remember it, and that is about the Libel of *Fitzharris*. *Haynes* tells you, upon diſcourſe of that Libel, he ſaid, That every word of it was true, as ſure as God was in Heaven. Now that was a Libel made by a Papiſt, an *Iriſh* Papiſt, who hath been Tried, Convicted, and Executed for it, and the horrideſt Libel it was that ever was writ. And this is the Libel which this Gentleman, who is ſo very converſant in Libels, and Books of that ſort, avers to be as true as God is in Heaven. This is the ſubſtance, Gentlemen, of that Proof which hath been made to you; we have other Circumſtances to prove, That as he came down with that intent to ſeize the King, and as he expected, what he calls, ſome Sport, ſo he did endeavour to begin the Sport, he did quarrel in the Lobby of the Houſe of Lords with *Fitz Gerald*, ſome blows paſſed, and Sir *William Jennings* telling him his Noſe bled, he did declare, I have loſt the firſt Blood in the Cauſe, but it will not be long before there be more loſt. Thus after he had come down, he endeavoured to begin a Commotion, for from little matters great things do ſometimes ariſe, and when all Men were poſſeſt with an Expectation, ſuch as he himſelf did declare, he and others came down with an Expectation that the Parliament ſhould be attacked; a little matter, might have begun ſuch a Commotion which no Man knows what end it would have had.

Gentlemen, this hath been our Proof. Now the Objection made to this Proof by Mr. *Colledge*, is, That this is a *Popiſh* deſign to raiſe a new Plot, and caſt it upon the *Proteſtants*, and that theſe Witneſſes are now to deny all the Evidence they have given of the Popiſh Plot, and throw all upon the Proteſtants. This is that he would perſwade you to believe, but which I think when you do conſider a little of it, it will be impoſſible for you in the leaſt to have ſuch a thought. For what are the Evidence that have proved this? who are they? Men of Credit, that have been Evidences againſt the *Popiſh* Plotters, and againſt Men that have ſuffered for that Plot, Men that ſtill ſtand to the Evidence they have given, and affirm it every Word to be true, and one of the very Men that he brought ſays, that they ſtill ſtand to it; for *Turbervile* who was one of the Witneſſes againſt my Lord *Stafford* was tempted by ſome Perſons to deny the Evidence he had given againſt the Papiſts, but his anſwer was, no, I can never depart from it, I have a Soul to ſave, that was true which I ſaid, I cannot deny it. If then the Witneſſes which he would have you believe to be guilty of denying the Popiſh Plot, do confirm what they have ſaid as to that diſcovery, that objection is taken off, and they do ſtand ſtill to it that every part of it was true, and aver the ſame thing; and yet forſooth theſe Men are going about to ſtifle this Plot.

Gentlemen, theſe are the Men the whole Nation have given credit to, the Parliament having impeached my Lord *Stafford* upon the credit of them (for it was upon the credit of *Dugdale* and *Turbervile* that they impeached him, for there was not two Witneſſes till *Turbervile* came in and made a Second, and upon their credit) after ſo ſolemn a Tryal where all the Objections that could poſſibly be made were made, the Houſe of Lords thought fit to find my Lord *Stafford* Guilty, and my Lord *Stafford* ſuffered for it, and dyed upon the credit of theſe Men. Theſe are the Witneſſes, Gentlemen, that this Man thinks ought to be blown off with that frivolous Objection, that they are Perſons he would have you believe, who are Guilty of a deſign to throw the Plot upon the Proteſtants. But becauſe he hath deſired to ſave himſelf in an Herd, by numbring himſelf amongſt the Proteſtants, I muſt a little obſerve to you what a ſort of Proteſtant he is, a Man he would have you to believe, ſo popular for his Religion, that he hath obtained the Name of the Proteſtant Joyner. But when you have conſidered what his Actions are, I believe you will a little ſuſpect his Religion. If the Proteſtant Religion allow any Man to vilifie the King, to Arraign the Government, and to throw off all manner of Allegiance, then this Man is a Proteſtant, but if this be to act the Part of a Papiſt, and if the Papiſts could wiſh that ſuch an Infamy might be put upon the Proteſtant Religion, that it ſhould juſtifie ſuch a Rebellion as the late horrid one was, and own ſuch a Principle that it is lawful for any Subject to aſperſe and vilify the King, as this Man by thoſe many and ſcurrilous Libels ſeems to do; If they could wiſh this Nation overturned, and the Government in confuſion, and the Church of *England* deſtroyed, the beſt Bulwark now in the World againſt Popery, and the beſt or only refuge at this Day left for the Poor afflicted *Proteſtants* abroad. Then whilſt Mr. *Colledge* does thus act the Part of a Papiſt,

piſt, he does very ill to call himſelf a *Proteſtant*. Gentlemen, I cannot but obſerve one thing to you, and it was the Evidence of Dr. *Oates*, when he did firſt diſcover the Plot, and without his Evidence you would eaſily believe the thing. He told you there were two Ways they had to accompliſh their deſign, by direct murdering of the King, or if that failed, by putting all things into Confuſion here, and raiſing Rebellion and Diſturbance amongſt us, and the Way to affect that Rebellion it was by having Emiſſaries ſent among us, to work us into a diſlike of the Church, and by that means into a Rebellion againſt the State. That ſome Men were ſent abroad for that Purpoſe to preach at Conventicles, ſome whereof were catched, and ſome did ſuffer. Now without this Evidence it would not be hard to believe, that ſuch there are, and have been, for all that know the Hiſtory of our Reformation do know that it was an early Practice among them, to raiſe Sects amongſt us, to bring confuſion firſt into the Church, and then in the State. And we have already found the ſad Effects of it.

Now, Gentlemen, if *Colledge* have all this while under the Name of a *Proteſtant* acted the Part of a *Papiſt*, though I cannot ſay he is a *Papiſt*, nor that he is one of thoſe Emiſſaries, yet I may ſay he is not that good *Proteſtant* he pretends to be. Gentlemen, I muſt now to do him right, come to repeat the Evidence that he hath given againſt our Witneſſes; for Mr. *Haynes* he hath produced ſeveral Witneſſes, one is Mr. *Hickman*, who ſays he overheard *Haynes* ſay to one that was his Tenant, that it was his Trade to ſwear, and he muſt get Money by it. This he overheard him ſtanding and liſtning at a Door. You have another Man *Lun*, that is the next Witneſs, and he ſays that at the *Fleet-ditch* where he ſaw him, there he declared the ſame thing to him, that he would ſwear any thing for Money, and damn his Soul rather than the Catholick Cauſe ſhould ſink; and now he comes to prove a Plot upon him that is a *Proteſtant*, and in his Perſon upon all the Proteſtants of *England*, and this Man would fain throw off the credit of the Popiſh Plot, and turn it upon the Proteſtants. But, Gentlemen, it is ſtrange, that Mr. *Haynes* ſhould have this Diſcourſe with *Lun*, the firſt time that ever he ſaw him, for I am ſure his own Witneſs *Lun* ſays it was the firſt time, and that he ſhould immediately talk to him at this rate is ſomewhat ſtrange: But for an Anſwer to it, this *Lun* we have confronted with the Evidence of *White* the Meſſenger, who ſwears, that afterwards meeting him at *Uxbridge*, *Lun* asked him what Gentleman that was, and did not know Mr. *Haynes*, and yet he takes upon him to prove, that he had ſpoke ſuch Words to him before. I think there is never another material Witneſs againſt *Haynes* except *Whaley*, who was an under-Officer in the *Kings-Bench*; and he ſays, that *Haynes* while he was a Priſoner there ran away with a Silver Tankard, but he never was indicted or proſecuted for it, tho' he remained afterwards in the Houſe; and this was five or ſix Years ago.

Now, Gentlemen, I think the nature of this Evidence hath not that weight, as to take off the credit of what this Man hath ſaid upon his Oath, eſpccially when this Man's Evidence is ſo backed with the Evidence of other Men, that I think there is no Objection at all againſt it. For the other Witneſſes, *Dugdale*, *Smith* and *Turbervile*, are Men whoſe credit has not been impeached, and they have confirmed in ſubſtance what the Evidence of *Haynes* is; ſo that he does not ſtand alone in what he here ſwears, but 'tis confirmed with concurrent Evidence with it.

Then, Gentlemen, for the Objection againſt *Dugdale*, *Turbervile* and *Smith*, they have produc'd Dr. *Oates* to you, and he muſt vilifie the credit of thoſe Men, whoſe Teſtimony as to what he gave at firſt in diſcovering the Popiſh Plot, received credit by being ſeconded by theſe Men. And I cannot but obſerve it as a ſtrange thing, that this Man comes now to vilifie the teſtimony of thoſe, who have given Evidence and been credited by the whole Kingdom; that he ſhould come here upon the Word of a Prieſt to declare, that Mr. *Dugdale* was a Man of very lewd Converſation, and was a Perſon that had a foul Diſeaſe on him, when he pretended he was poiſoned. I remember this was an Objection that hath been made by the *Papiſts* to him, and I believe you have heard it often out of their Mouths; but it is the firſt time that ever I heard it from any one that is a Witneſs of the *Popiſh* Plot, and pretends to ſtand up for the *Proteſtant* Religion. Gentlemen, if any ſuch thing as this could have been made out againſt him, it had been made out e're now, the *Papiſts* would have taken advantage of it, and when the wit of all that Party was bent againſt him, he could not have eſcaped the having it proved. If it had been true, yet Dr. *Oates* takes upon him now to vilifie his credit, and takes up thoſe Arguments the *Papiſts* have maliciouſly ſuggeſted, but yet were never able to make out. This looks as if the Doctor were again returning to St. *Omers*, that he is thus going about to diſparage the Evidence of Mr. *Dugdale*, which in great meaſure verified the truth of that diſcovery, which himſelf firſt made of the *Popiſh* Plot.

Againſt *Turbervile*, Gentlemen, I think there hath been very little at all objected that can have weight with you. Mr. *Brodgate*, as I ſuppoſe you obſerve, has ſaid enough to confirm *Turbervile*'s credit; for he hath proved to you, That when he was tempted to renounce his Evidence againſt the *Papiſts*, he refuſed to do it, he had more Conſcience than to do it, he knew well enough what he had ſaid was true, and as he had a Soul to ſave, he could not go from it. This is the Evidence that he gives, and which certainly ſerves much to confirm the truth of *Turbervile*, beſides the ſtrict Examination he hath been under, and beyond any thing that Dr. *Oates*, I think, has been able to contradict him in.

Dr. *Oates* contradicts *Smith* about his coming from the *Coffee-houſe* to *Wilcox*'s Dinner. He ſays, he did not come along with Mr. *Colledge*, but *Colledge* came along with Dr. *Oates*, and *Smith* followed them. But, Gentlemen, you hear what *Smith* hath declared upon his Oath, That they came both together out of the *Coffee-houſe*; and you hear what his Witneſs Mr. *Smith* the Councellor ſays: He does not poſitively remember that circumſtance, yet one would think he ſhould; for *Oates* ſays, Mr. *Smith* the Lawyer walked juſt before them, and *Colledge* followed. Mr. *Smith* that is the Witneſs for the King, he ſwears he came along with *Colledge*, but Mr. *Smith* the Lawyer being asked that Queſtion, he does not remember that. Then another thing is, Dr. *Oates* ſays, when they were there, *Colledge* was

was ſo far from diſcourſing of any Treaſonable matters, that he was very merry in the Company, and talking innocently, but Mr. *Smith* ſays, he was ſo far from being merry or talking Treaſon, that he fell faſt aſleep, and ſlept behind the Table. Gentlemen, theſe Objections you ſee what the weight of them is, and how little the Evidence agree one with another, but there is nothing that does contradict Mr. *Smith* in his main Evidence. 'Tis poſſible they may not remember particular Circumſtances, whether Mr. *Colledge* and Mr. *Smith* came together, ſo they might come together for ought they know, and they may not remember any Circumſtance about their retiring, but they can't take upon them to ſwear it is not ſo, and their not remembring it does not prove it was not ſo, and the Circumſtance it ſelf is ſo trivial, that there was no neceſſity they ſhould remember it. So then no Evidence that comes from Dr. *Oates* can take off that that is given by *Smith*, tho' if Mr. *Smith* were out of the Caſe, and Mr. *Haynes* too, yet there is Evidence ſufficient from Mr. *Dugdale* and Mr. *Turbervile* who are not impeached, and are both of them poſitive, both to the Fact and to the Place.

There are two Witneſſes more that I muſt mention, and they are *Bolron* and *Mowbray*; they ſwear that *Smith* travelling upon the Road with them, would have ſuborned them to ſwear againſt *John Brooks*, about a Diſcourſe at ſome place; but it happened, Gentlemen, they differ in point of Time in their Teſtimony; the one ſaid it was the 25th of *July*, the other was poſitive it was the 3d of *Auguſt*. But I think I need ſay no more to theſe Men, but only to deſire you to weigh their Credit. *Bolron* and *Mowbray*, I confeſs, have been Evidence againſt ſeveral Men that have been accuſed of the Popiſh-Plot, but they have been ſo unfortunate as never to gain Credit with any Jury. Mr. *Smith* hath been believed by the whole Court of Parliament: But if there were no more in the Caſe, theſe are two Men that never were yet believed, Men that have been ſworn in their own Jury have rejected the Credit of their Teſtimony: But beſides that, comparing the Teſtimonies and the difference that was between them, is a ſufficient Evidence to confront all that they have ſaid.

I think, Gentlemen, this is the Subſtance of what hath been offered by his Witneſſes, againſt the Witneſſes produced for the King, except that of Mr. *Everard*, who ſays ſomething againſt *Haynes*, that *Haynes* ſhould ſay he ſwore for Self-preſervation. And againſt Mr. *Smith* he ſays that he heard him ſay, he did not know of any, *Presbyterian Plot*. I believe that may be true, and yet it does not contradict *Smith*'s Evidence againſt *Colledge*; for Mr. *Smith* does not tell you, that he was privy to any ſuch Deſign of the *Presbyterians*, that he knows of any Conſultations that they held, or the ways and means by which they would arrive at the Treaſon charged upon the Priſoner at the Bar, but his Evidence is, That this Man declared there was ſuch a Deſign, That there was a Party would do it, and, That he would be ſure to be one, and Armed himſelf for that purpoſe: But his not being privy to any Plot, or knowing the Particulars, is no Contradiction to what he ſaid.

This is that he hath produced for his Defence, and by theſe things he hath endeavoured to take off the Credit of our Witneſſes, and he would have you believe that he is a very good Proteſtant, tho' he does that which no Proteſtant would do, and which is the Papiſts Work; he hath produced you Witneſſes that he has gone to Church, but I do not ſee he hath produced any Witneſſes at all that are now converſant with him, his own Pariſhoners in *London*, but if he had brought never ſo many Witneſſes of his going to Church, and of his Conformableneſs to the Church, yet if he were Guilty of theſe Practices, he muſt give me leave to ſuſpect the Truth of his Profeſſion; and I think it a great piece of Arrogance for him to take upon him the Title of a *Proteſtant*, when he hath abuſed that Title by ſuch unſuitable Practices: And, Gentlemen, if ſuch Practices as theſe are, which we have fully proved, as ſuch as all good Men muſt abhor, I cannot but reflect upon the Condition of this Man, whoſe only hopes is, that you ſhould now forget your ſelves, and become as ill as he is. But as that cannot be preſumed, ſo I ſhall not need to ſay any more to you; you are Men of that conſideration that can judge between things, and the appearances of them, and you know very well how to give the due weight to the Evidence we have given to you, as well as the Objections made by the Priſoner, and ſo, Gentlemen, I ſhall leave it to you.

Mr. Serj. Jefferies. May it pleaſe your Lordſhip, and you Gentlemen of the Jury; It hath been a long time that hath been ſpent in the courſe of this Evidence; whether there has been any Art or Deſign in protracting the time, on Purpoſe to obtrude upon the Patience of the Court, or that you Gentlemen ſhould forget the force of the Evidence that hath been given againſt the Priſoner at the Bar, when there hath been ſo much time taken up unneceſſarily, when there was no occaſion, as I muſt needs ſay, there was not for ſuch a tedious Defence, I leave it to you to determine: But which was truly intimated by the Court at the beginning of the Tryal, muſt in the end of this Cauſe be repeated, and indeed go thro' it all, that we of the King's Council, and what the Priſoner has affirmed, that has not been given in Proof, ſignifying nothing, and is not to be any guide at all to you. You are upon your Oaths, and by the Oath you have taken you are bound in Conſcience to give a Verdict according to the Evidence that has been given to you, and that is your guide; ſo that what we opened and have not proved, is no more to be believed then what the Priſoner has ſaid for himſelf in his own Defence; and whatſoever he ſays, if he make not good Proof of it, is no more to be regarded, then what we who are for the King have alledged, and not made out.

So then this being in the firſt Place premiſed, I ſhall take care as near as I can to ſave the time of the Court, and not to treſpaſs on your Patience, Gentlemen, unneceſſarily, in a Caſe whereupon as great a concern does depend, as perhaps ever came to Tryal at any Bar: For I ſay 'tis a Caſe wherein the Life and the Liberty of the King is concerned, and that is the great concern of the Nation; the Religion of the Nation is concerned; I would be underſtood aright, I mean the *Proteſtant* Religion eſtabliſhed by Law; for I know of no other Religion Men ought to Sacrifice their Lives and Fortunes for, but the *Proteſtant* Religion eſtabliſhed by Law; and when

theſe things are concerned, 'tis a Caſe of great Conſequence: God forbid any Perſon, *Proteſtant*, or other, ſhould attempt the Life of the King, and the Subverſion of our Religion, and by ſtiling themſelves by the Name of *Proteſtants*, ſhould excuſe themſelves from any ſuch Crimes.

For the Evidence that has been given, I ſhall not enumerate the Particulars againſt the Priſoner at the Bar, other then ſuch as have been omitted, (if I miſtake not,) by Mr. Sollicitor.

In the firſt Place there are the things that hapned at *Oxon*, for you have had it already ſufficiently told you by my Lords the Judges who are upon the Bench, and who (under Mr. *Colledge*'s favour) are the Priſoners Judges in Point of Law, as you are his Judges in Point of Fact. They have (I ſay) already told you what the Law is in Relation to Treaſons; that in Caſe the Treaſon be in two Counties, if the Witneſſes ſpeak to the ſelf ſame Treaſon, tho' to different Facts, that will be two Witneſſes to prove High-Treaſon; and that there hath been ſuch a Caſe, the Priſoner at the Bar, who he ſays is a *Proteſtant* (for his own Soul's ſake I wiſh he were a good one) muſt take notice, that *Gavan* the great Prieſt who was tryed at *Newgate*, and convicted, by what Evidence? By one of them that is a Witneſs now againſt the Priſoner at the Bar, that is *Dugdale*, his Treaſon was committed part in *London*, part in the Country, of which part *Dugdale* gave Evidence; but being both to the ſelf ſame Purpoſe, by the greater Part of the Judges, who were in the Commiſſion, and preſent at the Tryal, they were reckoned a ſufficient Teſtimony to prove him Guilty of High-Treaſon: and I hope we do not live to that Age, that any *Proteſtant* whatſoever ſhould come to trip up the Heels of the *Popiſh-Plot*; by ſaying, that any of them who ſuffered for it, did die contrary to Law, or without ſufficient Proof: for if Mr. *Dugdale* was not a Perſon fit to be believed; or if the reſt of the Judges who tried *Gavan* were out in the Law, then that Man died wrongfully; for he had as much right to have been tryed according to the Law, as any other Perſon whatſoever. Therefore, Gentlemen, as to that matter, we muſt ſubmit it to my Lords the Judges, who are to give you an Account what the Law is in all Particulars before you; but as to the Fact whereof You are Judges, that is the great matter we ſhall apply our ſelves to, and for that it ſtand thus.

Here is *Dugdale* that does give you an Account what his Deſign was in coming to *Oxford*; how he came to be armed as an *Index* (Gentleman) of his mind. And pray give me leave to put you in mind of one thing. You have firſt a Libel produced, and read to you; a pretended Letter, wherein there are Queries that have been taken notice of, and which ſeem to back the Evidence given by Mr. *Maſters*: for there is a Vindication in thoſe Queries of the Proceedings of that Parliament of 41. which he has confidence enough now at the Bar to juſtifie too. But, Gentlemen, you were told by the Court, and you know it, That that Parliament was guilty of High Rebellion; And even in thoſe Queries he aſperſes not only the Government, but every Man that has any Concern in it; for it takes notice not only of the King, but of all His Council. Never a Judge nor an Officer in the Nation but is traduced by it; and which is moſt material, it was the Foundation of that Libel which has been mentioned to you, and which *Fitz-harris* was ſo juſtly condemned and executed for, that moſt Traiterous and Infamous Libel in part of it has theſe Queries, and a great Paragraph of this Libel makes up part of that Libel of *Fitz-harris*, which our Witneſſes ſay Mr. *Colledge* was pleaſed to affirm was as true as God is in Heaven. Another thing is this, This Gentleman whoſe proper buſineſs it had been to manage his Employment at *London* for a Joyner, is beſt ſeen in his proper Place uſing the proper Tools of his Trade. I think it had been much more proper for him, and I believe you will think ſo too, than to come with Piſtols and all thoſe Accoutrements about him, to be regulating of the Government; what have ſuch People to do to *interfere* with the buſineſs of the Government, God be thanked we have a Wiſe Prince, and God be thanked he hath Wiſe Counſellors about Him, and He and they know well enough how to do their own Buſineſs, and not to need the Advice of a Joyner, tho' he calls himſelf *the Proteſtant Joyner*. What had he to do to engage himſelf, before his Advice was required? How comes he to concern himſelf ſo much that after he had writ this Libel wherein he is pleaſed to take notice of Tyrants, afterwards ſhould go to make a Print, I mean the *Raree Shew*? And when *Dugdale* comes to inquire of him, What do you mean by ſuch a thing, *The Tyrant ſhall go down*? Says he, I mean by that, *the King*. And what do you mean by having them go to *Breda*? Why there he explains it, that he puts all the Government, the Lords and the Biſhops upon the King's Back, and being asked what he meant to have done with them, Why, the Biſhops, and the King, and all were to go to *Breda*. Theſe are the things that himſelf did acknowledge he was the Author of, and theſe Prints he did cauſe to be made, and he is the Perſon that gives you an Account, that it was but the conception and imagination of *Dugdale*, that *Rowley* meant the *King*; but *Dugdale* being called again, he tells you after ſome time, that he was under ſome difficulty to know the meaning of it; and then *Colledge* tells him it was meant the *King*, and ſo he expounded it to him. And ſo *Smith* tells you of that ſame Name of *Old Rowley* again. Gentlemen, thus I tell you what hath been omitted. The *Evidence* hath been long, and therefore we muſt be pardoned, if we can't exactly repeat it. This is the *Evidence* that was done at *Oxon*, the next is Mr. *Smith*, who ſpeaks of what was done in *London*, and he is an *Evidence* both as to the Word *Rowley*, as to the coming with Arms, and as to the declaring to what end he came, and what he had done, Mr. *Haynes* he tells you both before and after the ſame, and that I muſt take notice of to you, Mr. *Smith* does particularly ſay, he uſed thoſe Words, which I hope every honeſt Man, and every good Man, that deſires to preſerve the Government according to Law, will hear with the greateſt deteſtation and abhorrence; he talked of the taking away the Life of the late King of bleſſed Memory at ſuch an impudent rate, that every true *Proteſtant*'s Blood would curdle at the hearing of it. And this he ſaid not only to Mr. *Maſters*, but he juſtified it to Mr. *Smith* too.

In the next place you have *Turbervile*, who gives you all the Reaſons, how he did not only tell of theſe Things himſelf, but encouraged him to prepare himſelf accordingly, and he gave him

him a Mark, a Ribbon with *No Popery, no Slavery.* Theſe were Marks whereby they were to be known, and they were to be one and all, as they call it, that when ſuch a Blow was ſtruck, they ſhould be ready to fall in. There is one thing more that I take notice of, that is, what was ſaid by a Gentleman Sir *William Jennings* which is a confirmation of all the other Evidence, that Gentleman who hath appeared to you to be a Man of Honour, even by the confeſſion of Mr. *Colledge* himſelf, and by his own Words, for he ſaid like an honeſt Man, and like a Loyal Man too, that he would rather engage himſelf in three Dangers for the Service of the King at Sea, than come in cold Blood to give Evidence againſt a Man for his Life at the Bar. And yet this Man who tells you this of himſelf, and that very Perſon whom *Colledge* himſelf calls a *Worthy Perſon*, hath given you this Acoount, that when he told him his Noſe bled, he anſwer'd him, *It was the firſt Blood loſt in the Cauſe, but it would not be long e're there was more loſt:* An excellent Cauſe for a Man to venture his Blood in. When he was told of this, he began to put it off, and to uſe his own Words, had a great mind to ſham off the buſineſs, but in truth there was no Anſwer given to it. Gentlemen, the Objections that have been made againſt the Evidence that have not been taken notice of, I deſire to take notice of. I think againſt three of them there has been only Mr. *Oates*, and Mr. *Oates*, I confeſs, has ſaid, *in verbo Sacerdotis*, ſtrange things againſt *Dugdale*, *Smith*, and *Turbervile*: I have only the Affirmation of Mr. *Oates*, and as ill Men may become good Men, ſo many good Men become ill Men; or otherwiſe I know not what would become of ſome part of Mr. *Oates*'s Teſtimony. And in the next place, if theſe Men have not ſworn true, I am ſure Mr. *Oates* muſt ſtand alone in the greateſt Point, in which all the Evidence agree, that is the *Popiſh Plot.*

But, Gentlemen, I muſt take notice to you, that it is ſtrange to me, that ever you, upon your Conſciences, ſhould perjure three Men, who poſitively upon their Oaths deny any ſuch Diſcourſes as Mr. *Oates* ſpeaks of againſt them, I do put that upon your Conſciences, whether you, upon the bare affirmation of Mr. *Oates*, in this place, will convict three Men, upon whoſe Teſtimony the Lives of ſo many as have ſuffered, have been taken away, and, as we *Proteſtants* do believe, juſtly. I ſay, whether you will do it upon the bare Affirmation of Mr. *Oates*, againſt their Oaths.

In the next place, Gentlemen, I muſt tell you, Beſides the poſitive Evidence of theſe Gentlemen, there is circumſtance of Improbability in the very words he ſpeaks of. Will any Man tell me, that after ſuch time as Men have given their Oaths, as *Smith* had given his that he was concerned, and ſo had *Dugdale* und *Turbervile* too, that theſe Men ſhould come and voluntarily tell Mr. *Oates* they were all Forſworn, are theſe Men ſuch great Coxcombs as he would have us to believe? Is it ſo probable a thing, that any Men of common Knowledge would do it? Do you think a Man of that Knowledge and Conſideration, as *Smith* is, an allowed Scholar, and a Man of known Learning; and Mr. *Dugdale*, who has been reckoned by all Men to be a good Evidence; do you take theſe Men to be ſuch abſolute Novices, that they muſt ſeek an occaſion to tell him they were bribed off and were Forſworn? If you can think this, and if a bare Affirmation againſt theſe poſitive Oaths can prevail; Gentlemen, upon your Conſciences be it.

In the next place, 'tis a ſtrange ſort of thing to believe, that Mr. *Smith* ſhould come out of a Coffee-Houſe, where a Quarrel is pretended to have been between him and *Colledge*, but Mr. *Smith* does, upon his Oath, ſay, he never had any ſuch Quarrel with him, and that he ſhould fall a damning and ſinking againſt *Colledge*, and againſt the Goſpel, that there ſhould be ſuch impudence in the World in any Man as to deſire or wiſh ſuch a thing? Gentlemen theſe are ſtrange ſorts of Apprehenſions, and Men muſt have very ſtrange Thoughts, that can ſtrain themſelves up to the belief of them.

In the next place, here it is ſaid by the Priſoner, *Good Lord? What a condition we ſhall be in! Here is a Plot upon the Proteſtants!* I hope in God there is no *Proteſtant Plot*, but I alſo hope the whole Intereſt of the *Proteſtant Religion* is not involved in the Priſoner at the Bar, and all will be deſtroyed, if Mr. *Colledge* dies for Treaſons. Gentlemen, the Queſtion is not, whether there be a *Presbyterian* or a *Proteſtant Plot*, we declare we know of none; but whether the Priſoner at the Bar have ſpoken ſuch Words, and done ſuch Things as are ſworn againſt him. And I would fain know what all the Diſcourſes we have had about *Iriſh* Witneſſes and *Papiſts* ſignifie, when in all the courſe of our Evidence, there has been but one *Iriſh*, and never a *Papiſt*: But here have been great Diſcourſes about *Macnamarra* and *Denis*, and what it hath been for, but to make a Noiſe, and raiſe a Duſt, I can't tell, for in this Caſe there has not been one *Iriſh* Man beſides *Haynes*, and never a *Papiſt* throughout the whole Evidence: So that it is eaſie, if Men think it will take with the Auditory, for a Perſon to cry out, *O Lord! we are all like to be undone, here are Iriſh Witneſſes brought againſt us.* And yet, after all this ſtir, there is but one *Iriſh* Witneſs, and never a *Papiſt*. And as for him, Truly, Gentlemen, I muſt take notice, that even *Colledge* himſelf, till ſuch time as he was taken, reckoned him an honeſt Man.

Colledge. Never in my Life.

Mr. Serj. *Jefferies.* It was ſo ſaid. But I do ſay, Gentlemen, ſuppoſe (which I do not admit) that the *Iriſh* Man he ſpeaks of be out of the Caſe; not that the Country is an Objection againſt any Man's Teſtimony, God forbid it ſhould be ſo affirmed; for Truth is not confined to Places, nor to Perſons neither, but applied to all honeſt Men, be they *Iriſh* Men or others; but, I ſay, ſet Mr. *Haynes* out of the Caſe: Suppoſe there was no ſuch Man as *Haynes* in this Caſe; yet I muſt tell you, Gentlemen, you have as great a Proof as poſſibly can be.

In the next place, I muſt take notice to you of ſome Account that hath been given of him by himſelf: It is wonderful ſtrange, when there was that kindneſs of intimation given by the Court, that he ſhould do well to prove his Loyalty, as well as his Religion, but he did not produce ſome of his later Acquaintance. If this Man that makes himſelf a Proteſtant, would have it believed he is ſuch, I wiſh he would have brought ſome of theſe Men that knew him at *London*, to give you ſome account of him, and not to ſtretch backward ſixteen Yeurs to prove

his Birth and Education; that is not the beſt account ſure a Man can give of himſelf, to ſay, after he hath been talking at this diſloyal rate, that he is a good Proteſtant, becauſe he was thought ſo eighteen Years ago.

Again, in the next place, here is an account of the Libels given by the Old Woman that is his Siſter; Truly ſhe would have it, and that is another Libel at the Bar, as tho' the Man in the Red Coat, with *R. C.* upon it, had dropped this kind of Libel in his Houſe, and ſo he, or ſome body elſe, put a Trick upon him; and becauſe ſhe would inveigle you to ſuch an Interpretation, ſhe ſays that they ſtaid behind till the Man in the Red Coat had fetched away the Shavings, and ſo here is a new Sham-Plot to be put upon the Priſoner, by dropping Papers in his Houſe; a pretty kind of Inſinuation. But, Gentlemen, againſt the Evidence of this Woman, you have the very Perſon that was there, the Officer, who ſwears that he and his Fellows came before the Waterman into the Houſe: But I ſuppoſe you obſerve how that notable talking Maid and ſhe does agree, for the Maid tells you, there came a ſtrange Fellow ſeven Weeks before, delivered theſe Things into her Hands, her Maſter was abroad, and ſhe was not to enquire whence they came, or what they were, but paid him Sixpence for bringing thoſe things. Now 'tis very ſtrange that the Maid ſhould pay for the bringing of thoſe Things, and yet after that ſhould imagine that ſome body elſe ſhould put them there.

But now, Gentlemen, in the next place, I muſt tell you another thing, which I would beg you to take notice of: Here are two Gentlemen, Mr. *Bolron* and Mr. *Mowbray*, and they have given you an account, that they have been Evidence againſt the Papiſts; they did well in it; but it hath been their misfortune, hitherto they have not been believed; but whether they have been believed or not before, is no guidance to you at this time: but that which is to guide you is, whether or not they have given you now a Teſtimony that you in your Conſciences can believe. Now, can you believe what they have ſaid; nay, can you believe it without any Circumſtance to confirm it, againſt thoſe expreſs Objections that ariſe from themſelves, and againſt the Oath of the Perſon, when the one tells you ſo exactly of the 25th, 26th, 27th, and 28th of *July*; and the other tells you, that *Smith* took Poſt, and yet overtook them not till the *Sunday* after, which was the third of *Auguſt*; and when the Almanack is produced, it was ſo far from making out what they ſpake of to be the ſame Time, that whereas one ſaid he came to *London* the 28th, the other's Almanack ſays it was the 27th; then pray how do theſe Perſons agree, when the one ſays that Mr. *Smith* talked with him upon the Road the 28th, and the other ſays, that they came to *London* the 27th. Theſe are Circumſtances, Gentlemen, that you muſt weigh; and you may bring the North and South together, as ſoon as their two Teſtimonies, they are ſo far aſunder. Beſides, Gentlemen, I hope you take notice of a Perſon that was ſworn, a Perſon of ſome Quality, a Scholar in the Univerſity here, that ſays *Bolron* (tho' he denied it) did ſhew him one of theſe Pictures, and did diſcover they were Mr. *Colledge*'s; and *Bolron* himſelf, his own Witneſs, tells you, that he did acknowledge one of thoſe Pictures was his. It appears then how buſie he was, and concerned himſelf in what belonged not to his Profeſſion.

So that, upon the whole matter, after this long Evidence that hath been given, I muſt wholly appeal to your Lordſhips and the Jury; as to the Law, to your Lordſhip and the Court; and as to the Fact, to the Jury: for I do not deſire any ſort of Evidence ſhould be ſtrained againſt a Priſoner at the Bar, who is there to be tryed for his Life. God forbid, if he be innocent, but he ſhould be acquitted; But on the other ſide, conſider the Murder of that great King of ever bleſſed Memory is before you, and remember that baſe reflection which the Witneſſes tell you of upon that horrid Action; and as a great Evidence, remember that ſeeming Vindication of it at the Bar, which certainly no *Engliſh* Man, no Proteſtant according to the Church of *England*, can hear without having his Blood ſtirred in him. And theſe things are not only teſtified by *Dugdale* and *Smith*, but by Gentlemen of known Reputation and Quality; and he hath a little diſcovered himſelf by that defence he hath made againſt their Teſtimony. But know, Gentlemen, that the King is concerned, your Religion is concerned, that Plot that is ſo much agreed to by all *Proteſtants* is concerned; for if *Dugdale*, *Smith* and *Turbervile* be not to be believed, you trip up the Heels of all the Evidence and Diſcovery of that Plot. Then I will conclude to you, Gentlemen, and appeal to your Conſciences; for according to the Oath that has been given to you, you are bound in your Conſciences to go according to your Evidence, and are neither to be inveigled by us beyond our Proof, nor to be guided by your Commiſeration to the Priſoner at the Bar againſt the Proof; for as God will call you to an account, if you do an injury to him, ſo will the ſame God call you to account, if you do it to your King, to your Religion, and to your own Souls.

L. C. J. Gentlemen, I ſhall detain you but a little, and ſhall be as ſhort as I can, for your Patience has been much exerciſed already: It is a burden, and a neceſſary one that lies upon us all, for there is nothing more neceſſary than that ſuch Tryals as theſe ſhould be intire and publick, intire for the Diſpatch of them, and publick for the Satisfaction of the World, that it may appear no Man receives his Condemnation without Evidence, and that no Man is acquitted againſt Evidence.

Gentlemen, there are theſe two Conſiderations in all Caſes of this Nature; the one is, the force of the Evidence; the other is, the truth of the Evidence. As to the force of the Evidence, that is a Point in Law that belongs to the Court, and wherein the Court is to direct you; as to the truth of the Evidence, that is a queſtion in Fact ariſing from the Witneſſes, and muſt be left upon them, whereof you are the proper Judges.

As to the force of the Evidence in this Caſe, it muſt be conſidered what the Charge is; it is the compaſſing the Death of the King, and conſpiring to ſeize the Perſon of the King, which is the ſame thing in effect; for even by the Common Law, or upon the interpretation of the Statute of the 25th of *Edw.* 3. that mentions compaſſing the Death of the King to be Treaſon, it hath always been reſolved, That whoſoever ſhall imagine to depoſe the King, or impriſon the King, are guilty of imagining the Death of the King;

King; for they are things that depend one upon another; and never was any King depoſed or impriſoned, but with an intention to be put to Death; they are in conſequences the ſame thing.

Now, Gentlemen, in Caſes of Treaſon the Law is ſo tender of the Life of the King, that the very Imagination of the Heart is Treaſon, if there be any thought concerning any ſuch thing; but then it muſt be manifeſted by ſome Overt-Act, upon the Statute of the 25th *Edw.* 3. but upon the Statute of the 13th of this King, made for the Preſervation of the King's Perſon, if it be manifeſted by malicious and adviſed ſpeaking, 'tis ſufficient. This is as to the Charge, and as to the Law concerning that Charge, I muſt tell you there muſt be two Witneſſes in the Caſe.

Now then, for the force of the Evidence, the Queſtion will ariſe there, whether this Evidence, admitting it to be true, is ſufficient to maintain the Indictment; ſo that if there be two Witneſſes, you muſt find him Guilty. Now as to this, Gentlemen, the Priſoner has before-hand called upon the Court, and had their reſolution; and I hope you will remember what hath been ſaid, and I ſhall have occaſion to trouble you the leſs. There have been ſix Witneſſes produced for the King; there are two of them, Sir *William Jennings* and Mr. *Maſters*, that are ſome way applicable to the Caſe, tho' they do not go to the Treaſon, they are only to inferr the Probability of the Treaſon. This of Sir *William Jennings*, was upon the occaſion of the bleeding of the Priſoner's Noſe, after his Quarrel with *Fitz-Gerald*, when he ſaid, *He had loſt the firſt Blood, and it would not be long e're there would be more loſt*; which ſhews there were ſome extraordinary Thoughts in his Heart, concerning ſome Diviſions, Quarrels, and Fighting that he expected ſhould be. That which Mr. *Maſters* has ſaid, (beſides what he offered concerning his Principles in juſtifying the long Parliament) was this, That when he called him Colonel, *Marry mock not*, ſaid he, *I may be Colonel in time*; that ſhews ſome extraordinary thoughts were in his Heart.

Colledge. *Will not that bear a more favourable interpretation, my Lord? Muſt that neceſſary follow upon my ſaying*, I might be a Colonel in time; *and* that more Blood would be loſt? *if I had expreſſed it ſo.*

L. C. J. I ſay you had ſome extraordinary Thoughts in your Heart.

Colledge. *I am ſure fitteſt to explain my own Thoughts.*

L. C. J. You would have done well to have explain'd it, which Way you expected to be a Colonel.

Colledge. *It was not an expectation, for a may be, may not be; my word was*, mocking is catching: *I thought he had called me Couſin.*

L. C. J. Well Gentlemen, theſe are Witneſſes, I ſay, that go not to the Treaſon, but only relate and reflect ſomewhat, to ſhew there were thoughts in his Heart; but no body could tell what they were, or know what he meant by them.

Colledge. *Then always they are to be taken in the beſt ſence.*

L. C. J. For the other Witneſſes, *Stephen Dugdale*, *John Smith*, *Bryan Haynes*, and *Edward Turbervile*, they are all of them, taking what they ſay to be true, very full Witneſs. The Priſoner hath objected as to two of them, becauſe they ſpeak to nothing that was done in *Oxfordſhire*; but *Turbervile* and *Dugdale* they ſpeak to what was ſaid in *Oxfordſhire*. Now for that I muſt tell you, if you believe any of theſe Witneſſes, as to what was ſaid in *Oxford*, and any of them as to what was ſaid in *London*, relating to the ſame Fact of Treaſon, they will be two good Witneſſes to maintain the Indictment, tho' the one is in the one County, and the other in another; for if a Treaſon be committed in two Counties, it is the King's election where he will exhibit the Indictment, and the Evidence from both Counties is good Evidence; that I take for Law; and theſe four Witneſſes, with that conſideration that they are true, as I think are full Witneſſes to maintain this Indictment.

Why then the next Head is concerning the truth of this Evidence of which you are to be Judges, and you are the proper Judges whether the Witneſſes ſpeak true or no? therefore you muſt have your own Conſciences to direct you in that caſe, and what I ſhall ſay about them, ſhall be only for your Aſſiſtance.

Gentlemen, I ſhall not take upon me to repeat the Evidence to you, it has been long; and for me to ſpeak out of Memory, I had rather you ſhould recur to your own Memories, and your own Notes; only I ſhall ſay ſomething in general to contract your Conſideration of it.

And, as I told you at firſt, you muſt mind nothing of what the King's Council ſaid, for nothing muſt have Impreſſion upon you, but what they proved; ſo you are not to conſider any thing of the Facts the Priſoner ſpake of, that are not proved neither; for common Juſtice is concerned in it, and no Juſtice can be done at that rate, if the Priſoner's own Affirmations or Purgations ſhould be taken. No Man ever can be accuſed but he will be ready to ſay he is innocent, and ſay as flouriſhing and popular things as ever he can for himſelf. And therefore theſe things muſt not weigh with you further than, as was ſaid, argues upon the Proofs you have had. And you are to conſider upon the Proofs what the Priſoner has produced, not what he ſays; on the other ſide, for the Proofs you have heard a great many Witneſſes in general produced by him, that ſay he was bred a Proteſtant, and has been an honeſt Man, that they knew no ill by him, that will be of little weight in a Caſe of this Conſideration, for unleſs he were a Man that had committed Treaſon to the knowledge of all the World, there is no Man but can produce Witneſſes that know no ill of him, nor any Treaſon nor Harm in him; therefore the Queſtion will lie upon the Credit of the Witneſſes produced for the King barely, and that will be the Conſideration you are only to have, and you are to weigh them in the Ballance againſt the Witneſſes produced againſt them.

Now, Gentlemen, for theſe Witneſſes I ſhall not repeat them to you, but only this I ſhall obſerve in general, that *Dugdale* and *Turbervile*, that are the two moſt material Witneſſes relating to what was ſpoken in *Oxford-ſhire*, have the leaſt ſaid againſt them. I do not remember, I profeſs to you I do not (but your own Notes muſt guide you) that there was any very material thing ſaid againſt them, except what is ſaid againſt them by Dr. *Oates*, and Dr. *Oates* does ſay againſt *Smith*, that he came out of the Coffee-Houſe, and ſwore damn him he would have *Colledge*'s Blood; and

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when he reproved him, and ſaid it was not fit for a Miniſter of the Goſpel to uſe ſuch Expreſſions, he ſaid, God damn the Goſpel: if that be true 'tis a great Reflection upon the Credit of *Smith*. He ſays as to *Dugdale*, that when he was expoſtulating with him about his Evidence he excuſed himſelf, that he was in want of Money, and was preſſed to it, and being asked, he did ſay he was preſſed to ſwear againſt his Conſcience, he ſaid yes, and much of the ſame kind he ſays as to *Turbervile*, that he ſaid he was diſſerted and would not ſtarve. Now all theſe three Witneſſes being called upon their Oaths, deny that which Dr. *Oates* teſtifies. Now if it were in an indifferent and probable matter to have three Men condemned, and ſet aſide by the Teſtimony of one is not equal, unleſs the Man were of mighty extraordinary Credit, and his Teſtimony of more than ordinary weight. But then I muſt tell you this matter is very improbable, that after Witneſſes had ſworn a thing they ſhould voluntarily acknowledge themſelves to be forſworn, and that without any Provocation, they ſhould at ſeveral times come to this one Man and declare themſelves Rogues and Villains; but if it were probable, here are three Mens Oaths againſt one Man's Affirmation, this I ſay as to what concerns *Dugdale* and *Turbervile*, I do not ſee any thing material againſt them; beſides now if you believe them, they are two Witneſſes to the full matter of the Indictment, and two Witneſſes to what was done in *Oxford-ſhire*, and that ſatisfies all the Conſiderations of Law.

As to the reſt of the Witneſſes *Bryan Haynes* and *John Smith*, you have had many Witneſſes produced againſt them, I ſhall not undertake to repeat the Evidence, 'tis your Place and Duty to weigh their Teſtimony, and I ſhall leave it to your Conſideration.

Mr. Juſt. *Jones*. I ſhall add nothing to what my Lord hath ſaid, nor indeed can.

Colledge. My Lord, I wiſh you would look upon your Notes, you would then find there was much more Evidence, that you have not repeated againſt *Turbervile* and *Dugdale*, beſides what your Lordſhip urged.

L. C. J. If there be, I refer it to the Memory of the Jury, I can remember no more.

Colledge. I deſire nothing but Juſtice, and true Juſtice.

L. C. J. I am ſure I deſign nothing elſe, you are a Stranger to me; I believe I have ſeen your Face, but I never knew you by Name till now. Look you, if the Jury be like to ſtay, they may take ſomething to refreſh themſelves at the Bar before they go.

Colledge. My Lord, I did ſee when the Bill was brought againſt my Lord *Howard*, Mr. *Attorney-General* and Mr. *Solicitor* were an Hour and half with the Grand-Jury.

Mr. Serj. *Jefferies*. You muſt ſay nothing now my Lord has given the Charge.

Colledge. Let me have Juſtice done me, my Lord, that's all I crave, that no body may be with the Jury.

L. C. J. Look you, Mr. *Colledge*, they might be with the Grand-Jury, but as to the Petty-Jury there ſhall be a Bailiff ſworn, and neither Mr. *Attorney* nor Mr. *Solicitor*, nor no Body elſe ſhall come to them till they be agreed of their Verdict.

Mr Juſt. *Jones*. If that be the thing you ask, you ſhall have it according to the Law.

Colledge. And any Friend of mine may be by.

L. C. J. There ſhall be an Officer ſworn to keep them.

Then the Court called for two Bottles of Sack, which the Jury divided among themſelves at the Bar, for their Refreſhment in the Preſence of the Priſoner.

After which a Bailiff was ſworn, and the Jury withdrawing to conſider of their Verdict, the Court adjourned for half an hour, and when they returned, Proclamation being made for attendance, the Court ſent to ſee whether the Jury were agreed, who immediately came in to Court.

Cl. of Cr. Gentlemen, are you agreed of your Verdict?

Om. Yes.

Cl. of Cr. Who ſhall ſay for you?

Om. Foreman.

Cl. of Cr. Stephen Colledge, Hold up thy Hand, look upon him you of the Jury: How ſay you, is he Guilty of the High Treaſon, whereof he ſtands Indicted, or not Guilty?

Foreman. Guilty.

Cl. of Cr. Look to him Goaler, he is found Guilty of High Treaſon; what Goods, *&c.*

At which there was a great Shout given; at which the Court being offended, one Perſon who was obſerved by the Cryer to be particularly concerned in the Shout, was committed to Goal for that Night, but the next Morning having received a publick Reproof, was diſcharged without Fees.

Then it being about three a Clock in the Morning, the Court adjourned to Ten. At which Hour the Court being ſate, and Firſt Mr. *Aaron Smith* having entred into a Recognizance of 500 *l.* to appear the firſt Day of the next Term, at the Court of *Kings-Bench*.

L. C. J. Where is the Priſoner *Stephen Colledge*?

Cl. of Cr. Set up *Stephen Colledge*.

Then the Priſoner was brought to the Bar.

Cl. of Cr. Hearken to the Court and hold up thy Hand; Thou haſt been Indicted and Arraigned of High Treaſon, and for thy Tryal haſt put thy ſelf upon thy Country, and they have found thee Guilty, what canſt thou ſay for thy ſelf, why the Court ſhould not give Judgment on thee to dye according to the Law.

Colledge. My Lord, I have nothing more to offer, but only that I am innocent of what is laid to my Charge; I think it was ſevere againſt me, now contrary to what was ſworn at *London*: They ſwear now, I was to ſeize the King at *Oxon*, in *London* they ſwore I would pluck the King out of *Whitehall*, but 'tis altered ſince, and now 'tis to ſeize the King at *Oxon*, but be it either one or t'other (for the one is as true as the other) I am wholly innocent of either, I never had ſuch a thought in my Life, God forgive them that have ſworn againſt me, I have no more to ſay, my Lord.

L. C. J. Look you Mr. *Colledge*, it is too late to profeſs your Innocenee, you have been tryed and found Guilty; but becauſe you ſay it now, 'tis neceſſary for me to ſay ſomething in Vindication of the Verdict, which I think the Court were all very well ſatisfied with: There were

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ſufficient Proofs to warrant it, and the Jury did according to Juſtice and Right. I thought it was a Caſe, that as you made your own defence, ſmall Proof would ſerve the turn to make any one believe you Guilty. For as you would defend your ſelf by pretending to be a Proteſtant. I did wonder, I muſt confeſs, when you called ſo many Witneſſes to your Religion and Reputation, that none of them gave an Account that they ſaw you receive the Sacrament within theſe many Years, or any of them particularly had ſeen you at Church in many Years, or what kind of Proteſtant you were. If we look to your Words and Actions, it is true, they did prove this, that you were mighty violent and zealous in crying out againſt Popery and the Papiſts; but if we look to your Actions, they ſavoured rather to promote the Papiſts ends. For I muſt tell you, the Papiſts are beſt extirpated, and ſuppreſſed by a ſteady Proſecution of the Laws againſt them, not by violent cryings out, and putting the People into fervent Heats and Confuſions, for that is the thing the Papiſts aim at; they have no hopes any other Way to creep into the Kingdom but by Confuſion, and after the Church is deſtroyed, that is under God the beſt Bulwark againſt them. But you that cryed ſo loud againſt the Papiſts, it was proved here, who you called Papiſts. You had the boldneſs to ſay that the King was a Papiſt, the Biſhops were Papiſts, and the the Church of *England* were Papiſts. If theſe be the Papiſts you cry out againſt, what a kind of Proteſtant you are, I know not, I am ſure you can be no good one. But truly I thought you would have made better Proof of that thing, when you called ſo many Witneſſes to that Purpoſe, and then if we look to your Politicks, what Opinion you had of the King, it was proved by your diſcourſe, and by Witneſſes, that you could have no Exception to their Teſtimony, that you did juſtify the late horrid Rebellion, and the Conſequents of that was the Murder of the beſt King in the World, that you ſhould go to juſtify the Proceedings of that Parliament, and affirm that they did nothing but what they had juſt cauſe to do. I ſay he that will juſtifie ſuch a thing, if there were the ſame Circumſtances, would do the ſame thing again.

Then if we look upon another Part of your defence, as to your Arms, it was objected you went armed to *Oxon*, and that was made the Evidence of the Overt-Act when you ſaid by Words your Intentions what you would do, that you would make one to ſeize the King, that you did go armed, you did confeſs, I expected you ſhould have ſaid, you only wore thoſe things for your own defence upon the Road as a Gentleman travelling, or went with your Friends to accompany them out of Town, and defend them from Robbery; but you ſaid, you went to guard the Parliament. I did not underſtand what you meant by it. I do not believe the Parliament ſent for any Guard, or intended to have any Guard. I do not believe that any of them in their Hearts thought they needed a Guard; for I believe there was not a Man that had any thing that looked like that, or any thing of that Nature. For we ſaw, that when the King by the Neceſſity of his Affairs, when the two Houſes differed ſo much, was pleaſed to diſmiſs them; they all departed quietly, not a Man was ſeen to be diſturbed; there was no appearance of any ſuch thing, and how it ſhould come into your Head, that were but a private Man to go to guard the Parliament, I much wonder. Suppoſe all Men of your Condition ſhould have gon to have guarded the Parliament, what an Aſſembly had there been? what a buſtle might they have made, and what confuſion might have been on a ſudden? And tho' you ſay you are no Man of Quality, nor likely to be able to do any thing upon the King's Guards or the King's Perſon, yet if all of your Quality had gone upon the ſame deſign that you did, what ill Conſequences might have been of it, we ſee what has been done by *Maſſianello* a mean Man in another Country, what by *Wat Tyler* and *Jack Straw* in this Kingdom, I confeſs I know not what you meant by it, but very ill things might have happened upon it.

So that theſe things when I look upon them, and conſider the complexion of your defence, it makes an eaſie Proof have credit. But I think there was a full Proof in your Caſe, yet I ſay if there had been a great deal leſs Proof, the Jury might with Juſtice have found you Guilty. And becauſe you now declare your ſelf innocent of all you are charged with, I think my ſelf bound to declare here in Vindication of the Country, and in Vindication of the Juſtice of the Court, that it was a Verdict well given, and to the ſatisfaction of the Court, and I did not find my Brothers did diſlike it. This I ſay to you out of Charity, that you may incline your Mind to a ſubmiſſion to the Juſtice that has overtaken you, and that you may enter into Charity with all Men, and prepare your ſelf for another Life.

There is nothing now remaining, but to pronounce the Sentence which the Law provides for ſuch an Offence, which is this, and the Court does award.

That you Stephen Colledge *ſhall be carried from hence to the Place from whence you came, and from thence you ſhall be drawn on an Hurdle to the Place of Execution, where you ſhall be hanged up by the Neck, and be cut down alive, your Privy Members ſhall be cut off, and your Bowels taken out and burnt before your Face, your Head ſhall be cut off from your Body, your Body be divided into four Quarters, which are to be at the King's diſpoſe, and the Lord have Mercy upon your Soul.*

Colledge. Amen. My Lord, I would know what time your Lordſhip is pleaſed to appoint for my Preparation.

L. C. J. That will depend upon the King's Pleaſure, we do not uſe in theſe Caſes of High Treaſon to precipitate the Execution, but we will leave ſuch Order with the Sheriff to receive the King's Pleaſure and obey it. He will not do it ſo ſudden but that you ſhall have Notice to prepare your ſelf, but it depends upon the King's Pleaſure, for your Body is to be at his diſpoſe.

Then the Court adjourned.

And on *Wedneſday* 31. of *Aug.* 1681. *Being the Day appointed by His Majeſty for his Execution, he was according to Sentence, Executed over againſt the Gate of the Caſtle at* Oxford.

The

The Proceedings at the Seſſions-Houſe in the Old-Baily, *on* Thurſday *the* 24th *of* November, 1681. *before His Majeſty's Commiſſioners of* Oyer *and* Terminer, *upon the Bill of Indictment for High-Treaſon againſt* Anthony *Earl of* Shaftsbury.

The GRAND-JURY.

Sir *Samuel Barnadiſton.*	*Thomas Parker.*
John Morden.	*Leonard Robinſon.*
Thomas Papillon.	*Thomas Shepherd.*
John Dubois.	*John Flavell.*
Charles Hearle.	*Michael Godfrey.*
Edward Rudge.	*Joſeph Richardſon.*
Humphrey Edwin.	*William Empſon.*
John Morrice.	*Andrew Kendrick.*
Edmund Harriſon.	*John Lane.*
Joſeph Wright.	*John Hall.*
John Cox.	

The OATH.

YOU ſhall diligently Inquire, and true Preſentment make, of all ſuch Matters, Articles, and Things, as ſhall be given you in Charge, as of all other Matters and Things as ſhall come to your own Knowledge, touching this preſent Service; the King's Counſel, your Fellows, and your own, you ſhall keep ſecret; you ſhall preſent no Perſon for Hatred or Malice; neither ſhall you leave any one unpreſented for Fear, Favour, or Affection, for Lucre or Gain, or any hopes thereof, but in all things you ſhall preſent the Truth, the whole Truth, and nothing but the Truth, to the beſt of your knowledge.

So help you GOD.

L. C. J. Pemberton. GEntlemen of the Jury, we are all met here in one of the moſt ſolemn Aſſemblies of this Nation; it is upon the execution of Juſtice upon ſuch as ſhall be found Offenders, and guilty of the breach of the King's Laws.

This Commiſſion by which we ſit, and you are ſummoned, doth in its Nature extend to all Offences whatſoever againſt the Laws of the Land, Treaſons, Miſpriſions of Treaſons, Felonies, and all other Crimes and Offences againſt the King and his Government, ſuch as are vulgularly called *Pleas of the Crown*; they all fall under our Cognizance and your Enquiry in a general manner. But I muſt tell you, there is a particular occaſion for this Commiſſion at this time. His Majeſty having Information of ſome Evil, traiterous Deſigns againſt his Perſon and Government, has thought fit to direct a due Examination of them, and that the Perſons may be brought to condign Puniſhment who ſhall be found Guilty thereof. You muſt not therefore expect any general and formal Charge from me; Truly I came hither this Morning, with an apprehenſion, that you had had your directions given you before by the Recorder, for it is our uſual Way not to come until the Juries are Sworn in this Place, and their directions given them; but ſince I find it otherwiſe, I take it to be my Duty to ſay ſomething to you, but ſhall not go about now to make any ſuch formal Charge, as in Commiſſions of this Nature is wont to be done, nor to give an account of all Offences that fall under your Enquiry of a Grand Inqueſt, Impannelled by vertue of ſuch a Commiſſion at large: nor muſt you expect I ſhould acquaint you with all the Crimes that you may enquire of as ſuch an Inqueſt.

I ſhall content my ſelf ſo far, as on the ſudden I can recollect my Thoughts, to acquaint you with the Nature of thoſe Bills; with the Enquiry whereof, you ſhall at preſent, upon this occaſion, be troubled, and your Duty concerning that Enquiry. I hinted to you at firſt, that they are matters of High-Treaſon, which is a Crime of the greateſt and higheſt Nature of any Crime that can be committed againſt Man; other Crimes, as Felonies, Riots, Treſpaſſes, and Things of that Nature, they may occaſion Diſorders and Troubles in a State or a Kingdom. But, I muſt tell you, Treaſon ſtrikes at the root and life of all; it tends to deſtroy the very Government, both King and Subjects, and the Lives, Intereſt and Liberties of all, and therefore has always been look'd upon as a Crime of the moſt notorious Nature that can be whatſoever, and accordingly Puniſhments have been appointed for it of the higheſt and ſevereſt extremity. There was at Common Law great variety of Opinions concerning Treaſon, and there were many Diſputes about it what ſhould be Treaſon, and what not; and therefore it was thought fit, by the Wiſdom of our Anceſtors, to have a Law to declare Treaſon: and by the Statute of the 25th of *Edward* the 3d, there was a plain Declaration made of what was Treaſon, and what not: by that Law, *for any one to compaſs, imagine, or intend the Death of the King*, (for I will give you no more

of

of that Statute, nor concerning the ſenſe thereof, than may be for your Purpoſe now); I ſay, by that Law, *to compaſs, imagine, or intend the Death of the King, and to declare it by Overt-Act, or to levy War againſt the King* were declared (amongſt other things in that Statute mentioned) *to be High-Treaſon:* And this hath obtained for Law among us ever ſince; and by that ſtanding Law, nothing is to be accounted Treaſon, but what is therein particularly declared ſo, but upon many emergent Occaſions there hath been ſeveral other Laws, as the caſe hath required now and then, for to declare and bring other particular Crimes within the compaſs of Treaſons: ſo there was a Law made in Queen *Elizabeth*'s Reign, for enacting ſeveral Crimes to be Treaſons, during her Life, which was made upon the occaſion of the inveterate Malice of the *Roman Catholicks* againſt her and her Government; and ſo there hath been in other Kings Reigns upon other Occaſions.

Amongſt the reſt, it was thought fit by the Parliament aſſembled here, in the thirteenth Year of this preſent King, to make a particular Law for the enacting and declaring ſeveral Crimes to be Treaſons, during this King's Life; they had great Grounds, and too much Occaſion for it, and ſo they expreſs it in the Preamble of that Law. The Wounds which the then late Treaſons had made, that had ſo far obtained in this Kingdom, were then ſtill bleeding, ripe, and ſcarcely cloſed; many traiterous Poſitions, and many ſeditious Principles were ſpread, and had obtained and gained footing among the People of this Kingdom; and the Parliament had Reaſon to believe, that where they had been ſo maliciouſly bent againſt the King and his Family, and had taken off his Father, and maintained ſo long and dangerous a War againſt him, almoſt to the utter Deſtruction and Extirpation of him, and all his good Subjects, and of his, and all our Intereſts, Properties, and Liberties, and had almoſt deſtroy'd a Flouriſhing Kingdom: here they had Reaſon, I ſay, to be careful, to prevent the like Miſchiefs for the Future; therefore, Gentlemen, they did think fit to make a new Law for this Purpoſe: and whereas the Law before was, that it ſhould be Treaſon to compaſs, imagine, or intend the Death of the King, ſo as it were declared by Overt-Act; now they thought it would be dangerous to ſtay till an Overt-Act ſhould declare the Intention; for when they had ſeen ſuch malicious and evil Deſigns againſt the King and ſupreme Authority; and that they had prevailed ſo far, as to Murder one King, and Baniſh another; and had gone a great Way in the Deſtruction of the Government of this Kingdom, abſolutely to root it quite out: they had Reaſon then, as much as they could, to prevent the Deſigns before they ſhould grow full ripe, and vent themſelves in Overt-Acts; therefore it was enacted by that Statute, made in the 13th Year of this King's Reign, "That if any "one ſhould compaſs, imagine, or intend the "Death of the King, or his Deſtruction, or any "bodily harm, that might tend to his Death or "Deſtruction, or any maiming or wounding his "Perſon, any Reſtraint of his Liberty, or any "Impriſonment of him; or if any ſhould deſign "or intend to levy any War againſt him, either "within the Kingdom, or without; or ſhould "deſign, intend, endeavour, or procure any "Foreign Prince to invade theſe his Dominions, "or any other of the King's Dominions, and "ſhould ſignifie or declare this by any Writing, "or by any Preaching or Printing, or by any "adviſed, malicious Speaking, or Words, this "ſhall be High-Treaſon.

Now this hath altered the former Law greatly, eſpecially in two Caſes: Firſt, as to levying of War; the Intention was not Treaſon before, unleſs it had taken Effect, and War had been actually levyed: and then as to the deſigning and compaſſing the King's Death, that was not Treaſon, unleſs it was declared by an Overt-Act: and as to the impriſoning, or reſtraining of the Liberty of the King, they of themſelves alone were not High-Treaſon; but now by this Law theſe are made Treaſon, by this Law, during His Majeſty's Life: and the very deſigning of them, whether they take effect, or not take effect, tho' it be prevented (before any Overt-Act,) by the timely Prudence of the King and his Officers, tho' it ſhould be timely prevented, that there is no hurt done; yet the very deſign, if it be but utter'd and ſpoken, and any ways ſignified by any Diſcourſe; this (Gentlemen) is made Treaſon, by this Act; and this hath wrought very great Alteration in the Caſe of Treaſon now; formerly it was ſaid, and ſaid truly enough, that Words alone would not make Treaſon; but ſince this Act, Gentlemen, Words, if they import any malicicions deſign againſt the King's Life and Government; any traiterous intention in the Party; ſuch Words are Treaſon now within this Act: and this Act was made with great Prudence, and with great Care to take off that undue Liberty that Men had taken to themſelves; in thoſe times of Licentiouſneſs, People had taken to themſelves an undecent, and undue Liberty to vent all their ſeditious and malicious Minds one to another, without any Reſtraint at all: therefore now, Gentlemen, you muſt conſider, that Words, if they ſignifie or purport any traiterous Intention or Deſign in the Party, either againſt the King or His Government; either to reſtrain his Liberty, or impriſon him, or to do Him any bodily Hurt, or any Crime of that Nature; this is Treaſon within this Act of Parliament.

Look ye, Gentlemen, now as to the Indictments that ſhall be brought before you, you are to conſider theſe things: 1. Whether the Matter contained in them, and which you ſhall have in Evidence, be Matter of Treaſon within the former, or this Act of Parliament? And here, if you doubt of it, then you muſt adviſe with us that are commiſſionated by His Majeſty to hear and determine theſe Crimes; and in Matters of Law we ſhall direct you: and you are to enquire if there be two Witneſſes that ſhall teſtifie the Matters in Evidence to you, for without two Witneſſes no Man is to be impeached within theſe Laws; but if there be two Witneſſes that ſhall teſtifie to you Matters to make good the Indictments, then you have ground to find the Indictments. But I muſt tell you as to this Caſe of two Witneſſes, it is not neceſſary that they ſhould be two Witneſſes to the ſame Words, or to Words ſpoken at one time, or in the ſame Place; that is not neceſſary: if one be a Witneſs to Words that import any traiterous Deſign and Intention, ſpoken at one Time, and in one Place; and another teſtifie other ſeditious and traiterous

Words, ſpoken at another Time, and in another Place; theſe two are two good Witneſſes within this Statute, and ſo it hath been ſolemnly reſolved by all the Judges of *England* upon a ſolemn Occaſion.

Look ye, Gentlemen, I muſt tell you, That that which is referr'd to you, is to conſider, whether upon what Evidence you ſhall have given unto you, there be any Reaſon or Ground for the King to call theſe Perſons to an Account; if there be probable Ground, it is as much as you are to enquire into: you are not to judge the Perſons, but for the Honour of the King, and the Decency of the Matter; it is not thought fit by the Law, that Perſons ſhould be accuſed and indicted, where there is no colour nor ground for it; where there is no kind of ſuſpicion of a Crime, nor Reaſon to believe, that the thing can be proved, it is not for the King's Honour to call Men to an Account in ſuch Caſes: therefore you are to enquire, whether that that you hear be any Cauſe or Reaſon for the King to put the Party to anſwer it. You do not condemn, nor is there ſuch a ſtrict Enquiry to be made by you, as by others, that are ſworn to try a Fact, or Iſſue: a probable Cauſe, or ſome Ground, that the King hath to call theſe Perſons to anſwer for it, is enough, Gentlemen, for you to find a Bill, 'tis as much as is by Law required. Gentlemen, you muſt conſider this, That as it is a Crime for to condemn innocent Perſons, ſo it is a Crime as great to acquit the Guilty, and that God that requires one of them, requires both; ſo that you muſt be as ſtrict in the one, as you would be in the other. And let me tell you, if any of you ſhall be Refractory, and will not find any Bill, where there is a probable ground for an Accuſation, you do therein undertake to intercept Juſtice, and you thereby make your ſelves Criminals, and Guilty, and the Fault will lie at your Door. You muſt conſider, Gentlemen, you are under a double Obligation here to do Right; you are under the Obligation of *Engliſh-men*, as we are all Members of one great Body, of which the King is Head; and you are engag'd, as *Engliſh-men*, to conſider, That Crimes of this Nature ought not to go unpuniſh'd: then you have an Oath of God upon you, you are here ſworn to do according to what the Evidence is. Now therefore, if you have two Witneſſes of Words that may import a treaſonable Deſign or Intention in any of thoſe Parties, againſt whom you ſhall have Indictments offer'd to you, you are bound both by the Law of Nature, as you are Members of this Body; and by the Law of God, as you have taken an Oath upon you, for to find thoſe Bills.

Gentlemen, Compaſſion or Pity is not your Province, nor ours in this Caſe; there is no room for that in Enquiries of this nature, that is reſerv'd to an higher and ſuperior Power, from which ours is deriv'd: Therefore, Gentlemen, I muſt require you to conſider ſuch Evidence as ſhall be given you, and to be impartial according to what you ſhall hear from the Witneſſes, if you have ground, upon what Evidence you ſhall have given to you, to believe, that there is any reaſon or cauſe for the King to call the Perſons named in ſuch Indictments, as ſhall be tender'd to you, to anſwer for what is objected againſt them therein, you are to find thoſe Bills; that is all that I ſhall ſay to you, only pray God to direct you in your Enquiry, that Juſtice may take place.

[*Then a Bill of High-Treaſon was offer'd againſt the Earl of* Shaftsbury; *and Sir* Francis Withins *moved, That the Evidence might be heard in Court.*]

L. C. J. Gentlemen of the Jury, You hear it is deſired by the King's Council, (and that we cannot deny) that the Evidence may be publickly given, that it may not be hereafter in the Mouths of any ill-minded Perſons abroad, to ſcatter any Miſtakes or Untruths up and down; or to ſlander the King's Evidence, or to ſay any thing concerning them that is not true: therefore we cannot deny this motion of the King's Council, but deſire that you will take your Places, and hear the Evidence that ſhall be given you.

[The Jury then deſired a Copy of their Oath, which the Court granted, and then they withdrew. After ſome little time they returned, and then the Clerk called them by their Names.]

Foreman. My *Lord Chief Juſtice*, it is the Opinion of the Jury, that they ought to examine the Witneſſes in private, and it hath been the conſtant Practice of our Anceſtors and Predeceſſors to do it, and they inſiſt upon it as our right to examine in private, becauſe they are bound to keep the King's Secrets, which they cannot do if it be done in Court.

L. C. J. Look ye, Gentlemen of the Jury, it may very probably be, that ſome late uſage has brought you into this Error, that it is your Right; but it is not your Right in Truth: For I will tell you, I take the Reaſon of that uſe for Grand Juries to examine the Witneſſes privately and out of Court, to comply with the Conveniencies of the Court, for generally upon ſuch Commiſſions as theſe are, the buſineſs is much; and at *Goal-Deliveries* there are a great many Perſons to be indicted and tried, and much other Work beſides, of other Natures, to be done: and if at ſuch times we ſhould examine all Buſineſſes publickly in the Court, it would make the buſineſs of theſe Commiſſions of a wonderful great Length and Cumbrance. Therefore the Judges, for the Conveniency of the Matter, have allow'd, that Witneſſes ſhould go to the Jury, and they to examine them; not that there is any Matter of Right in it, for without queſtion originally all Evidences were given in Court; the Jury are Officers and Miniſters of the Court by which they enquire, and Evidence ſure was all given in Court formerly; and the Witneſſes ſtill are always ſworn in Court, and never otherwiſe. And, Gentlemen, I muſt tell you, 'tis for your Advantage, as well as for the King's, that it may be ſure, that you comply with your Evidence, that you do nothing clandeſtinely; therefore 'tis for your Advantage that this is done, and the King likewiſe deſires it. Now I muſt tell you, that if the King require it of us, and it is a thing that is in its Nature indifferent, we ought to comply with the King's Deſire, to have it examin'd in Court; you ſhall have all the Liberty that you can have in private; what Queſtion ſoever you will have ask'd, your ſelves ſhall ask it, if you pleaſe, and we will not cramp you in Time, nor any thing of that Nature. Therefore Gentlemen, there can be no kind of Reaſon why this Evidence

ſhould

ſhould not be given in Court. What you ſay concerning your keeping your Counſels, that is quite of another Nature, that is, your Debates, and thoſe things, there you ſhall be in private for to conſider of what you hear publickly. But certainly it is the beſt Way, both for the King, and for you, that there ſhould in a Caſe of this Nature, be an open and plain Examination of the Witneſſes, that all the World may ſee what they ſay.

Foreman. My Lord, if your Lordſhip pleaſes, I muſt beg your Lordſhip's Pardon; if I miſtake in any thing, it is contrary to the Sence of what the Jury apprehend. Firſt, They apprehend that the very Words of the Oath doth bind them, it ſays, *That they ſhall keep the Council's, and their own Secrets:* now, my Lord, there can be no Secret in publick; the very intimation of that doth imply, that the Examination ſhould be ſecret; beſides, my Lord, I beg your Lordſhip's Pardon if we miſtake, we do not underſtand any thing of Law.

Mr. *Papillon.* Your Lordſhip is pleaſed to ſay, that it hath been the common Uſage and Practice; ſometimes, my Lord, we have heard, that that hath been the Law of *England*, that hath been the Cuſtom of *England:* If it be the ancient Uſage and Cuſtom of *England*, that hath never been alter'd from time to time, and hath continued ſo, we deſire your Lordſhip's Opinion upon that, as we would not do any thing that may be prejudicial to the King, ſo we would not do the leaſt that ſhould be prejudicial to the Liberties of the People; if it be the ancient Cuſtom of the Kingdom to examine in private, then there is ſomething, may be very prejudicial to the King in this publick Examination; for ſometimes in examining Witneſſes in private, there come to be diſcover'd ſome Perſons Guilty of Treaſon, and Miſpriſion of Treaſon, that were not known, nor thought on before. Then the Jury ſends down to the Court, and gives them intimation, and theſe Men are preſently ſecur'd; whereas, my Lord, in caſe they be examined in open Court publickly, then preſently there is intimation given, and theſe Men are gone away. Another thing that may be prejudicial to the King, is, that all the Evidences here will be foreknown before they come to the main Trial upon Iſſue by the Petty-Jury; then if there be not a very great deal of Care, theſe Witneſſes may be confronted by raiſing up Witneſſes to prejudice them, as in ſome Caſes it has been: then beſides, the Jury do apprehend that in private, they are more free to examine things in particular for the ſatisfying their own Conſciences, and that without Favour or Affection; and we hope we ſhall do our Duty.

L. C. J. Look ye, Mr. *Papillon*, it is reaſonable that we ſhould give you our Advice in this Caſe: I muſt tell you, if you had conſider'd of what I had ſaid before, I thought I had obviated, theſe Objections: Firſt, as to that you do ſay that you are bound to conceal your Counſels, and the King's Secrets, that is very true; as to your Counſels, that is, your Debates, you are bound to conceal them: as to the King's Secrets, ſo long as he will have them kept ſecret, you are bound to keep them ſo too, but it doth not deprive the King of the benefit of having it publick, if he have a Deſire for it; you don't break your Oath, if the King will make it publick; you don't make it publick, 'tis the King does it. Then as to that that you do ſay, that you apprehend the common Uſage of the Kingdom to be a Law; that is true, Mr. *Papillon*, in ſome ſence; a conſtant and uninterrupted Uſage goes for a Law among us; but I thought I had told you before, that both of ancient and later Times there have been Examinations of the Witneſſes in Court in Caſes of this Nature; and we are not without precedents of it every Year, every Term, continually from Time to Time, Evidence is heard in Court by the Grand-Jury; it is as uſual a thing with us, as any thing, if it be deſired, nothing more frequent, or more common: I never heard it deny'd, or ſtood upon by any Grand-Jury, in my Life, till of late here; you may be inſtructed with a thouſand Preſidents, for I am ſure it is a common and ordinary Caſe upon ſuch Occaſions, if deſired to hear the Evidence in Court.

Look ye, Gentlemen, as to that care that you have of the King's Affairs, the King has Reaſon to take it well that you are ſo careful for them; and that you are ſo mindful of his Concerns, he hath a great deal of Reaſon to think well of you for it: and, Gentlemen, conſider this, that His Majeſty's Council have certainly conſidered of this Evidence, before they brought this to a publick Enquiry; or elſe it would be a hard thing if they ſhould come raw, and not know what the Witneſſes can ſay; for tho' you are the Jury to hear the Witneſſes, yet you muſt conſider, that the King's Council have examined whether he hath cauſe to accuſe theſe Perſons, or not; and, Gentlemen, they underſtand very well, that it will be no Prejudice to the King to have the Evidence heard openly in Court; or elſe the King would ne're deſire it.

Foreman. My Lord, the Gentlemen of the Jury deſire that it may be recorded, that we inſiſted upon it as our Right; but if the Court o'er rule, we muſt ſubmit to it.

L. C. J. Here are enough Perſons to take Notice of it; to make Records of ſuch things, is not uſual; it is not our buſineſs here to record every thing, that every Man will deſire to be recorded: we can record nothing but what is in Order to the Proceedings, but Notice enough is taken of it; you need not fear but that there will be Witneſſes enough.

L. C. J. North. Gentlemen, I muſt ſay ſomething to fortifie what my Lord Chief Juſtice has ſaid: if any of us had been of a different Opinion, we would have ſpoken it; the ſame thing was ſtood upon, and diſcourſed on the laſt Seſſions, and then all the Judges were of this Opinion, and in what all the Judges agree to, you ſhould acquieſce. I muſt tell you from my own Experience; where the King will, he ought to have it kept ſecret: I have not known it done publickly in the orderly Courſe of Buſineſs; but I have often known where it hath been deſir'd by thoſe which proſecute for the King, that Evidence hath been given openly; and I never knew it deny'd: if any of my Brothers think otherwiſe, I deſire they would ſpeak; but, I tell you, as to my Experience, this is the Caſe.

Mr. Sheriff P. I deſire the Witneſſes may be kept out of the Court, and called one by one.

L. C. J. It is a thing certainly, that the King's Council will not be afraid of doing; but Sheriffs do not uſe to move any thing of this Nature in Court,

Court, and therefore 'tis not your Duty, Mr. Sheriff, to meddle with it.

Sheriff P. It was my Duty laſt time, my Lord, and appointed.

Mr. Att. Gen. Sir Rob. Sawyer. You were acquainted 'twas not your Duty laſt time, and you appear againſt the King.

Then the Indictment was read.

London ſſ. 'The Jurors for our Sovereign Lord the King, upon their Oaths preſent, that *Anthony* Earl of *Shaftsbury*, late of the Pariſh of St. *Martins* in the Fields, in the County of *Middleſex*, as a falſe Traitor againſt the moſt Illuſtrious, and moſt Excellent Prince, our Soveraign Lord *Charles* II. by the Grace of God *England*, *Scotland*, *France*, and *Ireland*, King, his Natural Lord, the Fear of God in his Heart not having, nor weighing the Duty of his Allegiance; but being moved and ſeduced by the Inſtigation of the Devil, the Cordial Love, and true, due, and natural Obedience, which true and faithful Subjects of our ſaid Soveraign Lord the King, towards him our ſaid Soveraign Lord the King, ſhould, and of right ought to bear, wholly withdrawing, and with all his Strength intending the Peace and common Tranquility in this Kingdom of *England*, to diſturb, and War and Rebellion againſt our ſaid Soveraign Lord the King, to ſtir up and move, and the Government of our ſaid Soveraign Lord the King, within this Kingdom of *England*, to ſubvert, and him our ſaid Soveraign Lord the King, from the Title Honour and Regal Name of the Imperial Crown of his Kingdom of *England* to depoſe and deprive, and Him our ſaid Soveraign Lord the King to Death and final Deſtruction to bring and put, the 18th Day of *March*, in the three and thirtieth Year of the Reign of our Soveraign Lord, *Charles* the Second, now King of *England*, and divers other Days and Times, as well before as afterward, in the Pariſh of St. *Mary Le Bow*, in the Ward of *Cheap*, *London*, traiterouſly compaſſed, imagined and intended the Death and final Deſtruction of our ſaid Soveraign Lord the King, and the ancient Government of his Kingdom of *England*, to change, alter, and wholly to ſubvert, and Him our ſaid Soveraign Lord the King, from the Title, Honour, and Kingly Name of his Imperial Crown of this Kingdom of *England* to depoſe and deprive, and War and Rebellion againſt our ſaid Soveraign Lord the King, to move and levy within this Kingdom of *England*; and his ſaid moſt wicked Treaſons, and traiterous Compaſſes, Imaginations and Purpoſes aforeſaid, to fulfill and perfect, he the ſaid *Anthony* Earl of *Shaftsbury*, as a falſe Traytor, with divers Armed Men, Subjects of our ſaid Soveraign Lord the King, then being, maliciouſly, traiterouſly and adviſedly did provide and prepare to be aiding to him the ſaid Earl of *Shaftsbury*, to fulfill and perfect his Treaſons aforeſaid. And his ſaid wicked Treaſons, traiterous Compaſſes, Imaginations and Purpoſes, the ſooner to fulfill and perfect, he the ſaid *Anthony* Earl of *Shaftsbury* as a falſe Traytor, with one *John Booth*, and other Subjects of our ſaid Lord the King, then and there traiterouſly aſſembled, met and conſulted; and the ſame wicked Treaſons, and traiterous Compaſſes, Imaginations and Purpoſes aforeſaid, then and there to the ſaid *John Booth*, and other Perſons, to the Jury unknown, in the hearing of divers Liege Subjects of our Soveraign Lord the King, then and there preſent, openly, publickly, maliciouſly, traiterouſly and adviſedly did ſay and declare, and to perſwade and induce the ſaid *John Booth* to be aiding and aſſiſting in his ſaid Treaſons, Compaſſes, Imaginations and Purpoſes, he the ſaid *Anthony* Earl of *Shaftsbury*, as a falſe Traytor, maliciouſly, adviſedly, and traiterouſly, the ſaid 18th Day of *March*, in the three and thirtieth Year of the Reign of our ſaid Soveraign Lord the King, at the Pariſh and Ward aforeſaid, within the City of *London* aforeſaid, falſly, adviſedly, ſubtilly, maliciouſly and traiterouſlly ſaid, aſſerted and declared, that in a ſhort Time the Parliament was to ſit at *Oxford*, and that he the ſaid *Anthony* Earl of *Shaftsbury* had inſpected the Elections, and conſidered the Inclinations and Diſpoſitions of the generality of the Members of Parliament elected; and that he the ſaid *Anthony* Earl of *Shaftsbury* was ſatisfied that the Parliament would inſiſt upon three Matters, (to wit) *The Bill of Excluſion againſt the Duke of* York; *the Aboliſhing the Act of Parliament of the* 35th *of Queen* Elizabeth, *and the paſſing of a New Bill for uniting Proteſtant Diſſenters*; with divers other good and wholeſome Bills. To which he the ſaid *Anthony* Earl of *Shaftsbury* was certain that the King's Majeſty would refuſe to give his Royal Aſſent; and therefore he the ſaid *Anthony* Earl of *Shaftsbury* did expect that there would be a Diviſion between the King's Majeſty and the Parliament; and that many Noble Lords and Worthy Members of the lower Houſe did concur in the ſame Opinion; and they were reſolved to inſiſt upon the paſſing of thoſe Bills: And if the King's Majeſty refuſed, that they (meaning him the ſaid *Anthony* Earl of *Shaftsbury*, and the ſaid Noble Lords and Worthy Members) had provided Strength to compel the King's Majeſty to grant thereunto: and that for his Part, he the ſaid *Anthony* Earl of *Shaftsbury* had provided ſtout Men to be commanded by Captain *Wilkinſon*, (meaning one *Henry Wilkinſon*, one of the Subjects of our ſaid now Soveraign Lord the King); of which he the ſaid *Anthony* Earl of *Shaftsbury* had agreed that the ſaid *John Booth* ſhould be one.

'And further, the Jurors aforeſaid upon their Oath do ſay, that the aforeſaid *Anthony* Earl of *Shaftsbury*, his ſaid wicked Treaſons, and traiterous Imaginations, to fulfill, perfect, and bring to effect afterwards; to wit, the ſaid eighteenth Day of *March*, in the Thirty-third Year of his ſaid now Majeſty's Reign, in the Pariſh and Ward aforeſaid, within the City of *London* aforeſaid, as a falſe Traytor in the preſence and hearing of divers liege People of our ſaid Soveraign Lord the King, then and there preſent, openly and publickly, falſly, maliciouſly, adviſedly and traiterouſly ſaid, aſſerted, publiſhed, and with a loud Voice declared, that our ſaid now Lord the King was a Man of no Faith, and that there was no truſt in him; and that our ſaid Lord the King deſerved to be depoſed, as well as *Richard* the Second, late King of *England*, deſerved.

'And further, the Jurors aforeſaid upon their Oath do ſay, that the ſaid *Anthony* Earl of

'*Shafts-*

'*Shaftsbury*, his ſaid wicked Treaſons, and traiterous Imaginations aforeſaid, to be fulfilled and 'perfected, and brought to effect the ſaid 18th 'Day of *March*, in the three and thirtieth Year 'of his ſaid now Majeſty's Reign, in the Pariſh 'and Ward aforeſaid, in the City of *London* a-'foreſaid, as a falſe Traytor, in the preſence and 'hearing of divers liege Subjects of our ſaid 'Lord the King then and there preſent, openly 'and publickly, falſly, malicioufly, adviſedly, 'and traiterouſly ſaid, aſſerted, publiſhed, and 'with a loud Voice declared, that he the ſaid '*Anthony* Earl of *Shaftsbury* would never deſiſt, 'until he had brought this Kingdom of *England* 'into a Commonwealth without a King, and 'that the ſaid *Anthony* Earl of *Shaftsbury*, and all 'thoſe that him the ſaid *Anthony* Earl of *Shafts-'bury* would aſſiſt, (and he knew many that 'would aſſiſt him the ſaid *Anthony* Earl of *Shafts-'bury*) would make *England* a Commonwealth as '*Holland* was: and that he the ſaid *Anthony* Earl 'of *Shaftsbury*, and other Traytors unknown, 'would live as in *Holland*, and that he our ſaid 'Lord the King, and all his Family, ſhould be 'rooted out.

'And further, the Jurors aforeſaid do ſay, 'that the ſaid *Anthony* Earl of *Shaftsbury*, his ſaid 'wicked Treaſons, and traiterous Imaginations 'aforeſaid, to be fulfilled, perfected, and 'brought to Effect afterwards, the ſaid 18th Day 'of *March*, in the three and thirtieth Year of his 'ſaid now Majeſty's Reign, in the Pariſh and 'Ward aforeſaid, in the City of *London* aforeſaid, as a falſe Traytor, in the preſence and 'hearing of divers liege Subjects of our ſaid So-'veraign Lord the King then and there preſent, 'openly, publickly, falſly, malicioufly, adviſed-'ly, and traiterouſly ſaid, aſſerted, publiſhed, 'and with a loud Voice declared, that our now 'Soveraign Lord the King was a Man of an un-'faithful Heart, and not worthy to be truſted, 'and not fit to rule and govern, being falſe, un-'juſt, and cruel to his People; and if he would 'not be governed by his People, that they '(meaning him the ſaid *Anthony* Earl of *Shaftsbury*, 'and other Traytors to the Jurors unknown) our 'ſaid Soveraign Lord the King would depoſe, 'againſt his Allegiance and Duty, and againſt 'the Peace of our ſaid Soveraign Lord the King, 'his Crown and Dignity, *&c.* and againſt the 'form of the Statute in ſuch Caſe made and pro-'vided, *&c.*

Sir *Fr. Withens.* Gentlemen of the Jury, This is an Indictment againſt the Earl of *Shaftsbury*; I ſhall not trouble you to open the Indictment, becauſe the Evidence will be ſomewhat long, I ſhall only tell you which Way we ſhall go——

L. C. J. North. I do not know whether you deſire the Witneſſes ſhould be examin'd apart, do you deſire that, Gentlemen?

L. C. J. If you do deſire it, Gentlemen, they ſhall, for Mr. *Sheriff* hath nothing to do with it; but if you do deſire it, you ſhall have the Witneſſes call'd one at a time, and all the reſt ſhall be put out of the Court.

Jury. My Lord, it is our deſire.

L. C. J. We did deny it to Mr. *Sheriff*, becauſe we are to keep Men within their Duty. Here it is not his Duty to meddle with any thing of this Nature.

Foreman. My Lord, we deſire we may have a Liſt of their Names, and that they may be put apart, that they may not hear what one another ſay.

Sir *Fr. Withens.* My Lord, there is one part I would open.

L. C. J. There is no need for it at all — You ſhall have their Names told you as they are call'd.

Mr. *Harriſon.* My Lord, we pray we may have a Liſt of their Names.

L. C. J. If you deſire it, you may have it, but it will be no advantage, for you will hear them named, and you may write them down as they come in.

Mr. *Godfrey.* We deſire a Liſt, for you told us, the King's Council had examin'd them, and knew who they were.

L. C. J. I'll tell you the Court is to have their Names indorſed, for they don't bring Witneſſes in *hugger-mugger*, and I ſuppoſe they are indorſed here.

L. C. J. North. It is want of Experience that makes you ask this; you are told, they are indorſed here.

L. C. J. Look you, Sir *Samuel Barnardiſton*, you muſt have the Indictment it ſelf out with you, and all their Names written upon the back of that Indictment; but that you ſhould deſire to have the Names of them in a Roll beforehand, I do not know, if there be any Reaſon that you can aſſign for it.

Foreman. One thing more I have to ſay, that we may ſee the Warrant by which the Earl of *Shaftsbury* was committed, for there are ſome other Queſtions depend upon it.

L. C. J. That we cannot do, for the Lieutenant of the *Tower* hath that Warrant, which he keeps for his Indemnity; we cannot demand it from him upon any Terms: Any thing that you do deſire of us, let us know; what is reaſonable, and within our Power, we will grant; and for other deſires of yours, we tell the Reaſon why we cannot grant them.

Mr. *Papillon.* My Lord, if your Lordſhip pleaſes, I will only acquaint your Lordſhip, that the Gentlemen of the Jury do ſeem to be of Opinion, that your Lordſhip gives them leave to examine the Witneſſes; and the Jury, becauſe they would not put the Court to too much trouble, do deſire, that the Witneſſes ſhould come one after another, and make their Information, and then the Jury would withdraw, to conſider what proper Queſtions to ask them, and come down again.

L. C. J. You ſhall do ſo, Gentlemen. Look you, we did at the Requeſt of the laſt Jury uſe the ſame method; after they had heard the Witneſſes what they gave in Evidence, they came and deſired leave to ask them ſome Queſtions, which was granted, and they were all call'd one by one, and they did examine them; you ſhall do ſo, Gentlemen.

Mr. Att. Gen. I was informed this Morning there were ſeveral Queſtions to be askt of ſeveral Witneſſes to direct the Grand-Jury how to demean themſelves.

L. C. J. Mr. Attorney, the Requeſt is reaſonable enough.

Mr. *Harriſon.* We deſire they may be examined one by one.

L. C. J. North. I ſuppoſe you don't ſtand upon it for theſe Witneſſes, they are Clerks of the Council, that only prove a Paper which it ſeems

was

was found in the Earl of *Shaftsbury*'s Houſe: if you will they may go out and be call'd in again.

Harriſon. We humbly beg it.

Mr. *Godfrey.* I was Foreman of the Jnry at *Fitz-Harris*'s Tryal, and it was complained he had hard Meaſure from ſome Iriſh Witneſſes, and that it was ſevere that they ſhould be examin'd in Troops: it hath troubled me ſince that I did not put them out and examine them apart.

L. C. J. Look ye, Gentlemen, you that are Witneſſes for the King, you muſt go all out, and come in as you are called, one by one.

Which done William Blathwait *Eſq; was produced, and a Paper delivered in.*

Mr. *Saunders* to Mr. *Blathwait.* I pray Sir, give an Account how you came by that Paper.

W. Blathwait. This Paper, Gentlemen, was put into my Cuſtody by Mr. *Gwyn*, Clerk of the Council, who ſeiz'd it among others in my Lord *Shaftsbury*'s Houſe: he gave me the Key of the Room where they were kept, and it hath been altogether in my Cuſtody, except for a ſhort Time that it was delivered to Mr. Secretary *Jenkins*, by whom it was re-delivered to me. Mr. *Gwyn* having ſeiz'd Papers at my Lord *Shaftsbury*'s Houſe brought them to the Council-Office, and put them into one of the Rooms, and lock'd the Door, and deliver'd the Key to me. When I was order'd by the Committee of Examinations, I fetch'd up the Trunks and Papers, and brought them into the Council-Chamber, and the Trunks were opened in the Preſence of ſome of the Lords of the Council, and in the Preſence of Mr. *Wilſon*, who was appointed to attend there on the behalf of my Lord *Shaftsbury*, and he was always preſent when the Papers were taken out of the Trunks and Bags: this was one Paper, and was taken out upon the 6th of *July* in the Preſence of Mr. *Wilſon*, who took particular notice of this Paper, as may appear by his own Hand. The Trunk was ſealed, it was a great Trunk, and it was open'd in the Preſence of Mr. *Samuel Wilſon* and Mr. *Starkey*, who were both appointed by my Lord of *Shaftsbury*.

L. C. J. Was this Paper found in one of thoſe Trunks or Boxes that was deliver'd to you by Mr. *Gwyn*?

Mr. *Blathwait.* This Paper was taken out of a Velvet Bag which Mr. *Gwyn* had put into the great Trunk, which Trunk was ſealed and opened in the Preſence of Mr. *Wilſon* and Mr. *Starkey*.

Sir *Fr. Withens.* Did you find that Paper in the Trunk?

Mr. *Blathwait.* I took this and others out of the Velvet Bag which was in the great Trunk.

L. C. J. Call Mr. *Gwyn* to give an account where he found theſe Papers. Look you, Gentlemen of the Jury, you hear what his Evidence is, would you ask him any thing while he is here?

Then Mr. Gwyn *coming in.*

L. C. J. Where had you the Trunk you delivered to Mr. *Blathwait*?

Gwyn. My Lord, on the ſecond of *July* by a Warrant from the Secretary I was commanded to go to my Lord *Shaftsbury*'s Houſe to ſearch his Papers, I did there meet with a great many Papers, and I took a Note how I had parted them, and into what Parcels I had put the Papers; there were ſeveral ſorts of them in a great Hair Trunk, and there was a Velvet Bag in which I put ſome Papers that were looſe in my Lord's Cloſet above Stairs. My Lord *Shaftsbury* as ſoon as I came, gave me the Keys, and told me where his Cloſets were, and ſaid he would Seal them up with his own Seal: I ſtaid for it, but he ſent me word by a Gentleman that I might put my own Seal if I pleaſed: I did put my Seal upon the Trunk, but afterwards being ſent another Way, I delivered it to this Gentleman Mr. *Blathwait*: whether any of the Papers were taken out afterwards I cannot tell.

L. C. J. Mr. *Gwyn*, that your Evidence may be the better underſtood, tell me, were all the Papers that were in that Velvet Bag in my Lord *Shaftsbury*'s Cloſet?

Mr. *Gwyn.* In my Lord *Shaftsbury*'s Cloſet above-ſtairs.

L. C. J. This you ſwear; when you delivered it to Mr. *Blathwait*, all the Papers were in that Bag; was there nothing in that Bag, but what you took in my Lord *Shaftsbury*'s Cloſet?

Mr. *Gwyn.* Nothing, my Lord.

Look you, Gentlemen, you do obſerve that this Paper was put into the Bag by Mr. *Gwyn*, and Mr. *Blathwait* ſwears he found it in the Bag, and delivered it to Mr. Secretary *Jenkins*; therefore if you pleaſe Mr. Secretary *Jenkins* you ſhall be ſworn whether that Paper was delivered to you by Mr. *Blathwait*, becauſe we would clear it as we go, whether that be the Paper was delivered to Mr. Secretary *Jenkins* by Mr. *Blathwait*: I pray, Sir, was that the Paper that Mr. *Blathwait* did deliver into your Hands?

Mr. Sec. *Jenkins.* My Lord, this is the Paper, this Paper was delivered into my Hands by Mr. *Blathwait* in the Council-Chamber. I cannot ſay that this numerical Paper was taken out of the Velvet Bag; but there were a great many Papers taken out of it, and I having the honour to be at the Examination of the Papers; this was ordered to be put (and was put) into my Hands with nine Papers more.

L. C. J. Was it out of your Hands?

Mr. Sec. *Jenkins.* It was out of my Hands; for upon *Munday* laſt I took out the nine Papers intruſted with me, and this tenth out of my Desk, and cauſed my Servant to mark them by Numbers. Then I ſealed up theſe Papers and ſent them to Mr. *Graham*. Mr. *Graham* brought them back again to me without any alteration whatſoever; then I put this tenth Paper into the Hands of Mr. *Blathwait* again. All the while it was in my Hands, it was under Lock and Key, and none of my Servants ſaw it, but the time it was numbred; and no manner of Alteration was made in this, or any other of the nine Papers.

L. C. J. Now it appears this was the Paper taken in my Lord *Shaftsbury*'s Cloſet.

Then this Paper was read as followeth

WE the Knights, &c. finding to the grief of our Hearts, the Popiſh Prieſts and Jeſuits, with the Papiſts and their Adherents and Abettors have for ſeveral Years laſt paſt purſued a moſt pernicious and helliſh Plot, to root out the true Proteſtant Religion as a peſtilent Hereſie, to take away the Life of our Gracious King, to ſubvert our Laws and Liberties, and to ſet up Arbitrary Power and Popery.

And it being notorious that they have been highly encouraged by the Countenance and Protection given and pro-

procured for them by J. D. *of* Y. *and by their Expectations of his succeeding to the Crown, and that thro' crafty Popish Councils his Designs have so far prevailed, that he hath created many and great Dependents upon him by his bestowing Offices and Performents both in Church and State.*

It appearing also to us, that by his Influence Mercenary Forces have been levied and kept on foot for his secret Designs contrary to our Laws; the Officers thereof having been named and appointed by him, to the apparent Hazard of his Majesty's Person, our Religion and Government, if the Danger had not been timely foreseen by several Parliaments, and part of those Forces with great Difficulty, caused by them to be disbanded at the Kingdom's great Expence: And it being evident, that notwithstanding all the continual endeavours of the Parliament to deliver his Majesty from the Councils, and out of the Power of the said D. *yet his Interest in the Ministry of State and others have been so prevalent, that Parliaments have been unreasonably prorogued and dissolved when they have been in hot pursuit of the popish Conspiracies, and ill Ministers of State their Assistants.*

And that the said D. *in order to reduce all into his own Power hath procured the Garisons, the Army and Ammunition, and all the Power of the Seas and Soldiery, and Lands belonging to these three Kingdoms to be put into the Hands of his Party and their Adherents, even in opposition to the Advice and Order of the last Parliament.*

And as we considering with heavy Hearts how greatly the Strength, Reputation and Treasure of the Kingdom both at Sea and Land is wasted and consumed, and lost by the intricate expensive management of these wicked destructive Designs; and finding the same Councils after exemplary Justice upon some of the Conspirators, to be still pursued with the utmost deviliſh Malice, and desire of Revenge; whereby his Majesty is in continual Hazard of being murdered to make way for the said D.'s *Advancement to the Crown, and the whole Kingdom in such Case is destitute of all Security of their Religion, Laws, Estates and Liberty, sad experience in the Case, Queen* Mary *having proved the wisest Laws to be of little force to keep out Popery and Tyranny under a Popish Prince.*

We have therefore endeavoured in a parliamentary Way by a Bill for the purpose to bar and exclude the said Duke from the Succession to the Crown, and to banish him for ever out of these Kingdoms of England *and* Ireland. *But the first means of the King and Kingdom's Safety being utterly rejected, and we left almost in despair of obtaining any real and effectual Security, and knowing our selves to be intrusted to advise and act for the Preservation of His Majesty and the Kingdom, and being persuaded in our Consciences that the Dangers aforesaid are so eminent and pressing, that there ought to be no delay of the best means that are in our Power to secure the Kingdom against them. We have thought fit to propose to all true Protestants an Union amongst themselves by solemn and sacred Promise of mutual Defence and Assistance in the Preservation of the true Protestant Religion, His Majesty's Person and Royal State, and our Laws, Liberties and Properties, and we hold it our bounden Duty to joyn our selves for the same intent in a Declaration of our United Affections and Resolutions in the Form insuing.*

I A. B. Do in the Presence of God solemnly promise vow, and protest to maintain and defend to the utmost of my Power, with my Person and Estate, the true Protestant Religion, against Popery and all popish Superstition, Idolatry, or Innovation, and all those who do or shall endeavour to spread or advance it within this Kingdom.

I will also, as far as in me lies, maintain and defend His Majesty's Royal Person and Estate; as also the Power and Privilege of Parliaments, the lawful Rights and Liberties of the Subject against all Incroachments and Usurpation of Arbitrary Power whatsoever, and endeavour entirely to disband all such mercenary Forces as we have reason to believe were raised to advance it, and are still kept up in and about the City of London, to the great Amazement and Terror of all the good People of the Land.

Moreover J. D. of Y. having publickly professed and owned the popish Religion, and notoriously given Life and Birth to the damnable hellish Plots of the Papists against His Majesty's Person, the protestant Religion, and the Government of this Kingdom; I will never consent that the said J. D. of Y. or any other, who is or hath been a Papist, or any ways adher'd to the Papists in their wicked Designs, be admitted to the Succession of the Crown of England; but by all lawful means and by force of Arms, if need so require, according to my Abilities, will oppose him, and endeavour to subdue, expel, and destroy him, if he come into England, or the Dominions thereof, and seek by force to set up his pretended Title, and all such as shall adhere unto him, or raise any War, Tumult, or Sedition for him, or by his Command, as publick Enemies of our Laws, Religion and Country.

To this end we and every one of us whose Hands are here underwritten, do most willingly bind our selves and every one of us unto the other joyntly and severally, in the Bond of one firm and loyal Society or Association, and do promise and vow before God, that with our joynt and particular Forces we will oppose and pursue unto Destruction all such as upon any Title whatsoever shall oppose the just and righteous Ends of this Association, and maintain protect and defend all such as shall enter into it in the just performance of the true Intent and meaning of it. And lest this just and pious Work should be any Ways obstructed or hindered for want of Discipline and Conduct, or any evil minded Persons under Pretence of raising Forces for the service of this Association, should attempt or commit Disorders; we will follow such Orders as we shall from time to time receive from this present Parliament, whilst it shall be sitting, or the major Part of the Members of both Houses subscribing this Association, when it shall be prorogued or dissolved: and obey such Officers as shall by them be set over us in the several Counties, Cities, and Burroughs, until the next meeting of this or another Parliament; and will then shew the same Obedience and Submission unto it, and those who shall be of it.

Neither will we for any respect of Persons or Causes, or for Fear, or Reward separate our selves from this Association, or fail in the Prosecution thereof during our Lives, upon Pain of being by the rest of us prosecuted, and suppressed as perjur'd Persons, and publick Enemies to God, the King, and our Native Country.

To which Pains and Punishments we do voluntarily submit our selves, and every one of us without benefit of any Colour or Pretence to excuse us.

In Witness of all which Premisses to be inviolably kept, we do this present Writing

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put our Hands and Seals, and ſhall be moſt ready to accept and admit any others hereafter into this Society and Aſſociation.

Sir Fr. Withens. This Paper is very plauſibly penned in the beginning, and goes a great way ſo, but in the laſt clauſe but one, there they come to perfect levying of War; for they do poſitively ſay, they will obey ſuch Officers as either the Parliament or the major Part of them, or after the Parliament is diſſolved, the major Part of thoſe that ſhall ſubſcribe this Paper ſhall appoint; they will obey all ſuch Officers.

Foreman. Pray what date is this Paper of?

Sir Fr. Withens. It was after the Bill for the Excluſion of the Duke of *York*, for it ſays that Way failing, they would do it by force.

Foreman. There is no Hand to it at all?

Sir Fr. Withens. No, none at all. One thing I had forgot, that they would joyn to deſtroy the mercenary Forces about *London*, which is downright levying of War againſt the King and his Guards.

Mr. *Sanders.* The deſign of it is pretended to oppoſe Popery and arbitrary Power, and deſtroy the Papiſts; but that doth not ſeem ſo much in its ſelf: but when you have heard the Evidence you will hear who were the Papiſts that were to be deſtroyed by this Army.

John Booth.

Jury. He has ſtood in the Face of the Court all this while.

L. C. J. When did Mr. *Booth* come down?

Jury. He was here before we went up, my Lord, and hath been here ever ſince.

L. C. J. Look ye, Gentlemen, they tell you he was carried away, and came down but now.

Mr. *Booth.* No my Lord, I came down but now.

Mr. *Shepherd.* My Lord, we deſire a Liſt of their Names, that we might know who is here, and who is not.

Mr. *Godfrey.* This Man hath been here all this while, and all the others may be here, for ought that I know.

Sir Fr. Withens. In the firſt Place give an Account what Diſcourſe you have had with my Lord *Shaftsbury*.

L. C. J. Speak out that the Jury may hear you.

Mr. *Booth.* I will ſpeak as loud as I can. In the Month of *January*, about the middle of *January* laſt, I was introduced into my Lord *Shaftsbury*'s Acquaintance by one Captain *Henry Wilkinſon*. I ſay I was introduc'd into my Lord *Shaftsbury*'s Acquaintance by one Captain *Henry Wilkinſon*. This Captain *Wilkinſon* is a *Yorkſhire* Gentleman, he has known me above twenty Years, and he and I have had familiar Converſation a long while; ſo waiting upon my Lord *Shaftsbury*, our firſt buſineſs that we went about was, Captain *Wilkinſon* did pretend to receive a Commiſſion from my Lord *Shaftsbury*, and ſome others of the Lords Proprietors of the Palatinate of *Carolina* to be their Deputy-Governor; and he told me the Proſpect of that Journey, was like to be very hopeful, and that his Intereſt was good, and that he could procure me a Commiſſion, and ſuch a number of Acres for Quality and Quantity as I did deſire: and he ſaid he did not deſign to go over immediately in his own Perſon, but he would ſend his eldeſt Son, and his youngeſt Son, and if he went, he would return again as occaſion ſhould ſerve. I conſented to him in all this; and we diſcours'd it divers times together, and we went to my Lord *Shaftsbury* on purpoſe to receive Commiſſions in order to this Purpoſe. The firſt time I went there was the Earl of *Craven*, Sir *Peter Colleton*, one *Archdell* a Quaker; I thought him a Quaker becauſe he kept his Hat on, when the reſt of the Lords ſtood bare in Civility to him. We diſcours'd the thing about *Carolina*. After this, and before, Captain *Wilkinſon* and I had ſeveral Diſcourſes about the juncture of Affairs in theſe Times, tho' I knew him to be an old Royaliſt, and one that ſerved his Majeſty and his late Father very much in the Wars; yet being under great Diſappointments of Preferments at Court, and miſſing the Reward he expected from the King, his Heart was turned another Way, and he had repented himſelf of thoſe Services he had done for the King, and was become a Man of another Opinion; and there was ſome Inducements upon me that I was inclin'd to the ſame Opinion: ſo he expreſs'd himſelf to my Lord, and ſo from one thing to another we went on in Diſcourſe, and related the ſeveral Parliaments, and the proroguing them, and the Diſappointments of the People, and the Fear of Popery and arbitrary Power: and this was not done once, nor twice, nor ten times; for I cannot enumerate them, for we kept a Continual Club, and convers'd together familiarly near three quarters of a Year. After this firſt Acquaintance with my Lord *Shaftsbury* at his Houſe, I did frequently go with Captain *Wilkinſon*, and between Chriſtmas and *March* four or five times: and I obſerved this, that when we came to my Lord *Shaftsbury*'s they were cautious in our Acceſſion: In the firſt Place it was to be known by ſome of the Servants, who he was in company with: and in the ſecond Place the Names were ſent up, who they were, that were to ſpeak with him: ſometimes we had an Alehouſe at the *Bell* in the ſame Street: (I forget the name of the Street) we ſtaid at the Alehouſe till we had a fit Time, Captain *Wilkinſon* had Acquaintance with his Porter and his Gentleman of his Chamber: and ſo we often diſcours'd. And from the concerns of *Carolina* we fell to matters more publick concerning the State. I remember he would uſe to inveigh ſharply againſt the Times, and look upon himſelf as not ſo valued, nor ſo reſpected, nor in thoſe Places and Dignities as he expected he ſhould be, and ſeem'd to be diſcontented, and he did fear that Popery would be introduced, and Arbitrary Power: and when Parliament-men were to be elected, there came every Week News, bringing particulars of ſuch Boroughs and Counties as had made particular Elections for Members for Parliament; whether Knights, Citizens, or Burgeſſes: and he would often conſider that Parliament that was to ſit at *Oxford*, what they were as to their Inclinations and Diſpoſitions: and he ſaid, they would inſiſt upon the ſame things the other Parliaments before had done. Particularly he ſaid the Parliament would never grant the King any Aſſiſtance of Money, nor ſatisfie him in thoſe things that he deſired, unleſs he gave the People firſt ſatisfaction in thoſe things that they inſiſted on before, and he believed would inſiſt upon

on after; and particularly the Bill of excluding the Duke of *York* from the Crown: another was the aboliſhing the Statute of the 35th of *Elizabeth*: and the third was giving his Royal Aſſent for the Paſſing a new Bill whereby all Diſſenting Proteſtants, Nonconformiſts, or what you will term them, ſhould be freed from thoſe Penalties and Eccleſiaſtick Puniſhments that they are ſubject to by the preſent Eſtabliſh'd Law: and he ſaid, if theſe and ſome other wholeſome Laws and Bills were paſt by the Royal Aſſent of the King, he believed that when the People had received this Security and Satisfaction, that they would be very willing to grant the King ſuch accommodations of Money by Way of Aſſeſſment, or ſo, as his neceſſary Occaſions ſhould alſo require; but without this he believed, there would be a breach between the King and the Parliament, and that they had order'd the Parliament ſhould meet at *Oxford*, and not at this Metropolis at *London*, where they might go on without fear of being over-awed: that this was an Intention to awe the Parliament. But he ſaid, himſelf and divers Noble Lords, and Members of the Houſe of Commons had conſidered themſelves and their own Safety, and that they judg'd it dangerous to go to *Oxford*, where they were ſure the Guards, the Retinue of the Court, and the Aſſiſtance of the Scholars (which uſually incline to the Crown) might ſo over-awe the Parliament, that they might not ſo freely proceed in a Way for the Publick Good as they intended; and therefore he and others had conſidered with themſelves, that it were fit for them to have Guards and ſend them thither; and to this Purpoſe he had eſtabliſh'd a Matter of fifty Men Perſons of Quality, that he believed would have Men along with them; and he intruſted Captain *Henry Wilkinſon* with the Command of theſe Men, and they were to come to *Oxford* at ſuch a time, and if there were any breach between the King and the Parliament, or any Violence offer'd to any of theſe Members by the Guards, or Retinue of the Court, that then theſe Men with others that other Lords had provided, ſhould repel his Force, by greater Force, and ſhould purge the Guards of all the Papiſts and Tories, and ſuch as were againſt the Proteſtant Religion, and the eſtabliſh'd Laws of the Land; and likewiſe theſe Men ſhould be ready to aſſiſt himſelf, and thoſe other Perſons in his Confederacy, to purge from the King thoſe Evil Counſellors which were about him: particularly there were named, the Earl of *Worceſter*, my Lord *Clarendon*, my Lord *Hallifax*, my Lord *Feverſham*, and Mr. *Hide*, now Lord Viſcount *Hide*: and theſe Perſons were look'd upon to be dangerous, and gave the King evil Advice, and made him continue ſo very deaf to what the Parliament urg'd him to; and therefore they ſaid they would not only purge the Guards, and repel that Force by a greater Force, but alſo take thoſe Lords by Violence from the King, and bring the King to *London*, to the chief Metropolitan City, where thoſe things ſhould be eſtabliſh'd, which they deſign'd for their ſafety in theſe two reſpects, for the preſerving the Proteſtant Religion, and likewiſe for the keeping and defending us ſafe from Arbitrary Power and Government. Upon this Captain *Wilkinſon* did deſire me that I would be one of thoſe under his Command: this I did conſent to. And he requeſted me further, that I would provide for my ſelf Horſe and Arms; and likewiſe Arms for my Man, and he would provide me a Horſe for my Man. I did accordingly provide Arms for my ſelf, and a good Stone-Horſe for my ſelf, and Arms for my Man before the Parliament did ſit at *Oxford*. I think the 23d of *March*, I do not punctually remember the Day, and when the Parliament was ſet, we enquir'd and heard how things went on, and found that it was as my Lord *Shaftsbury* had predicted, that the Parliament did inſiſt upon thoſe very things that he told they would do, but never believ'd or imagin'd they would be ſo ſoon diſſolv'd. Upon *Thurſday* before the Parliament was diſſolv'd, Captain *Wilkinſon* told me he expected that very Week to have a Summons to go up to *Oxford* with thoſe Men that were liſted with him; but then *Saturday*'s News came of the Diſſolution of the Parliament, and therefore it took no further Effect. The whole matter, the main Deſign was this, That my Lord *Shaftsbury* ſhould have ſo many Men to attend him there for the Security of his Perſon, and likewiſe to repel the Force of the King's Guards, or any other Perſons that followed the King; and alſo to remove from him thoſe five Lords, and bring the King back to *London*, to eſtabliſh thoſe Laws that I have mention'd.

Sir Fr. Withins. Pray what time did you diſcover this?

Mr. *Booth.* About ſix Weeks ago.

Sir Fr. Withins. Had you any Diſcourſe with the Earl of *Shaftsbury* after Captain *Wilkinſon* ſpoke with you, or before the ſitting of the Parliament.

Mr. *Booth.* I ſaid before that the firſt motion of theſe fifty Men that were to be my Lord *Shaftsbury*'s Guard came from Captain *Wilkinſon*; but after this when I went with Captain *Wilkinſon* to my Lord *Shaftsbury*, the ſame thing was diſcourſed there. The laſt time I was with my Lord *Shaftsbury* was about a Week before he went to *Oxford*, about ten Days before the Parliament ſate, or a Week, and then I heard the ſame Diſcourſe from my Lord *Shaftsbury*'s own Mouth.

Sir Fr. Withins. Had you any other Diſcourſe with my Lord *Shaftsbury*?

Mr. *Booth.* I ſay I made three or four Viſits between *Chriſtmas* and *March*, and we had diſcourſe every time particularly about the King's Perſon, and if the King did refuſe theſe motions, that then theſe Men were to be taken from him, and he repell'd with a greater force, and be brought to it by force.

Sir Fr. Withins. Did you ever make any Solicitation to any to make this Diſcovery?

Mr. *Booth.* Thus far I did, and I will tell you the whole matter in that point; there was one *Walter Banes* an Acquaintance of mine, and I found that he had at *Wilkinſon*'s requeſt engaged himſelf in ſome buſineſs that one *Brownrig* an Attorney in *Yorkſhire* had writ to him about, concerning ſome Men that were to ſwear againſt my Lord *Shaftsbury*. I asked Mr. *Banes* what Men theſe were, he ſaid, he thought they were *Iriſh-men*. I ſaid, I don't know what Converſation in that Nature my Lord *Shaftsbury* might have with *Iriſh-men*, for I know none of them; but I am ſatisfied that he had Converſation tending to theſe ends that you ſpeak of with ſome *Engliſh-men*, and that I know. This Mr. *Banes* did take particular Notice of, and he was very frequently

upon me to tell him what the matter was, and I gave him ſome intimation of it. Truly 'twas very much upon my Spirit, and I could not tell whether I was able to carry it thro' or not, or had better to let it alone as it was in ſilence: but diſcourſing ſtill more with him, and at the reſult of that Diſcourſe we had by degrees, I did give him ſome intimation of it. And after that upon ſecond Thoughts I took a Reſolution to diſcover it: and when I did diſcover it, I do here in the Preſence of God declare, that no Mortal did know any thing of what I had to ſay, in reference to the King; nor did I make any more applications in the World, but took Pen, Ink, and Paper, and writ it down, and ſealed it under a Cover and ſent it to the Council.

Sir Fr. Withins. Gentlemen of the Jury, would you ask him any Queſtions?

Mr. *Papillon.* The Jury told your Lordſhip before, that after all had been examin'd they would conſider what Queſtions.

L. C. J. Where would you have theſe Witneſſes that have been examined to ſtand?

Mr. *Papillon.* We leave to the Sheriffs to appoint a Place for them.

L. C. J. To keep them apart its utterly impoſſible, for we muſt have as many Rooms then as there are Witneſſes.

Jury. Let one Man keep with them.

L. C. J. Empty that Place where they were the laſt time, and let them ſtand there.

Edward Turbervile.

Sir Fr. Withins. Mr. *Turbervile*, have you had any Diſcourſe with my Lord *Shaftsbury*?

Turbervile. Yes, ſeveral times. In *February* laſt, I am not poſitive in the time, but about the beginning of the Month, I waited upon my Lord *Shaftsbury*, about ſome Moneys. I waited upon him to have his Advice how I might come by 't, and to gain my Lord *Shaftsbury*'s Letter in my behalf to the Preſident of the Council to ſtand my Friend; and he ſaid, there was little good to be had from the King, as long as his Guards were about him; for were it not for his Guards, we would quickly go down to *Whitehal* and obtain what Terms we thought fit. Said I, my Lord, I ſuppoſe his Guards can't defend him from the whole Kingdom. His Lordſhip ſaid that the Rabble were all of that ſide, eſpecially the People about *Wapping*, and *Alderſgate-ſtreet*; and the Rich Men of the City would Vote for Elections; but they could not expect they ſhould ſtand by them in Caſe there ſhould be any Diſturbance, for they valued their Riches more than their Cauſe. And at *Oxford* I heard my Lord ſay again, he wonder'd the People of *England* ſhould ſtickle ſo much about Religion, and that if he were to chooſe a Religion, he would have one that ſhould comply with what was apt to carry on their Cauſe.

Mr. *Sanders.* Had you any other Diſcourſe with him at any other time?

Mr. *Turbervile.* I told you all that is material that I can ſay to it.

John Smith.

Mr. *Smith.* My Lord, I only beg a word or two from your Lordſhip, of ſome Reflections caſt upon me.

L. C. J. Go to your Evidence.

Mr. *Smith.* My Lord, this is ſomething to my Evidence.

L. C. J. You may take another time for that.

Mr. *Smith.* My Lord, it hath been reported about in Coffee-Houſes and Taverns, that I ſhould ſwear there was a general Deſign againſt his Majeſty; and that I ſwore it before the King and Secretary of State; and that I alſo ſwore it at the Tryal of Mr. *Colledge* and Mr. *Rowſe*: I take it upon my Oath I never ſwore any ſuch thing, neither can I ſwear there was a general Deſign by the City, or the Parliament againſt the King.

L. C. J. Speak what Diſcourſe you have had with my Lord *Shaftsbury*.

Mr. *Smith.* My Lord, I ſuppoſe it is paſt all doubt, that I have been very often with my Lord *Shaftsbury*; and I have often in his Diſcourſe obſerved that he ſpake very irreverently and ſlightly of the King; ſometimes ſaying he was a Weak Man, and ſometimes ſaying he was an Inconſtant Man; a Man of no firm or ſettled Reſolution; and a Man that was eaſily led by the Noſe, as his Father was before him, by a Popiſh Queen, which was the Ruine of his Father: this was both in publick and in private. I have alſo obſerved ſometimes in his diſcourſe, ſomething that he mention'd of the Earl of *Eſſex*; and that the King ſhould declare, that the Earl of *Shaftsbury* was not ſatisfied to be an ill Man himſelf, but got over the Earl of *Eſſex* too: this the Earl of *Shaftsbury* declar'd publickly in his own Houſe. Another Story was of the Rebellion of *Scotland*, that the King ſhould ſay that the Earl of *Shaftsbury* was the chief Promoter of that Rebellion; and when this was told my Lord *Shaftsbury*, that he ſhould ſend Word back again to the King, "I "am glad (ſays he) that the King ſees not his "own Danger, nor what he runs himſelf into: "and pray tell him, that, if I were to raiſe a "Rebellion I could raiſe anothergueſs Rebellion "than the Rebellion was in *Scotland*. But now, as to the particular Points I am to charge him with, I remember, my Lord, that my Lord *Shaftsbury* ſent for me one time, and that by one *Manly*; ſometimes they call him Major *Manly*, ſometimes Captain *Manly*; and this Man found me at Mr. *Bethel*'s Club in *Newgate-ſtreet* at the Queen's Arms; and there he told me my Lord *Shaftsbury* would ſpeak with me that Night. I immediately left the Club, and went to my Lord *Shaftsbury*'s: and I was introduc'd into the Dining Room, where there were two Gentlemen in Diſcourſe with my Lord: and as ſoon as he ſaw me, he askt me how I did: I told him I was very well, and came in obedience to his Lordſhip's Command to wait upon him; for Major *Manly* told me your Lordſhip had a mind to ſpeak with me: he ſaid he had. Soon afterward, theſe two Gentlemen went away. Upon this my Lord turns about, Mr. *Smith*, ſaid he, Mr. *Hetherington* was with me this Morning, and told me he was afraid that the Iriſh Witneſſes would go over to the Court Party, and retract what they had ſaid formerly. My Lord, ſays I, I know no Perſon can better and with more eaſe, hinder that than your Lordſhip, by procuring ſome ſmall Allowance for them; for they complain much of Poverty. Says he, Maſter *Hetherington* has the charge of them, and hath a ſpecial care of them, and I believe they don't want. My Lord, ſays I, I know nothing of that, he knows what Proviſion he hath made for them. This is the thing, ſaid my Lord, that I would have you do, they ſtand in great awe of you,

and

and you muſt perſuade them from going nigh that Rogue *Fitz-Gerrald*, that great Villain, that is pamper'd up, and maintain'd by the King and the Court Party, to ſtifle the Plot in *Ireland*. My Lord, ſays I, do you think the King would be at ſuch vaſt Charges for to bring over Witneſſes, and at laſt maintain Men to ſtifle this Plot, for that is the Way to ſtifle the Plot in *England* too, as well as that. Says he, what is this frequent Diſſolutions and Prorogations of Parliaments for, but to ſtifle the Plot here, and to hinder the Lords in the Tower to come to a Tryal? This is a ſtrange thing, my Lord, ſaid I, when he gave Dr. *Oates*, Mr. *Bedlow* and Mr. *Dugdale* ſuch large Allowances to proſecute this Plot. Says, my Lord, that is nothing, that may hold for a Year or two, he may take it off when he will, but the chief means are put by, whereby we might find out the depth of this Plot; and if Mr. *Dugdale* and Dr. *Oates* be knock'd on the Head, then where is this Plot? then there will come an Act of Oblivion for them, and all things will be well as they were before. My Lord, ſaid I, this is very ſtrange to me. I can give you inſtance of it, ſays he, when I was lately in the *Tower*, I told ſome I ſaw Popery coming in, and that it was hard to prevent it. I am ſorry to hear it, ſaid I, but what would you have me do with theſe *Iriſh* Witneſſes? Says he, perſuade them not to go near *White-hall*, nor this *Fitz-Gerald*. And, ſaid he, one thing more, I would have you mind, Mr. *Smith*, that if the King were not as well ſatisfied with the coming in of Popery as ever the D. of *York* was, do you think the D. of *York* would be ſo much concern'd in the bringing in of Popery as he is? I am ſorry for it, my Lord if it be ſo. After this I parted with my Lord *Shaftsbury*, with full Inſtructions from him to thoſe *Iriſh* Witneſſes. I met Mr. *Hetherington* the next Morning, and I told him that I was with my Lord *Shaftsbury*: ſays he, I know your buſineſs and would have you meet us at the Sun-Tavern in the Afternoon. My Lord, I went according to the time appointed, and met him at the Sun-Tavern between ſix, or ſeven, or eight of the Clock, as near as I can remember. When I came to them I began to open thoſe great and horrid Crimes that I heard Mr. *Fitz-Gerald* accuſed of, that he was a Man came to diſcover a Plot, and diſowned it here, and retracted all he had ſaid. I told them what a Crime this was. In ſhort, my Lord they promiſed never to go near the Man. I parted that Night and came to my Lodging, and the next Morning Mr. *Hetherington* and one Mr. *Bernard Dennis* came to my Lodging and told me, that this *Bernard Dennis*, was ready to give in Information againſt *Fitz-Gerald*, that he had tamper'd with him to forſwear all he had ſworn before. I went preſently with Mr. *Hetherington* and Mr. *Dennis* to my Lord Mayor, who was then Sir *Patience Ward*; after we had told the buſineſs to Sir *Patience Ward*, Sir *Patience* ask'd this *Dennis* if there were any other Perſons preſent. Yes, ſays he, there was. Says Sir *Patience*, you are upon your Oath, if you know not the Nature of an Oath, I will tell you. The Information was drawn up; the Copy of this Information I carry'd to my Lord *Shaftsbury* and ſhew'd it him, he read it, and was very well pleaſed with it, and ſaid, Mr. *Smith*, don't you ſee the Villany of that Man and that factious Party, and that the King runs the ſame Steps as his Father did before him, how can any thing of this Nature be done without the King and the Court pamper'd him up? My Lord, ſaid I, I think now the thing is clear. Ay, ſays he, theſe are the very ſame Steps that his Father followed when he was led by his Popiſh Queen, and the Poor Man doth not ſee his Danger. I parted from my Lord, and came and gave an account of this very Diſcourſe to the Club in *Newgate-ſtreet*, and they were glad of it, and I told what my Lord *Shaftsbury* ſaid, that the King would never be quiet till he came to his Father's End, he follow'd the ſame Steps. Another thing that I have obſerv'd particularly before the Parliament went to *Oxford*, I went to ſee him, and we fell into ſome Diſcourſe, and my Lord ſaid there was great Preparations made, and a great many gather'd together upon the Road between *London* and *Oxford*. My Lord, ſaid I, what is the meaning of that? Any body may ſee, ſays he, that is only to terrifie the Parliament to comply with the King's Deſire, which I am ſure the Parliament never will, for we are as reſolute now as ever; and more reſolute, for we ſee clearly what the King aims at, and that is to bring in Popery. Which I told ſeveral Years ago, and when I was laſt in the *Tower*; but, ſays he, we have this Advantage of him, if he offer any Violence to us, (for we expect it,) that we have the Nation for us, and we may lawfully oppoſe him, and he will meet with a very ſtrong oppoſition; for all that come out of the Country, ſhall be well Hors'd and well Arm'd, and ſo we ſhall be all, and here is the City which now has a Queſtion in Debate among them, whether they ſhall bear the Charge of their own Members or no, but they are willing to do it, and ſend ſo many Men to wait on them, and if we oppoſe the King, as we may do, for it hath been done in former Times, the whole Nation is to ſtand by us, and as I ſaid when I was in the *Tower*, I would die, before I would ever bring in Popery or any thing of that Nature.

Jury. Repeat that again.

Smith. He ſaid, that the King, if he offer'd any Violence at *Oxford* to the Parliament, he would meet with a ſtrong Oppoſition, and that the Gentlemen that came out of the Country were well provided with Horſe, Arms, and Men, to oppoſe him, and that they might lawfully do it if the King offered any Violence to them whilſt they ſat, and that the Nation ſtood by them, and that they did repreſent the Nation, and that for his Part he and all his Friends would do it to the utmoſt of their Power, and, as Old as he was, he would be one that would oppoſe it to his Power. My Lord, ſaid I, we can expect nothing but Confuſion from this Parliament, in this Nature, for then we ſhall be involved in another Civil-War, nothing elſe can put an end to our Miſeries, or make this Nation a ſettled Nation, but a Civil-War. Then, my Lord, ſaid I, by this means we ſhall make an end of Monarchy, or elſe inſlave the Nation to Popery for ever. No doubt of one, ſays he, but we are ſure of one, for the Nation is of our ſide, and the City you know how they are, and where ever they ſtrike, I am ſure the Nation will, and this I'll ſtand and die by. This is the ſubſtance of what I have to ſay againſt my Lord *Shaftsbury*, and upon the Oath I have taken, I am ſure I have not added a Word. One Word more I have to ſay, 'tis reported I have been hired and ſuborn'd, I do admire why this City of *London*, where there are as

worthy Men, and as great Lovers of the King and Government as any in the World, ſhould ſay any ſuch thing; I was never ſuborn'd by them, nor never took a Farthing of their Money, nor never took a Farthing of the King in my Life.

L. C. J. Who ſuppoſes it?

Mr. *Smith.* 'Tis in Print, my Lord, 'twas in the Book that came out laſt Night, it is ſuppos'd, my Lord, for it is in print.

L. C. J. I had reaſon to expect that there was no ſuch Objection.

Brian Haines.

Mr. *Sanders.* Give your knowledge of what Diſcourſe you have heard concerning my Lord *Shaftsbury.*

Mr. *Haines.* Sir, I have heard him villifie the King very often, and he told me about the Narrative that I made about Sir *Edmond-bury Godfrey's* Death, Mr. *Ivey* and I went to him one Day and he ſpoke to me of it, and I deſired him not to expoſe my Perſon to the King's Anger, for I was ſure he would never grant a Pardon to any Man that impeached the Earl of *Danby.* Says he, do not fear, if he doth not grant you a Pardon, he makes himſelf the Author of the Plot; and, ſays he, the Earl of *Eſſex,* my Lord *Maxfield* and I, we do all reſolve if you put it in Writing, we will go to the King, and beg a Pardon of his Majeſty for you, and if he doth not grant it, we will raiſe the whole Kingdom againſt him; for, ſays he, he muſt not expect to live peaceably in his Throne, if he doth not grant it. For he makes himſelf Author of the Plot.

My Lord, ſaid I, he hath diſſolved ſo many Parliaments for the ſake of the Earl of *Danby,* and prorogued ſo many Parliaments, therefore he will never grant me this Pardon. Says he, do no fear, 'tis the beſt Pretence we can have in the World, and if you will but put in Writing, and let me read it, that I may give my Opinion of it, the work is done; and if he doth not do it, we are prepar'd to raiſe Arms againſt him. I was with him another time after I made this Narrative, and he told me the two Mr. *Godfreys* were with the King at *Windſor,* and begged a Pardon of his Majeſty for me, but the King would not grant it, but if he be an honeſt Man, let him lie at my Mercy, let him come in and declare what he knows. Said I, I would not have your Lordſhip expoſe my Cauſe in theſe Days. This is the beſt time for it in the World, ſays he, if he doth not do it, he can't expect to be long King of *England.* Pray my Lord, ſaid I, what ſhall I do in the mean time? I will go beyond Sea, ſaid I. No, ſays he, don't leave the Kingdom, he dares as well be hang'd as meddle with you. I deſir'd him a ſecond time not to expoſe me to the King's Fury, and I prayed him to help me to a little Money to go beyond Sea, for I was ſure I could not be ſafe in *England.* Says he, Have a care of your ſelf; but, ſays he, he dares as well be hang'd as meddle with you. Then I was in cloſe Conference with him one Day, and I gave him ſo exact an account of all Tranſactions from King *Charles* the Firſt's Reign, the commencement or coming to the Crown, to this very Day, that he was mightily ſatisfied, finding by me that I was a Traveller, he was mightily pleaſed, and free with me. Pray, my Lord, what Model do you take, or intend to do? Says he, Do you not think but there are Families in *England* that have as great Pretences to the Crown as the King? Says he, there is the Duke of *Bucks,* in the Right of his Mother, ſhe was deſcended from *Edward,* one of the *Edwards,* and in her Right he claims the Barony of *Roſs,* he hath as great a Right to the Crown of *England,* as ever any *Stewart* of them all.

Jury. Speak that again.

Mr. *Haines.* I was in Conference with my Lord *Shaftsbury* one Day, and I gave him an exact Account of all Tranſactions, and I asked what they did intend to do with the Government, if they pull'd the King down. Says he, do you think there are no Families in *England,* that have as much Pretence to the Crown as any of the *Stewarts?* I know none my Lord. Says he, there is the Duke of *Bucks* that is deſcended of the Family of the *Plantagenets;* he named ſome of the *Edwards,* and in her Right he ſhould have the Barony of *Roſs,* and in her Right he has as good a Title to the Crown of *England* as ever any *Stewart* had.

John Macnamarra ſworn.

Sir Fr. Withins. Pray give an Account to the Jury of what Diſcourſe you have had with my Lord *Shaftsbury.*

John Macnamarra. My Lord, I was with my Lord *Shaftsbury* a little before he went to *Oxford,* before the Parliament ſat there, and my Lord told me at that time, that he would take care, together with thoſe that were with him at *Oxford,* for the Witneſſes that were concerned in the Popiſh Plot.

Mr. *Harriſon.* Speak out pray, Sir.

John Macnamarra. My Lord told me he would take care, with thoſe that were with him, for the Witneſſes that were concern'd in the Popiſh Plot; after my Lord went to *Oxford,* I writ him a Letter, giving his Lordſhip to underſtand, that whereas his Lordſhip was pleaſed to promiſe, that he would take care of the Witneſſes, that he would be pleaſed to take care of me, as well as the reſt of the Witneſſes; after my Lord came home from *Oxford,* I went to him, to ſee what was done. His Lordſhip was pleaſed to expreſs himſelf and ſay, that the King was Popiſhly affected and did adhere to Popery, and that he took the ſame Methods that his Father before him took, which brought his Father's Head to the Block, and we will alſo bring his thither; and told me alſo, that he told ſome Perſons of Quality that this would fall out five Years before; at the ſame time my Lord told me, that there was a Collection of Money made, and that the meeting was at the Sun Tavern, and that there came a *Tory* Lord in to hinder their Proceedings, but ſays he, we do remove to *Ironmonger-Lane,* and ſays he, you ſhall hear further in a Fortnight. I came to my Lord a Fortnight afterwards, and his Lordſhip was pleaſed to tell me, that there was Proviſion made for the Witneſſes, and that it was in the Hand of one Mr. *Rowſe* that was Servant to Sir *Thomas Player;* there was one Mr. *Ivey,* and I think my Brother was by too, when his Lordſhip ſpake theſe Words; he ſaid that the King was a Faithleſs-man, that there was no Credit to be given to him, and that the Dutcheſs of *Mazarine* was his Cabinet Council, who was the worſt of Woman-kind. This is all that I have to ſay, my Lord.

Sir

Sir *Fr. Withins.* Do you remember nothing at any other Time?

John Macnamarra. No.

Sir *Fr. Withins.* Did you hear any thing about depoſing the King?

John Macnamarra. Yes, he did at the ſame time ſay, the King deſerved to be depoſed as much as ever King *Richard* the Second did.

Dennis Macnamarra.

Mr. *Sanders.* Tell theſe Gentlemen whether you have had any Diſcourſe with the Earl of *Shaftsbury.*

Dennis Macnamarra. He ſaid, my Lord, that the King was a Man that ought not to be believed, and there was no belief in him, and that he ought to be depoſed as well as King *Richard* the Second, and that the Dutcheſs of *Mazarine* was one of his Cabinet Council, and that he did nothing but by her Advice.

Sir *Francis Withins.* Begin again.

L. C. J. Raiſe your Voice a little, for the Jury don't hear you.

Dennis Macnamarra. That the King is a Man that ought not to be believed, that there was no belief in him, and that he ought to be depoſed as well as King *Richard* the Second, and that the Dutcheſs of *Mazarine* was his Cabinet Council, and that he did nothing but by her conſent.

L. C. J. Who was with you at that time?

Dennis Macnamarra. There was Mr. *Ivey* and my Brother at his own Houſe.

L. C. J. When was this?

Dennis Macnamarra. 'Twas at the latter end of *March* or the beginning of *April.*

Sir *Francis Withins.* You ſay Mr. *Ivey* was by at the ſame time?

Dennis Macnamarra. Yes.

Sir *Francis Withins.* Call Mr. *Ivey.*

Jury. What place was it in?

D. Macnamarra. In his own Houſe.

Edward Ivey ſworn.

Mr. *Ivey.* My Lord, ſoon after the Parliament was diſſolv'd at *Oxford*, I was at my Lord *Shaftſbury*'s Houſe, where he was ſpeaking againſt the King, and ſaid, that he was an unjuſt Man, and unfit to Reign, and that he was a Papiſt in his Heart, and would introduce Popery.

Jury. Say that again.

Mr. *Ivey.* I tell you I was at my Lord *Shaftſbury*'s Houſe, where he was then ſpeaking againſt the King, ſaying, that he was altogether unjuſt, and not fit to Reign, and he wonder'd he did not take example by his Father before him, and did really believe that he was a Papiſt in his Heart, and intended to iutroduce Popery. I was ſometimes after with him and I told him one *Haines* had told me he had ſomething to diſcover about the Death of Sir *Edmund-bury Godfrey* and ſeveral other things, and my Lord deſired to ſee him, and I brought Mr. *Haines* to his Houſe, and he deſired him that what he had to ſay he would put in Writing, and he ſhould have a Pardon, and that if the King did deny it, as he dares not deny it, but if he does, we will riſe upon him and force him?

Sir *Fr. Withins.* Had you any other Diſcourſe, at other times?

Mr. *Ivey.* Yes, I had other Diſcourſe but not to this Purpoſe.

Sir *Fr. Withens.* Was you frequently with him?

Mr. *Ivey.* I was frequently with him; he deſired at the time I was with him to bid *Colledge* to come to him, and I went and came again to *Haines* with Inſtructions how to proceed, and I took his examination of him, and carry'd it to my Lord, and he deſired it might be explain'd what he meant by the Tall Black-man, and, ſays he, if he does mean the King, he muſt explain himſelf, and ſpeak of the King, or the Duke of *York*, or the reſt, and if he does, we will take care of him as long as he lives, but unleſs he does, we will do nothing for him: and I was with him with my Lord *Shaftsbury*, and my Lord *Shaftsbury* did exclaim againſt the King.

Sir *Fr. Withins.* What Words did he ſpeak?

Mr. *Ivey.* He ſaid he was altogether an unjuſt Man and not fit to reign, and that he believed he was a Papiſt in his Heart, and deſign'd to introduce Popery, and therefore they deſign'd to depoſe him, and ſet up another in his ſtead?

Sir *Fr. Withens.* Do you remember any Diſcourſe of *Richard* the Second, at that time?

Mr. *Ivey.* No, Sir, I do not remember any thing of it.

Bernard Dennis ſworn.

Sir *Francis Withins.* Pray tell the Jury what Diſcourſe you had with the Earl of *Shaftsbury* at any time, and what it was.

B. Dennis. My Lord, I came upon a deſign to make clear the Plot in general, as far as I have travell'd, as in *Ireland*, *France*, *Spain*, *Maryland*, *Virginia* and *England*, and upon that account I was brought before a Juſtice of the Peace in *Weſtminſter*, *November* laſt, this time Twelvemonth, and examin'd before Juſtice *Walcup*, a Juſtice of the Peace, and from thence to the Committee of the Houſe of Commons, of whom Colonel *Birch* (I believe he is here) was Chairman, and gave in my Evidence, and being called upon at the Trial of the Earl of *Stafford*, I was commended, as I ſuppoſe, to the Earl of *Shaftsbury*, and upon the Account he ſent me word of it, by *William Hetherington*, who was then very intimate with the Earl of *Shaftsbury*, to my knowledge; and *William Hetherington* came to me ſeveral times, and he preciſely was my Maintainer at that time, that is, to find me whatever I wanted, and provide me my Lodging, and carry me to ſome place where Accommodation might be more better for me. Upon this account one time the E. of *Shaftsbury* ſent to me deſiring that I would wait upon him at his own Houſe. I came to him, and there in the Gallery of his own Houſe, walking veryſlowly, he told me what I gave in of the Plot in general was very good and ſufficient, but as to the Queen and the D. of *York*, that I ſhould ſpeak more home and poſitive againſt them; at leaſt, that I might be a corroboration to others in what they ſwore againſt them. This was all at that preſent time, that the Earl of *Shaftsbury* ſpake to me, and he deſired me to go home to his Lodgings. With that I went home, and within a Month, it may be, or thereabouts, he ſent for me again, by the ſame *William Hetherington*, and *William Hetherington* told me, that the Earl of *Shaftsbury* would ſpeak with me. So I came and waited upon his Lordſhip at his own Houſe, and ſays he, Mr. *Dennis* I underſtand that you are a Clergy-man. Yes, my Lord, ſaid I. And, ſays he, I would adviſe you to take a black Gown, and I will prefer you to a Benefice, till ſuch time as this buſineſs is over; and, ſays he,

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at the end of this buſineſs I will not fail to prefer you to a better, and in the mean time I would adviſe you to take a black Gown; and this was a little, as I remember, after the Parliament was diſſolv'd at *Oxford*; and he ſent a Gentleman out of his own Houſe along with me, to a Doctor of Divinity living hard by *Lincolns-Inn* Fields, Dr. *Burnet* by Name, as I remember, and the Gentleman acquainted the Doctor what I was, and about what Occaſion I came there; ſo the Doctor indeed diſcourſed with me very familiarly, and rend'red Thanks to the Earl for me into his Converſation rather then another's. What Diſcourſe we had then was nothing to the matter, it was about matters of Conſcience, and Religion. But Mr. *Colledge* that was the Joyner here in Town, and executed afterwards, being familiar with me brought me to one Mr. *Ferguſon* a Miniſter, as I ſuppoſe of the Presbyterian Form, for he goes in their Garb as near as I can tell, and Mr. *Ferguſon* at our firſt meeting was in *Richard*'s Coffee-Houſe, in an upper Room one pair of Stairs, and in ſome Company; and *Colledge* going to him brought him aſide, and ſpake to him concerning me, and he came to me apart, and diſcours'd with me: from whence he brought me to a Bookſeller's Shop, and bought for me the Articles of the Church of *England*, and in all theſe Diſcourſes there was a hand, as *Colledge* told me, of the Earl of *Shaftsbury*, who did procure him, and ſent to Dr. *Burnet* to bring me that way. I do not deny neither, that I had an inclination before I left *Ireland*, and when I was in *Spain*, and when I was in *France*, for to become a Proteſtant, according to the Laws and Rules of the Church of *England*. The force of what I have to ſay is this, the Earl of *Shaftsbury* one Day after all theſe things were paſt, and after the Parliament were diſſolved at *Oxford*, diſcourſing with me in his own Houſe, Major *Manley* being in the ſame Room then, who lives beyond *Tower-hill*, he asked me what was the preſent Occaſion I came to him there, and it was pretty early in the Morning, and the Earl had a Barber to trim him in his Room. I told him my Occaſion was then, that I was ſomething low in Money, that I did a little want Money at that time, and did not know to whom to ſpeak for any thing but his Lordſhip, and ſaid I came to tell you ſo. Well, ſaid he, Mr. *Dennis* I have appointed Mr. *Rouſe*, *John Rouſe* whom you know, for to give you and maintain you in Money; go to him eſpecially once a Week, and he will give you Money. And, ſaid he, Mr. *Dennis* what is the number of your Name in the Country as near as you can tell, how many are you? My Lord, ſaid I, to tell you exactly what number they be of, I cannot at preſent, but within a little time, I may tell you. I believe really there may be upon the matter 3 or 400 able Men of my Name, in the County where I was born. Says the Earl of *Shaftsbury*, Mr. *Dennis*, I would very willingly have you to adviſe thoſe of your Name, and thoſe of your Friends for to be in a readineſs, when ever Occaſion ſhall ſerve, and to ſtand by, if Occaſion ſhould be, for to aſſiſt the Commonwealth of *England*; for we do really intend to have *England* under a Commonwealth and no Crown; and, ſays he, we intend to live as we ſee *Holland* does, that is, to have a Commonwealth, and to have no Supream Head, particular Man, ſays he, or King, nor owe Obedience to a Crown; and, ſays he, we will extirpate the King, and all his Family as near as we can; and Mr. *Dennis*, ſays he, I do admire that your Nation ſhould be ſuch Fools as they are, for it is very certain that King *James*, Queen *Elizabeth*, King *Charles* the Firſt, ſays he, and the King that now is, does wrong you to very Deſtruction; and, ſays he, if you had been under a Commonwealth, the Commonwealth would take more pity of your Nation, and the Gentry of your Nation, then any do of them now, in this Time wherein the King Governs, and upon this I do count the *Iriſh* Fools. This is all that I can ſay.

L. C. J. The King's Council declare they will call no more Witneſſes, for they think they have called enough already, and there are ſeveral of them that do ſwear Words that are treaſonable in themſelves, if you do deſire to ask any of the Witneſſes any thing, you ſhall have them all call'd one by one.

Foreman. My Lord, we will walk up again, and conſider what Queſtions to ask, and come again preſently.

Mr. *Papillon.* It ſeems they will call no more Witneſſes than theſe.

L. C. J. Not againſt the Earl of *Shaftsbury*, being you are charg'd only with that.

Mr. *Papillon.* It is ſo, my Lord, but we pray we may be ſatisfied upon the Statute the Indictment is grounded, becauſe we may hear it read before we go up, becauſe your Lordſhip ſpeaks of two different Statutes, the 25th of *Edward*, and you mention the Statute of the 13th of this King; your Lordſhip in your Diſcourſe to the Jury mentioned them both, we pray your Lordſhip to acquaint us upon what Statute it is grounded, whether upon both or one of them.

L. C. J. Look ye, Gentlemen, this is grounded upon the Statute of this King, tho' there is enough to find an Indictment of Treaſon upon the Statute of the 25th of *Edward* the Third. That which is Treaſon within the Statute of the 25th of *Edward* the Third, is Treaſon within this Statute, ſo this is the more copious Statute; for as I told you before, this Statute has enlarged that of *Edward* the Third in a great many Particulars; and therefore, look ye, Gentlemen, always conſider this, when one Statute contains the Matter of another, and inlarges it, the Indictment is always upon the laſt Statute, that being the more copious Statute: but you are to conſider both.

L. C. J. North. The Indictment is *Contra formam Statut'*. and it being *Contra formam Statut'*. it may be underſtood, *Statutorum* or *Statuti*, ſo that all Statutes that may be the Foundation of this Indictment you may go upon.

Jury. We deſire to know whether any of theſe Witneſſes ſtand indicted or no.

L. C. J. Look ye, Gentlemen, don't talk of this, but conſider with your ſelves, an Examination of Proofs concerning the Credibility of the Witneſſes is not properly before you at this time; for I muſt tell you, and inform you as to that, you are not to examine properly here concerning the Credibility of the Witneſſes, that is not to be proved or controverted here before you, that is Matter upon a Trial by the Petty Jury, for there the King will be heard for to defend the Credit of his Witneſſes, if there be any thing that can be objected againſt them; it is proper for the Priſoner to do that, you are only to ſee whe-

whether the Statute be ſatisfied, in having Matter that is Treaſonable, and having it witneſſed by two Men, by two Witneſſes, who are intended *prima facie* Credible, unleſs you of your own knowledge know the contrary; for otherwiſe, you muſt conſider what a Diſadvantage this would be in all ſuch Caſes, if the Credibility of the Witneſſes ſhould be examined before the Grand Jury, where the King is not preſent, nor in a Poſſibility of defending the Credit of his Witneſſes; the Priſoner or the Party indicted is not here; that is a proper Objection when he comes upon his Trial; for all Men are intended credible, till there are Objections againſt them, and till their Credits come to be examined on one ſide and the other.

Mr. *Papillon.* My Lord, if your Lordſhip thinks good, I will beg this, I deſire your Lordſhip's Pardon, whether your Lordſhip doth not think that we are within the compaſs of our own Underſtanding and Conſciences to give our Judgment?

L. C. J. Your own Underſtandings and Conſciences, yes; but look ye, Gentlemen———

Mr. *Papillon.* If we are not left to conſider the Credibility of the Witneſſes: we cannot ſatisfie our Conſciences.

L. C. J. Look ye, Gentlemen, you are to go according to the Evidence of the Witneſſes; you are to conſider of the Caſe according to the things alledged and proved, unleſs you know any thing your ſelves: but if any of you know any thing of your own knowledge, that you ought to take into Conſideration, no doubt of it.

Jury. Very well, my Lord.

L. C. J. The Grand Jury are to hear nothing, but the Evidence againſt the Priſoner; therefore for you to enter into Proofs, or expect any here, concerning the Credit of the Witneſſes, it is impoſſible for you to do Juſtice at that rate.

The Jury withdrew, and the Court adjourn'd till three a Clock.

L. C. J. Let the Witneſſes be brought in one by one.

Foreman. We will firſt ask a Queſtion of Mr. *Gwyn.*

Mr. *Gwyn.*

Foreman. Who put up the Papers?

Mr. *Gwyn.* I put up the Papers my ſelf.

Foreman. Who went in with you?

Mr. *Gwyn.* None but my Lord's Servants, I think, were there: but I put up the Papers my ſelf.

Foreman. Pray, Sir, whoſe Hand writing is that Paper of?

Mr. *Gwyn.* Indeed, Sir, I can't tell.

Foreman. How did it come into my Lord *Shaftsbury*'s Cloſet?

Mr. *Gwyn.* My Lord, this is a ſtrange Queſtion. Indeed, Sir, I can't tell; all the Papers that I found in that Cloſet I put into that Bag.

L. C. J. To ſatisfie the Jury, was the Paper in the Cloſet before you came there?

Mr. *Gwyn.* My Lord, it was certainly there, for there I found it. I don't know the Particular Paper, but all the Papers in that Bag were there.

L. C. J. From whom had you the Key?

Mr. *Gwyn.* From my Lord *Shaftsbury.*

Foreman. Don't you know, Sir, there was a Diſcourſe in the Parliament of an Aſſociation?

Mr. *Gwyn.* Sir, I was not of the laſt Parliament. Sir, I know nothing of it.

Foreman. You have not heard then, that there was ſuch a thing in Parliament concerning an Aſſociation?

Mr. *Gwyn.* I have heard of an Aſſociation talked of.

Foreman. Mr. Secretary, I would ask you ſome Queſtions: if you did not know of a Debate in Parliament of an Aſſociation?

Mr. *Secretary.* I was not preſent at the Debate; but there was a Talk in Town of an Aſſociation.

Foreman. Did not you hear of it in Parliament?

Mr. *Secretary.* Indeed there was an Anſwer to a Meſſage from the Houſe of Commons that had ſome thing in it that did ſtrongly imply an Aſſociation; but this particular Aſſociation I do not remember to have heard propos'd.

Foreman. Don't you remember in the Houſe of Commons, Sir, it was read upon Occaſion of that Bill?

Mr. *Secretary.* I heard ſuch a thing ſpoke of; but at the reading of it I was not preſent, to the beſt of my remembrance.

Foreman. What Date, Sir, was the Warrant for my Lord *Shaftsbury*'s Commitment?

Mr. *Secretary.* I refer my ſelf to the Warrant, for that I don't know the Date.

L. C. J. Mr. Secretary, you muſt ſpeak about the time that it was.

Mr. *Secretary.* Sir, I was the Man that had the honour to ſign that Warrant by which the Serjeant at Arms did apprehend my Lord *Shaftsbury*, but what Day of the Month I do not remember; and therefore I refer my ſelf, if you pleaſe, to the Warrant, and to the Serjeant at Arms.

Foreman. What Month was it?

Mr. *Secretary.* Sir.

Foreman. About what Month?

Mr. *Secretary.* *July.*

Foreman. The beginning of *July?*

Mr. Secretary. Sir, I do not remember the Day preciſely; for I did not foreſee that Queſtion would be asked me; but I refer my ſelf to the Warrant, and that is beyond all doubt.

Foreman. I ſuppoſe all theſe Witneſſes that are examin'd, were examin'd before the Committee.

Mr. Secretary. Sir, They were examin'd, and I was preſent at the Examination.

Foreman. All of them?

Mr. Secretary. I don't know whether all of them; but I am ſure I was at the Examination of ſeveral of them.

Foreman. How many, Sir?

Mr. Secretary. I can't tell truly how many.

Foreman. Call Mr. *Booth.*

Officer. He is not here, the Tipſtaff has him ſomewhere.

Foreman. Is that Witneſs a Priſoner?

L. C. J. *Booth* is a Priſoner.

Foreman. Then call Mr. *Turbervile.*

Mr. *Papillon.* Is Mr. *Turbervile* there?

Officer. Here is Mr. *Booth* come now.

Mr. *Godfrey.* Put *Turbervile* out again.

Foreman. Mr. *Booth*, you told me of a Diſcourſe that paſt between the Lord *Shaftsbury* and your ſelf, we deſire to know where it was, and when.

Mr. *Booth.* It was in *Thanet-Houſe*, Sir, where he lived, about a Week or Ten Days before the Parliament ſate at *Oxford.*

Fore-

Foreman. The preciſe time.

Mr. *Booth.* I cannot be more preciſe.

Foreman. Who introduced you?

Mr. *Booth.* I think one Mr. *Wilſon* led me into the Chamber.

Foreman. Who was preſent when the Diſcouſe was?

Mr. *Booth.* None but He and I, Sir.

L. C. J. If we have theſe Noiſes, we will have every one of you put out of Court.

Mr. Att. Gen. Richardſon, Richardſon, Pray turn them all out; they are brought in on purpoſe.

Mr. *Booth.* It was not the firſt, ſecond, nor third time that I had waited upon the Lord of *Shaftsbury.*

Foreman. In what Room was it that my Lord ſpake thoſe Words to you?

Mr. *Booth.* It was in the Room he uſually ſets in, on the left Hand as we came out of the long Gallery, I think we paſs'd thro' a Room before it, wainſcotted about, as I remember, and hung. I have been in that Room with him four or five times, I am ſure.

Foreman. After this Diſcourſe with you, how long was it before you ſpake of it to any body elſe?

Mr. *Booth.* Truly I think I did not publiſh this Diſcourſe that my Lord and I had, from the time it was, till within this ſeven or eight Weeks.

Foreman. You were never examined before then as a Witneſs?

Mr. *Booth.* No, Sir, I never was, nor no body will pretend it, I ſuppoſe.

Foreman. To whom, Sir, did you give your firſt Information?

Mr. *Booth.* Sir, I ſent my firſt Information in Writing to the Lords in the Council.

Foreman. By whoſe Hand?

Mr. *Booth.* By the Hand of *Walter Banes.*

Foreman. You had ſeveral Diſcourſes with him; had you eaſie Admiſſion, or was it with Difficulty you came into his Company?

Mr. *Booth.* I was admitted by the influence of Captain *Wilkinſon* at firſt, and ever after went with him, and had eaſie admittance and familiarity with him.

Foreman. Was he with you every time?

Mr. *Booth.* No, not every time; he was not this time with me.

Foreman. Did he talk to this purpoſe every time?

Mr. *Booth.* Something to this purpoſe he did talk every time, but not ſo fully; for I was firſt acquainted with this Buſineſs of *Oxfoad* by Captain *Wilkinſon,* and I had a great deſire to underſtand it from my Lord's own Mouth, becauſe I would be ſatisfied in my Lord's Intereſt as well as his Conduct.

Foreman. Pray, Sir, what Education have you had?

Mr. *Booth.* I have had the Education of a Gentleman, an Academical Education.

Foreman. Were you ever in Orders?

Mr. *Booth.* Yes.

Foreman. Do you own your ſelf to be in Orders ſtill?

Mr. *Booth.* How do you mean to be in Orders? I tell you I was in Orders; but I am not now beneficed.

Foreman. Do you officiate as a Miniſter?

Mr. *Booth.* No.

Foreman. Were you ever an Attorney's Clerk?

Mr. *Booth.* Never.

Foreman. Or a Juſtice's Clerk?

Mr. *Booth.* Never; nor to no Mortal.

Foreman. Were you ever indicted for any Felony?

Mr. *Booth.* No.

L. C. J. That is a Queſtion not to be asked by any Jury-man of any Witneſs whatſoever: no Man is bound to diſcover any thing of that Nature that is Criminal, concerning himſelf.

Foreman. If it be pardoned, my Lord, he may.

L. C. J. Pardoned, or not pardoned, he is not bound to accuſe himſelf, nor to fix a Scandal on himſelf.

Mr. *Booth.* No, my Lord, *Nemo tenetur ſeipſum prodere.*

L. C. J. Sir, we muſt not ſuffer ſuch Queſtions; I will tell you the Reaſon: it is proper for a Priſoner that ſtands upon his Juſtification to object it, but then the Priſoner muſt prove it: it lies upon him to prove it.

Mr. *Papillon.* Mr. *Booth,* you told us of fifty Men that were liſted under Captain *Wilkinſon,* do you know any more of them?

Mr. *Booth.* I never directly converſed with any other.

Mr. *Papillon.* Did you know any more of them?

Mr. *Booth.* No, not directly I did not, but only by Captain *Wilkinſon*'s Information.

Mr. *Papillon.* How many Stories was that Room where you talked with my Lord?

Mr. *Boooh.* One Pair of Stairs, as I remember.

Mr. *Godfrey.* Was it the right Hand as you came in?

Mr. *Booth.* I think ſo.

Mr. *Godfrey.* Was it the right Hand or the left?

Mr. *Booth.* I went into the long Gallery firſt, and ſtayed there about a quarter, or half an Hour; and I remember very well I looked upon ſome Maps that were there, to divert my ſelf a while; and when I was called in, went out of the Gallery on the left hand, and went thro' another Room before I came into my Lord's Room.

Foreman. Did you never hear my Lord ſpeak Treaſon in any Houſe but his own?

Mr. *Booth.* I never had occaſion to hear this Diſcourſe from my Lord, but in his own Houſe; I never waited upon him in any other Houſe.

Foreman. Was you never deſired to be a Witneſs againſt my Lord *Shaftsbury?*

Mr. *Booth.* Not till I intimated ſomething of it.

Foreman. Who was that to?

Mr. *Booth.* That was to Mr. *Banes*; I told you before ſo.

Foreman. And what then?

Mr. *Booth.* When he told me of this Buſineſs with the *Yorkſhire* Attorney *Brownrig,* I did ſay again, I did not know what my Lord had done, as to any thing of *Iriſhmen,* but I was ſure there was ſomething as to *Engliſhmen,* as to that purpoſe.

Foreman. Did he propoſe any Reward, or any thing of that Nature?

Mr. *Booth.* Not a Farthing; for I think he had no Commiſſion to do it.

Foreman. Are you acquainted with one *Callaghan* and *Downing,* two *Iriſhmen?*

Mr. *Booth.* No.

Mr. *Godfrey.* Were you never in their Company?

Mr. *Booth.*

Mr. *Booth.* Not that I know of.

Mr. *Godfrey.* Did you ever hear their Names?

Mr. *Booth.* I don't know that I have.

Foreman. Were you in their Company lately?

Mr. *Booth.* Not as I know of. I do not remember either their Names, or their Perſons, nor do I know them from other Men.

Foreman. Do you know one Mr. *Shelden?*

Mr. *Booth.* No.

Foreman. Do you know one Mr. *Marriot?*

Mr. *Booth.* No, Sir: I have heard of one *Marriot* that did belong to my Lord Duke of *Norfolk.*

Foreman. When were you in his Company?

Mr. *Booth.* Never that I know of.

Foreman. Has no body diſcourſed you from him?

Mr. *Booth.* No, no body.

Foreman. Did you never hear of any Witneſſes he ſent to his Tenants?

Mr. *Booth.* I have heard from *Banes* about *Brownrigg*, about *Iriſh* Witneſſes.

Mr. *Godfrey.* Did you never hear of any *Iriſh* Witneſſes ſent down by Mr. *Marriot* to the *Iſle of Ely?*

L. C. J. We gave you all the liberty in the World, hoping you would ask pertinent Queſtions, but theſe are Trifles. I did not expect that any wiſe Men would have asked theſe Queſtions. Mr. *Godfrey*, was it to the purpoſe whether Mr. *Marriot* ſent any *Iriſh* Witneſſes to his Tenant, or no? What is that to this buſineſs?

Foreman. My Lord, I have it under the Hand of the Clerk of the Council.

Mr. *Booth.* Pray, Sir, Did any inform you that I had any Correſpondence with this Man?

L. C. J. Nay, Sir, you muſt ask no Queſtions.

Mr. Godfrey. Mr. *Booth*, do you go under no other Name but *Booth?*

Mr. Booth. No, nor never did in my life.

Mr. Booth. My Lord, I cannot go in ſafety here for the Tumult.

L. C. J. Let the Officers ſecure him: Mr. Sheriff, look to him, that the Man be ſecure and ſafe; I will require him at your Hands elſe.

Mr. Sheriff *Pilkington.* What ſhould I do?

L. C. J. Send your Officers to protect him, as becomes you, that he may be ſecured from the Rabble here.

Mr. *Turbervile.*

Foreman. Mr. *Turbervile*, when you had this Diſcourſe with my Lord *Shaftsbury*, who was preſent with you?

Mr. *Turbervile.* One of his Servants; truly I cannot tell his Name.

Foreman. No body elſe?

Mr. *Turbervile.* I know the Name of none of his Servants, but Mr. *Sheppard*, I cannot remember any body elſe.

Foreman. Did he carry you up to my Lord?

Mr. *Turbervile.* It was he, I think, told me I might go in: I was in the Dining-Room.

Foreman. What time was this?

Mr. *Turbervile.* In the Morning.

Foreman. What time was it when you had this Diſcourſe with my Lord *Shaftsbury?*

Mr. *Turbervile.* It was in *February.*

Foreman. What time in *February?*

Mr. *Turbervile.* About the beginning; I cannot tell exactly to a Day.

Foreman. How long was this before you communicated this to any body?

Mr. *Turbervile.* It was about the fourth of *July.*

Foreman. Then you concealed it from *February* to *July:* Who did you communicate it to firſt of all?

Mr. *Turbervile.* The firſt Depoſition I gave was to Mr. Secretary.

Foreman. Which Secretary?

Mr. *Turbervile.* Secretary *Jenkins.*

Foreman. Pray, what Room was it you had this Diſcourſe in?

Mr. *Turbervile.* Sir, it was the Room at the upper end of the Dining-Room; I think they call it the Dining-Room; at the upper end of the Room, and turns on the left Hand where he lay.

Foreman. Did you meet with no body about the beginning of *July*, after my Lord's Commitment, and tell them when you were challenged, and told you were to be a Witneſs againſt him, as you were alive you knew no ſuch thing?

Mr. *Att. Gen.* My Lord, this is not to be allowed: This is private Inſtructions which the Jury are not to take.

Foreman. No, Sir, it is not private Inſtructions. Did you not ſpeak ſuch Words to *William Herbert?*

L. C. J. Have you had any Information concerning this to Mr. *Herbert.*

Foreman. My Lord, I have a long time ago. My Lord, ſuch a Perſon did tell me ſo and ſo, and ſet down the Day; and he then ſaid he was very angry with him for it.

L. C. J. Look ye, Gentlemen, what Diſcourſe you take up at random in every Coffee-houſe? Is that fit to be brought in when Treaſon is in queſtion againſt the King's Life? Are theſe Coffee-houſe Diſcourſes, do you think, ground enough for you to cavel at Perſons, becauſe you have heard this Diſcourſe in a Coffee-houſe?

Foreman. My Lord, I never was in a Coffee-Houſe in my life with Mr. *Herbert*; but he declared this to me ſome Months ago.

L. C. J. And you think this is ground enough for you againſt him?

Mr. Papillon. My Lord, we only ask this Queſtion, whether he hath not contradicted this, or ſaiid the contaary to any body elſe?

Mr. Turbervile. I do not remember that ever I ſpake one word to Mr. *Herbert* in my life; and *I* can give you one reaſon: For *I* was diſcarded by all People of my Lord's Intereſt at that time; and if *I* had given under my Hand that *I* had known nothing againſt him, *I* believe *I* might have been in their favour as much as before.

Mr. Papillon. Were not you one that Petitioned to the Common-Council in *London?*

Mr. Turbervile. *I* did, Sir.

Mr. *Papillon.* And did not you declare then that you were tempted to witneſs againſt your Conſcience?

Mr. *Turbervile.* I believe I never read the Petition: I was drawn by the Order of Mr. *Colledge*, by a Man that lives about *Guild-hall*; by a Scrivener about *Guild-hall*; and I ſigned that Petition, but never read it, nor knew what was in it.

L. C. J. Mr. *Richardſon*, any you Officers, watch by thoſe Men that make a noiſe, and bring me in one to make an Example.

Mr. *Turbervile.* My Lord, I go in Danger of my Life, for the People threaten to ſtone me to

Death, and I cannot go ſafe to my Lodging.

Mr. *Papillon.* What was your Deſign in ſigning that Petition? what did you look for?

Mr. *Turbervile.* The Deſign was that the City ſhould take care of us.

Mr. *Papillon.* Were you in a poor Condition?

Mr. *Turbervile.* Truly I was not very poor, tho' I was not over full of Money.

Mr. *Papillon.* It is a ſtrange thing that you ſhould petition for Relief, if you were not in want.

Mr. *Turbervile.* We were told by ſome Members of the Houſe of Commons, that there was a Vote in the Houſe of Commons ready to paſs, that the City ſhould advance Money for the Support of the Witneſſes, and that we would Petition that they would anſwer the Deſign of the Parliament.

Mr. *Papillon.* What Members were they?

Mr. *Turbervile.* It was a Member of the Houſe of Commons that told me ſo, I will aſſure you, two of them.

Mr. Papillon. Did never any body move you, or deſire you to be a Witneſs in this Caſe againſt my Lord *Shaftsbury?*

Mr. Turbervile. No body in my Life. When I came to ſpeak the Truth of what I knew, I did it voluntarily.

Mr. Papillon. You did it voluntarily?

Mr. Turbervile. I did, I will aſſure you.

Mr. Papillon. Do you know any thing more than what you have ſaid here?

Mr. Turbervile. No not one Tittle.

Mr. Papillon. Mr. *Turbervile,* I deſire to be ſatisfied in one thing, whether my Lord *Shaftsbury* was committed before or after your Information?

Mr. Turbervile. Truly, Sir, I cannot tell poſitively, as to that Point; but I believe it was before; I cannot tell.

Mr. Papillon. Did you hear my Lord ſpeak theſe Words in any other Room or Place?

Mr. Turbervile. No, indeed, I did not.

Mr. Papillon. It was about the fourth of *July,* you ſay, your Depoſitions were taken?

Mr. Turbervile. About that time, I ſuppoſe the fourth of *July*—— I hope your Lordſhip will take care that we be not knock'd on the Head.

L. C. J. That we give in Charge to Mr. Sheriff; and ſee you do take care of the King's Witneſſes at your Peril. It is a Reflection, not only upon the Government of the City to ſuffer theſe Diſorders, but upon the whole Kingdom: therefore, Mr. Sheriff, look the Witneſſes come by no Hurt.

Mr. John Smith.

Mr. Papillon. Mr. *Smith,* the Jury ask you a Queſtion, whether or no you did not uſe to go by the Name of *Barry?*

Mr. Smith. Sir, what Names I have gone by is not pertinent to this Purpoſe; I tell you I have gone by ſeveral Names, as all Popiſh Prieſts do.

Mr. Papillon. Did you never go by the Name of *Barry?*

Mr. Smith. It may be I might; I have gone by ſeveral Names, as all Popiſh Prieſts do.

L. C. J. Did you ever go by the Name of *Barry?*

Mr. Smith. I did, my Lord; it is uſual for Popiſh Prieſts ſo to do.

Mr. Papillon. What Religion are you of, Mr. *Smith?*

Mr. Smith. I am a Proteſtant, Sir.

Mr. Papillon. How long have you been a Proteſtant?

Mr. Smith. Many Years.

Mr. Papillon. When were you firſt converted?

Mr. Smith. Firſt converted?

Mr. Papillon. Ay, to the Proteſtant Religion: you ſay you have been one many Years?

Mr. Smith. I have been a Proteſtant, and was perverted to the Popiſh Religion, and afterwards became a Proteſtant again.

L. C. J. Bring in one of thoſe Men that make the Noiſe. Cannot you bring in one of them?

Mr. Papillon. When did you receive the Sacrament?

Mr. Smith. I believe not above three Months ago, as the Rector of *Bow-Church* will inform you: I have it under the Church-wardens Hands in other Places in *London.*

Mr. Papillon. Have you been deſired to be a Witneſs, or did you do it voluntarily?

Mr. Smith. Never deſired, I declare it; I did it voluntarily my ſelf.

Mr. Papillon. When did you give in your Evidence firſt?

Mr. Smith. Truly I cannot exactly tell when I gave it in; I did not keep an Account of it.

Mr. Papillon. What Month?

Mr. Smith. I cannot tell.

Mr. Papillon. Was it before my Lord was committed, or after?

Mr. Smith. I believe it might be a little after. Whether it was before or after, I cannot exactly tell.

Mr. Papillon. To whom did you give your Information?

Mr. Smith. My Lord, they commanded the People to ſtone us to death.

L. C. J. Who did?

Mr. Smith. Several Perſons, and when we were at the Tavern, Dr. *Oates*'s Man came out and gave the Rabble a Bottle of Wine, and bid them knock us down.

L. C. J. Do you know what the Man's Name is?

Dr. *Oates.* I know nothing of it, my Lord.

L. C. J. What is your Man's Name?

Dr. *Oates.* I keep half a dozen Men, my Lord.

L. C. J. I hope you keep no Men to affront the King's Witneſſes.

Dr. *Oates.* No, my Lord, it is a Miſtake, I know nothing of it, we went thither to refreſh our ſelves.

Mr. Papillon. Mr. *Smith,* who did you give your Information to?

Mr. Smith. What Information?

Mr. Papillon. The firſt Information.

Mr. Smith. My Lord, am I to anſwer to theſe Queſtions?

L. C. J. Ay, anſwer them, tell them.

Mr. Smith. My Lord, the Information, I gave in to Secretary *Jenkins,* but I gave notice long before of what I intended to do to other Perſons.

Mr. Papillon. When did you hear theſe Words, ſpeak to the time exactly?

Mr. Smith. Which Words do you ask?

Mr. Papillon. Thoſe you mentioned even now.

Mr. Smith. Sir, if you pleaſe, I know you take all in ſhort Hand, if you ask me what Words, I will tell you, for if I do not expreſs my ſelf

ſelf in the ſame Words as before, you will take hold of me.

L. C. J. I will tell you this, this may be an ill Queſtion, for he told you, he had diſcourſed my Lord *Shaftsbury* at a great many Times, and that at ſometimes he ſaid theſe Words, at other Times other Words, and for you to catch him upon a Queſtion, it doth not ſhew a fair Inclination.

Mr. Papillon. My Lord, under your Lordſhip's Favour, we only deſire to diſcover the Truth, we are not for catches.

L. C. J. Ask him then which of the Words you would have him declare the time of, and he will tell you.

Mr. Papillon. Let him ſpeak his own Words, it was about the Time when *Hetherington* went thither.

Mr. Smith. Truly I will anſwer that as punctually as I can, the Month or Day I cannot well tell, but the Perſon that came for me was Major *Manly*; and he came to *Bethel*'s Club, what time that was, I cannot ſay, but if you pleaſe to inform your ſelves of thoſe Gentlemen that I name, I believe they will tell you Mr. *Bethel* was there preſent, and knew very well I went to my Lord *Shaftsbury* that Night, and returned to the Club again.

Mr. *Godfrey.* Was it in the Evening or the Morning?

Mr. *Smith.* Mr. *Godfrey*, Clubs are uſually at Night I ſuppoſe, you know that was.

Mr. *Papillon.* Where did you ſee my Lord *Shaftsbury*?

Mr. *Smith.* It was in his Dining Room.

Mr. *Papillon.* Did you hear theſe Words in any other Place, or at any other time, or any treaſonable Words againſt the King?

L. C. J. Look you, Gentlemen, he told you of ſeveral other Words at ſeveral other Times.

Mr. *Papillon.* But he ſaid all at his Houſe, my Lord.

L. C. J. Ay, but at ſeveral Times.

Mr. *Smith.* I know Mr. *Attorny*, what the Gentlemen would be at very well.

L. C. J. Anſwer them whether you did hear him ſpeak any Words that you conceive treaſonable at any other Time?

Mr. *Smith.* I did not indeed.

Mr. *Papillon.* In another Place?

Mr. *Smith.* I do ſay I did not.

Mr. *Papillon.* Did you petition to the Common-Council?

Mr. *Smith.* No, Sir, I never did.

Mr. *Papillon.* Are you an Engliſh-man or an Iriſh-man?

Mr. *Smith.* That's no matter, no more than if I were a French-man or a Dutch-man.

L. C. J. Give them an Account whether you are an Engliſh-man or an Iriſh-man.

Mr. *Smith.* My Lord, I beg your Lordſhip's Pardon for that, if I were an Iriſh-man, whether thereupon my Evidence would be prejudiced.

L. C. J. Look you, Mr. *Smith*, I do hope the Gentlemen of the Jury have more diſcretion among them all, than to think that an Iriſh-man is not a good Witneſs, I hope they are not ſuch Perſons.

Mr. *Smith.* My Lord, if you pleaſe whilſt I was in the City amongſt them, I never petitioned to the City, I never had a Farthing from them, nor ever ſpake to any for it, I never had any Occaſion for it, but if I had, it is probable I have enough in *England*, and other Places, without being beholden to your Common-Council.

L. C. J. Will you ask him any more Queſtions?

Jury. No, no.

Mr. *Papillon.* Is Mr. *Smith* gone? I would ask him one Word, we would fain know what allowance you have, or what you receive, if you have any alllowance, from any body?

Mr. *Smith.* From whom?

Mr. *Papillon.* Nay, I know not from whom: I ask whether you have any from any body?

L. C. J. Look ye, Gentlemen, is that a Queſtion that is pertinent? I wonder you will go to ſuch Queſtions: we allowed you to ask Queſtions your ſelves, becauſe we look upon you as Men of Reaſon.

Mr. *Papillon.* My Lord, I do not know but it may be a proper Queſtion to ask him if he have any allowance from any Man upon this Account.

L. C. J. Upon what Account?

Mr. *Papillon.* Upon this Account, if he ſays he has none 'tis an Anſwer.

L. C. J. Do you intend your Queſtion, whether he is bribed to give Evidence, if you mean ſo, ſpeak plain.

Mr. *Papillon.* We ask if he have any allowance?

Mr. *Smith.* You don't ask me how the 6 or 700 *l.* was made up.

L. C. J. You that are upon your Oaths ſhould have a care what you do.

Bryan Haynes.

Mr. *Papillon.* Mr. *Haynes*, when did you give in your Information upon this Matter?

Mr. *Haynes.* Againſt the Earl of *Shaftsbury*, Sir?

Mr. *Papillon.* Ay.

Mr. *Haynes.* The Day that I was taken by the Meſſenger.

Mr. *Papillon.* That was before my Lord was committed, was it not?

Mr. *Haynes.* Yes, Sir, it was before my Lord was committed.

Mr. *Papillon.* Did you ever make any other Information to a Juſtice of the Peace?

Mr. *Haynes.* Not of my Lord of *Shaftsbury*.

Mr. *Papillon.* Nor touching this Matter?

Mr. *Haynes.* No, not any Information upon Oath, I may have diſcourſed with a Juſtice of the Peace.

Mr. *Papillon.* Did not you give in an Information of a Deſign againſt the Earl of *Shaftsbury*?

Mr. *Haynes.* To none but to Secretary *Jenkins*.

Mr. *Papillon.* You underſtand the Queſtion, whether you did give no Information of a Deſign againſt my Lord *Shaftsbury* to ſome Juſtice of the Peace?

Mr. *Haynes.* No no, to none but Mr. Secretary *Jenkins*.

L. C. J. You do not obſerve his Queſtion, did you ever give to any Juſtice any Information of a Deſign againſt my Lord *Shaftsbury*.

Mr. Haynes. Yes, my Lord, I did, to Sir *George Treby*, I made Affidavit before him.

Mr. Papillon. When was that?

Mr. Haynes. I think it was in *March* laſt.

Mr. Papillon. What was that Deſign againſt my Lord *Shaftsbury*?

Mr. Haynes. The Deſign was what Mr. *Fitz-Gerald* told me, he told me he gave under his Hand to the King, that the Earl of *Shaftsbury* did

reſolve to ſet the Crown upon his own Head, or otherwiſe to turn the Kingdom into a Commonwealth.

Mr. Papillon. *Fitz-Gerald* told you this, and ſo you made Affidavit of it?

Mr. Haynes. Yes, before Sir *George Treby.*

Mr. Papillon. What time?

Mr. Haynes. It was before the Parliament met at *Oxford.*

Mr. Papillon. So you ſay the words were; when were the words ſpoken that you mentioned?

Mr. Haynes. The words againſt my Lord?

Mr. Papillon. Ay.

Mr. Haynes. He ſpake them to me a little before I made Affidavit; I cannot tell poſitively the time.

Mr. Papillon. That was before his Commitment.

Mr. Haynes. Yes, yes, my Lord was committed in *June* laſt, this Affidavit was made in *March* laſt, before the Recorder of *London.*

L. C. J. North. When you ask him about the Information of the Deſign againſt my Lord *Shaftsbury*, he ſays that was in *March* laſt; and when you ask him about the Evidence he gives now, that was the ſame Day he was apprehended by the Meſſenger.

Mr. Papillon. About *June* you ſay it was, that you ſay you gave in the Information againſt my Lord *Shaftsbury.*

Mr. Haynes. The Information I made againſt the Lord *Shaftsbury* was in *June* laſt, the 28th as I take it, of *June* laſt.

Mr. Papillon. Where was it you had this Diſcourſe?

Mr. Haynes. I had ſeveral Conferences with my Lord.

Mr. Papillon. Did he every time ſay the ſame?

Mr. Haynes. The laſt time *I* ſpake with him was in *Ironmonger-Lane*, for Mr. *Whitaker* told me he would ſpeak with me, and he would fain have me explain my ſelf, what *I* did mean by the Tall Man *I* mentioned in the Narrative; and *I* went to the Houſe, and they told me he was there, and *I* ſent up a Note, and he deſired me to come up; but *I* ſent word *I* did not care to come up, becauſe *I* would not be known; and ſo he ſent me word to meet him after Dinner; and when *I* came, my Name is *Haynes*, my Lord, ſaid *I*, and I led his Lordſhip by the Hand and went in there. I had, I believe, a whole Hour's Diſcourſe with him; and pray, my Lord, ſaid I, among other Queſtions, what Religion is the King of? Truly, ſays he, Mr. *Haynes*, he hath no more Religion than an Horſe; for, faith he, they ſay, Sir, he was inclined to Popery when he came firſt to *England*, ſays he, he had a tincture of Popery, and was much inclined that way, but ſince he was degenerated from all the Principles of Chriſtianity, for he is juſt like a perfect Beaſt.

Mr. *Papillon.* This you ſay was in *Ironmonger-Lane.*

Mr. *Haynes.* Ay, Sir, at a Paſtry-Cook's Shop.

Mr. *Papillon.* What time was it?

Mr. *Haynes.* After Dinner in the Afternoon.

Mr. *Papillon.* In *June*, or when?

Mr. *Haynes.* I cannot tell what time poſitively, it was about the time of the Trial of *Fitz-Harris.*

Mr. *Papillon.* Was it the ſame time he ſpake about the Duke of *Buckingham?*

Mr. *Haynes.* No, no.

Mr. *Papillon.* When was that?

Mr. *Haynes.* That was when I was with him at his own Houſe, and deſired him not to expoſe me.

Mr. *Papillon.* What time?

Mr. *Haynes.* I cannot tell, Sir, for I never thought I ſhould be called to an account for it, and I cannot keep an Almanack in my Head; and I deſired them not to expoſe me to the King's Fury, for I heard the King was diſpleaſed with me. No, ſays he, you are miſtaken, this is the beſt opportunity we can have, and if he will not give you a Pardon, we will raiſe the whole Kingdom againſt him in Arms; and then he makes himſelf the Maſter and Author of the Plot, and conſequently he muſt expect to be ruined, unleſs he grant you a Pardon.

Mr. *Papillon.* Did you ever hear any other words than what you have now teſtified?

Mr. *Haynes.* Yes, Sir, for I diſcourſed with him in *Ironmonger-Lane* a great while, and told him, that our only and beſt way to have our Ends of the King, was to raiſe a Rebellion in *Ireland*, and that I had Relations and Friends, and could get diſcontented Perſons enough, and his Lordſhip would do the work here.

Mr. *Papillon.* What, did you propound a Rebellion in *Ireland?*

Mr. *Haynes.* I offered to go beyond Sea, and that now was the beſt time to raiſe a Rebellion in *Ireland*; and he ſaid that was not the beſt way, for they had other means to take, and ſo the Diſcourſe was waved.

Mr. *Papillon.* And is that all?

Mr. *Haynes.* That is all I remember now.

Mr. Papillon. Do you know of any other Place or Time?

Mr. *Haynes.* I was with him at his Houſe.

Mr. *Papillon.* Were you ever a Witneſs for my Lady *Windham*, or againſt her?

Mr. *Haynes.* No, Sir, but ſhe arreſted me, becauſe I ſaid I lay with her.

John Macnamarra.

Mr. *Papillon.* Mr. *Macnamarra*, when was it you had this Diſcourſe with my Lord *Shaftsbury*, what is the time, as near as you remember?

Mr. *Macnamarra.* In *March* and *April* laſt, Sir.

Mr. *Papillon.* Twice then do you ſpeak of?

Mr. *Macnam.* Yes, Sir.

Mr. *Papillon.* Which is that that was in *April?*

Mr. *Macnam.* That was the laſt, the laſt Diſcourſe was in *April.*

Mr. *Papillon.* To what purpoſe was that?

Mr. *Macnam.* My Lord ſaid that the King deſerved to be depoſed as much as King *Richard* the Second did.

Mr. *Papillon.* In *April* you ſay.

Mr. *Macnam.* In *April.*

Mr. *Papillon.* When did you give Information of this?

Mr. *Macnam.* I cannot exactly tell, Sir.

Mr. *Papillon.* Repeat what you ſaid.

Mr. *Macnam.* That the King deſerved to be depoſed as much as King *Richard* the 2d, and that he took the Dutcheſs of *Mazarine*'s Advice in every particular, which was the worſt of Womankind.

Mr. *Papillon.* What time in *April* was this?

Mr. *Macnam.* It was in the beginning of *April.*

Mr. *Papillon.* Where?

Mr. *Macnam.* In his own Houſe.

Mr. *Papillon.* Who was preſent?

Mr.

Mr. *Macnam.* There was Mr. *Ivey* by.

Mr. *Papillon.* When did you make Information of this?

Mr. *Macnam.* I cannot tell, it was a good while ago.

Mr. *Papillon.* Was it before his Commitment?

Mr. *Macnam.* Yes, Sir, it was.

Mr. *Papillon.* To whom did you give Information?

Mr. *Macnam.* To the Secretary of State, Sir.

Mr. *Papillon.* Which of them?

Mr. *Macnam.* Mr. Secretary *Jenkins*, Sir.

Mr. *Papillon.* Did not you petition the Common-Council, Sir, for Relief?

Mr. *Macnam.* Yes, Sir, I ſigned a Petition that was drawn up, but I did not ſee it till it was brought to me to ſign.

Mr. *Papillon.* Did you read it?

Mr. *Mac.* No, I never read it neither.

Mr. *Papillon.* Nor don't know what is in it?

Mr. *Mac.* No, nor don't know the Contents of it.

Mr. *Papillon.* My Lord, in that Petition they ſay, they were tempted to ſwear againſt their Conſciences, and that ſome of the Witneſſes had made Shipwrack of their Conſciences; we ask them now, and they ſay, they do not know what was in the Petition: if we ſhould ask them who tempted them, and who thoſe Witneſſes were, that made Shipwrack of their Conſciences, it would ſignifie nothing; for ſince they do not know what was in the Petition, it is in vain to ask them any more.

Mr. *Mac.* For my Part, my Lord, I never ſaw it till it was brought to me to be ſigned, and do not know the Contents of it; but I heard Mr. *Colledge* that was executed at *Oxford*, was concerned in promoting the Petition, by my Lord *Shaftsbury*'s Advice.

Dennis Macnamarra.

Mr. *Papillon. Dennis Macnamarra*, tell us how you were introduced. to my Lord *Shaftsbury*, when you had this Diſcourſe?

D. Mac. By my Brother, Sir.

Mr. *Papillon.* What, he that was here laſt?

D. Mac. Yes, Sir.

Mr. *Papillon.* He introduced you?

D. Mac. Yes, Sir.

Mr. *Papillon.* When was it?

D. Mac. It was in *March* laſt, the latter end of *March*, or beginning of *April*.

Mr. *Papillon.* Cannot you tell which of the Months?

D. Mac. No, I cannot be poſitive in it.

Mr. *Papillon.* Who was by?

D. Mac. There was Mr. *Ivey*.

Mr. *Papillon.* No body but Mr. *Ivey*?

D. Mac. No body but Mr. *Ivey* and my Brother.

Mr. *Papillon.* Where was it?

D. Mac. It was in his own Dining Room.

Mr. *Papillon.* Were none of his Servants in the Room?

D Mac. Not that I know of.

Mr. *Papillon.* Are you ſure none of his Servants were there?

D. Mac. Not that I know of.

Mr. *Papil.* Did you hear any thing elſe, at any other Time?

D. Mac. No.

Mr. *Papil.* Nor in any other Place?

D. Mac. No.

Mr. *Papillon.* When did you give in this Information?

D. Mac. I gave it in a good while ago, Sir, I cannot be poſitive.

Mr. *Papillon.* Was it before my Lord was committed?

D. Mac. Yes, a great while.

Mr. *Papillon.* To whom did you give it?

D. Mac. I gave it to the Secretary of State.

Jury. Cannot you remember how long it was before?

D. Mac. No, I cannot at the preſent.

Mr. *Papillon.* Which of the Secretaries?

D. Macn. Secretary *Jenkins*.

Mr. *Papillon.* My Lord, I only propoſe, whether we may not ask whether he have not a Pardon, for it would be a ſatisfaction to us, for ſome reaſon.

L. C. J. North. Look you here, Gentlemen, when the Priſoner makes Exceptions to the Witneſſes, then it is proper, but here are no Exceptions to the Witneſſes.

Mr. *Papillon.* My Lord, we make no Exceptious, but we muſt ſaisfy our Conſciences, my Lord, that we muſt do, and that is very much, as we find the credibility of the Witneſſes.

L. C. J. North. Gentlemen, what do you mean that he ſhould have a Pardon for?

Mr. *Papillon.* For Crimes.

L. C. J. North. You muſt not ask him to accuſe himſelf.

Mr. *Papillon.* If he hath a Pardon he is in *ſtatu quo*; ſuppoſe, my Lord, ſome of them have been guilty of Poyſoning, ſome of Felony, ſome of robbing on the Highway, we do but ask them if they be pardoned?

L. C. J. North. A Man muſt not be impeached, but where he may anſwer for it.

Mr. *Papillon.* My Lord, if you do not give us leave, we muſt forbear then.

L. C. J. North. I do not think it proper to ask.

Edward Ivey.

Mr. *Papillon.* The Diſcourſe that you had with my Lord *Shaftsbury*, when was it, at what time?

Mr. *Ivey.* It was a little after the ſitting of the Parliament at *Oxford*.

Mr. *Papillon.* Was it more times than one?

Mr. *Ivey.* Yes, Sir, ſeveral times.

Mr. *Papillon.* All the ſame Diſcourſe?

Mr. *Ivey.* No, not the ſame Diſcourſe.

Mr. *Papillon.* The words that you ſpoke of, when was that?

Mr. *Ivey.* That was after the ſitting of the Parliament at *Oxford*.

Mr. *Papillon.* About what time was it?

Mr. *Ivey.* It was about the latter end of *March* or beginning of *April*.

Mr. *Papillon.* When did you make Information of this?

Mr. *Ivey.* I cannot be poſitive in that neither.

Mr. *Papillon.* Before my Lord's Commitment, or after?

Mr. *Ivey.* A while before.

Mr. *Papillon.* To whom did you give it?

Mr, *Ivey.* To the Secretary of State.

Foreman. Who was preſent when my Lord *Shafteſbury* ſpake thoſe words?

Mr. *Ivey.* Both the *Macnamarra's*, as I remember.

Foreman. Who elſe?

Mr. *Ivey.*

Mr. *Ivey.* Truly, I do not remember any elſe privy to our Diſcourſe, neither am I certain, that both the *Macnamarra's* were there, one of them was there I am ſure of it.

Foreman. What was the Reaſon you concealed this Information ſo long, had you no Inducement to make it at that time, how came you to do it then and not before? What was the Reaſon, you ſay it was the latter end of *April* and *May*, my Lord was not committed for a good while after, here was two Months time?

Mr. *Ivey.* I am not certain how long a time it was before, but I made it as ſoon as I could.

Foreman. I ask you, whether you know any thing either of Words, or treaſonable Actions, or any thing of my Lord *Shaftsbury*, ſpoken or acted at any other Time or Place.

Mr. *Ivey.* No, I have declared what I know, as to the Particulars.

Bernard Dennis.

Mr. *Papillon.* Mr. *Dennis*, in the Morning you told me ſomething about the Diſcourſe you had with my Lord of *Shaftsbury*, tell me when it was?

Mr. *Dennis.* It was in *April*, four or five Days after the Parliament was diſſolved at *Oxford*.

Mr. *Papillon.* In the beginning?

Mr. *Dennis.* In *March*, after the Parliament was diſſolved at *Oxford*.

Mr. *Papillon.* It was in *March*, and where?

Mr. *Dennis.* In his own Houſe, here in this Town, four or five Days after the Parliament was diſſolved at *Oxford*, immediately after he came home, I do not think he was at Home three Days before.

Mr. *Papillon.* Who was preſent with you then?

Mr. *Dennis.* There was in the Room Mr. *Sheppard* his Gentleman.

Mr. *Papillon.* Who elſe?

Mr. *Dennis.* Some of his Servants, his Pages I ſuppoſe, but whether they did hear this or no, I cannot tell.

Mr. *Papillon.* Did my Lord whiſper it, or ſpeak out?

Mr. *Dennis.* My Lord is not a Man of an high Voice, but of mediocrite Voice.

Mr. *Papillon.* Did he whiſper it in your Ear.

Mr. *Dennis.* No, I was juſt by him.

Mr. *Papillon.* Who was in the Room beſides?

Mr. *Dennis.* No body, only his Servants.

Mr. *Papillon.* When did you make this Information?

Mr. *Dennis.* I made it in the Month of *June*.

Mr. *Papillon.* In the Month of *June*?

Mr. *Dennis.* Yes, Sir.

Mr. *Papillon.* Before my Lord was committed or after?

Mr. *Dennis.* Before.

Mr. *Papillon.* Who did you make it to?

Mr. *Dennis.* I made my Information to the Secretary of State.

Mr. *Papillon.* Which of them?

Mr. *Dennis.* Secretary *Jenkins*.

Mr. *Papillon.* Why did you conceal it ſo long?

Mr. *Dennis.* Becauſe I was in the City ſo long.

Mr. *Papillon.* Did you ever go about to muſter your 400 Men you had in *Ireland*, I ask you whether you did or no?

Mr. *Dennis.* Upon my Word I did adviſe ſome of them to be ready.

Mr. *Papillon.* And did you provide them with Arms?

Mr. *Dennis.* Not I Sir, I was not able to do it.

Mr. *Papillon.* What Religion are you of?

Mr. *Dennis.* I am a Proteſtant.

Mr. *Papillon.* How long have you been a Proteſtant?

Mr. *Dennis.* I have been a Proteſtant ſince *Febr.* laſt. And this I muſt confeſs, that when I was in *Spain* and *France*, my Reſolution was to be a Proteſtant.

Mr. *Godfrey.* Mr. *Dennis*, pray who was in the Room when you were there?

Mr. *Dennis.* The Earl of *Shaftsbury*, Sir.

Mr. *Godfrey.* Who elſe?

Mr. *Dennis.* Mr. *Sheppard*.

Mr. *Godfrey.* Who elſe?

Mr. *Dennis.* I cannot name them.

L. C. J. Mr. *Godfrey*, when another Man asks a Queſtion, you ſhould conſider what is ſaid, and not ask the ſame Queſtion over and over again.

Mr. *Papillon.* In what Place in his Houſe?

Mr. *Dennis.* In his own Chamber, in the great Chamber, I do not know whether you call it the Hall or the Parlour.

Mr. *Papillon.* Was it above Stairs.

Mr. *Dennis.* Yes, it was above Stairs, my Lord does not uſe to ſpeak with any below Stairs.

Mr. *Papillou.* Is this all that you know, have you heard my Lord ſay any treaſonable Words in any other Place, or at any other Time?

Mr. *Dennis.* In the long Gallery, in his own Houſe, at another Time?

Mr. *Papillon.* Why did not you ſay ſo before?

Mr. *Dennis.* I did ſay ſo before, in the long Gallery he told me he would have a Common-wealth in *England*, and extirpate the Crown of *England* and the King of *England*.

Mr. *Papillon.* Is that all, ſpeak all your Knowledge?

Mr. *Dennis.* He ſaid we ſhould all *Iriſh-men* conform our ſelves to a Common-wealth, and by that we ſhould get our Eſtates again.

Mr. *Papillon.* I ask you if this is all you have to ſay?

L. C. J. Do you remember any more?

Mr. *Papillon.* More than you ſaid in the Morning?

Mr. *Dennis.* He ſaid he would extirpate the King, and make *England* a Common-wealth, and that we were Fools and ſilly Folks that did not comply our ſelves to their factious Party, and that we ſhould get our Eſtates, and that he would get me a black Gown and a Benefice, in the mean Time; and when all things were done he would prefer me to a better, and not only my ſelf but all that were of my Name, and would ſtick to me.

Mr. *Papillon.* Is this all?

Mr. *Dennis.* This is all.

Mt. *Papillon.* Then you have nothing more.

Mr. *Dennis.* I never ſpake to him but in his own Houſe.

Mr. *Papillon.* All your Kindred are Papiſts, are not they?

Mr. *Dennis.* No, Sir, I cannot ſay ſo, but moſt of them are.

L. C. J. North. Who can ſay that, that Queſtion no body can anſwer.

L. C. J. Look ye, Gentlemen, now you have asked theſe Queſtions, you had beſt go and conſider what Evidence is delivered, and weigh well all thoſe things that have been ſaid to you, and you muſt conſider your Duty, you

are

are to enquire here, whether it be fitting for the King to call my Lord *Shaftsbury* to queſtion upon this Account of treaſonable Words.

Mr. *Papillon.* My Lord, we deſire before we go, that either the Law may be read, or we may have the Statute-book up with us.

L. C. J. The Statute-book was never denyed, but you ſhall have the Law read here: Firſt the Statute of the 25th of *Edward* the *Third*, and then this laſt Statute.

L. C. J. North. I would ſay one thing, becauſe I obſerve that ſome of you asked the Queſtion, whether the Parliament did not debate about an Aſſociation: whether it related to that Paper or no, I am not certain, I hope you will conſider that Paper well, for my Part I muſt needs ſay for my ſelf, I heard of it, but I never heard it read before, and never heard the Contents of it; but it ſeems to me to ſhow what thoſe Officers were to do, for the ends of this Aſſociation, and one of thoſe ends as I remember (Gentlemen, I refer you to the Paper, and hope you will conſider it, you are Men of Underſtanding) I thought that one of thoſe ends was to deſtroy the mercenary Forces in and about the Cities of *London* and *Weſtminſter*, and that the Government was to be by the major Part of the Members of Parliament in the ſitting of Parliament, not with the King, but the major Part of the Members of Parliement. Gentlemen, I may miſtake, for I profeſs I ſpeak only out of Memory; but it ſeems to me to be of great Conſequence, and there is great Matter to be preſumed upon it, it being found under Lock and Key in his Study: but I ſuppoſe my Lord *Shaftſbury* may give an Account of it, but there is great Preſumption upon it, it doth not import to be an Aſſociation by Act of Parliament.

Mr. Att. Gen. When the Parliament was prorogued or diſſolved, then the major Part of the Members in each County engage themſelves to follow their Command and obey their Order.

L. C. J. North. Gentlemen, I hope you will conſider your Oaths, and give all things their due weight.

L. C. J. Will you have the Statute read?

Jury. We will read it above.

The Jury *withdrew to conſider the Evidence, and returned the Bill* Ignoramus, *upon which the People fell a hollowing and ſhouting.*

Mr. Att. Gen. My Lord, let it be recorded this hollowing and hooping in a Court of Juſtice.

The Tryal of the Earl of Argyle, *with ſome Proceedings relating thereto.*

EDENBURGH,

Sederunt tertio Die Novembris, 1681.

His Royal Highneſs, *&c.*

Athol Præſes,	*Levingſton.*
Montroſe,	Biſhop of *Edenburgh,*
Argyle,	*Elphinſton,*
Winton,	*Roſſe,*
Linlithgow,	*Dalziel,*
Perth,	Preſident of *Seſſion.*
Strathmore,	Treaſurer Deputy,
Roxburgh,	Regiſter,
Ancram,	Advocate,
Airley,	Juſtice *Clerk,*
Balcarres,	*Collintoun,*
Lorn,	*Lundie.*

THIS Day the Earl of *Argyle* having fitſt openly declared his Senſe, as you have it hereafter ſet down in his Explication, took the *Teſt* as a Privy-Counſellor; and after he was called to, and had taken his Place, the Councils Explication having been read and debated, was put to the Vote, and paſſed, the Earl not voting thereto.

Edenburgh, *the* 3*d Day of* November, 1681.

The Privy-Councils Explanation of the Teſt.

FOraſmuch as ſome have entertained Jealouſies and Prejudices againſt the *Oath* and *Teſt* appointed to be taken by all Perſons in publick Truſt, Civil, Eccleſiaſtical, or Military, in this Kingdom, by the Sixth Act of His Majeſty's Third Parliament; as if thereby they were to ſwear to every Propoſition, or Clauſe of the *Confeſſion of Faith* therein mentioned; or that invaſion were made by it upon the intrinſick ſpiritual Power of the Church, or Power of the Keys, or as if the preſent Epiſcopal Government of this National Church, by Law eſtabliſhed, were thereby expoſed to the hazard of alteration or ſubverſion: All which are far from the Intention or Deſign of the Parliament's impoſing this Oath, and from the genuine ſenſe and meaning thereof: Therefore His Royal Highneſs, His Majeſty's High Commiſſioner, and Lords of the Privy-Council, do allow, authorize, and impower the Archbiſhops and Biſhops to adminiſter this Oath and Teſt to the Miniſters, in their reſpective Dioceſſes, in this expreſs ſenſe: (1). *That tho' the* Confeſſion of Faith, *ratified in Parliament* 1567, *was*

was framed in the Infancy of Reformation, and deſerves its due Praiſe, yet by the Teſt *we do not ſwear to every Propoſition, or Clauſe therein contained, but only to the true Proteſtant Religion, founded on the Word of God, contained in that* Confeſſion *as it is oppoſed to Popery and Fanaticiſm. (2.) That by the* Teſt, *or any Clauſe therein contained, no Invaſion or Encroachment is made or intended upon the intrinſick ſpirisual Power of the Church, or Power of the Keys as it was exerciſed by the Apoſtles, and the moſt pure and primitive Church in the firſt three Centuries after Chriſt, and which is ſtill reſerved intirely to the Church. (3.) That the Oath and* Teſt *is without any Prejudice to the Epiſcopal Government of this National Church, which is declared by the firſt Act of the ſecond Seſſion of His Majeſty's firſt Parliament, to be moſt agreeable to the Word of God, and moſt ſuitable to Monarchy, and which upon all occaſions His Majeſty hath declared he will inviolably and unalterably preſerve. And appoint the Archbiſhops and Biſhops to require the Miniſters in their reſpective Dioceſſes, with their firſt Conveniency, to obey the Law in ſwearing, and ſubſcribing the foreſaid Oath and* Teſt *with certification, that the Refuſers ſhall be eſteemed Perſons diſaffected to the Proteſtant Religion, and to his Majeſty's Government; and that the Puniſhment appointed by the foreſaid ſixth Act of His Majeſty's third Parliament ſhall be impartially, and without delay inflicted upon them.* By me.

Pet. Menzeis.

Sederunt quarto Die Novembris, 1681.

His Royal Highneſs, *&c.*

Montroſe Præſes,	Biſhop of *Edenburgh,*
Perth,	*Treaſurer Deputy,*
Ancram,	*Lundie.*
Levingſton,	*Linlithgow,*
Preſident of *Seſſion,*	*Roxburgh.*
Advocate,	*Balcaras,*
Winton,	*Elphynſtoun,*
Strathmore,	*Regiſter,*
Airley,	

This Day the Earl of *Argyle* being about to take the *Teſt*, as a Commiſſioner of the Treaſury, and having upon Command produced a Paper bearing the Senſe in which he took the *Teſt*, the preceeding Day, and in which he would take the ſame, as a Commiſſioner of the Treaſury; upon Conſideration thereof, it was reſolved, that he cannot ſit in Council, not having taken the *Teſt*, in the ſenſe and meaning of the Act of Parliament, and therefore was removed.

The Earl of Argyle's *Explication of the* Teſt *when he took it.*

I Have conſidered the Teſt, *and I am very deſirous to give Obedience as far as I can. I'm confident the Parliament never intended to impoſe contradictory Oaths: therefore I think no Man can explain it but for himſelf. Accordingly I take it, as far as it is conſiſtent with it ſelf, and the Proteſtant Religion. And I do declare, that I mean not to bind up my ſelf in my Station, and in a lawful Way, to wiſh and endeavour any Alteration I think to the Advantage of Church or State, nor repugnant to the Proteſtant Religion and my Loyalty. And this I underſtand as a Part of my* Oath.

But the Earl finding, as hath been narrated, this his Explication, tho' accepted, and approven by His Highneſs and Council, the Day before, to be this Day carped and offended at, and Advantages thereupon ſought and deſigned againſt him, did immediately draw up the following Explanation of his Explication, and for his own Vindication did firſt communicate it to ſome Privatlie, and thereafter intended to have offered it at his Tryal for clearing of his Defences.

The Explanation of his Explication

I Have delayed hitherto to take the Oath appointed by the Parliament to be taken, betwixt and the firſt of Januar next: but now being required, near two Months ſooner, to take it, this Day peremptourly, or to refuſe. I have conſidered the Teſt, *and have ſeen ſeveral Objections moved againſt it, eſpecially by many of the Orthodox Clergy, notwithſtanding whereof, I have endeavoured to ſatisfie my ſelf with a juſt Explanation, which I here offer, that I may both ſatisfie my Conſcience, and obey Your Highneſs, and Your Lordſhip's Commands in taking the* Teſt, *tho' the Act of Parliament do not ſimply command the thing, but only under a Certification, which I could eaſily ſubmit to, if it were with Your Highneſs Favour, and might be without Offence, but I love not to be ſingular,* and I am very deſirous to give Obedience *in this and every thing* as far as I can, *and that which clears me is, that* I am confident *whatever any Man may think, or ſay, to the Prejudice of this* Oath; the Parliament never intended to impoſe contradictory Oaths; *and becauſe their ſenſe, (they being the Framers and Impoſers) is the true ſenſe, and that this* Teſt *injoined is of no private Interpretation, nor are the King's Statutes to be interpreted but as they bear, and to the Intent they are made,* therefore I think no Man, *that is, no private Perſon,* can explain it *for another, to amuſe or trouble him with (it may be) miſtaken Gloſſes. But every Man, as he is to take it, ſo is to explain it* for himſelf *and to endeavour to underſtand it, (notwithſtanding all theſe Exceptions) in the Parliaments, which is its true, and genuine ſenſe.* I take it therefore *notwithſtanding any Scruple made by any,* as far as it is conſiſtent with it ſelf, and the Proteſtant Religion, *which is wholly in the Parliament's ſenſe, and their true meaning; which [being preſent] I am ſure, was owned by all to be the ſecuring of the Proteſtant Religion, founded on the Word of God, and contained in the* Confeſſion of Faith *recorded J. 6 p. 1. c. 4.* And *not out of Scruple as if any thing in the* Teſt *did import the contrary, but to clear my ſelf from all Cavils; as if thereby I were bouud up further then the true meaning of the Oath.* I do declare *that by that Part of the* Teſt, *that there lies no Obligation on me, &c.* I mean not to bind up my ſelf, in my Station, and in a lawful Way, *ſtill diſclaiming all unlawful Endeavours,* to wiſh, and endeavour any alteration I think, *according to my Conſcience,* to the Advantage of Church, or State, not repugnant to the Proteſtant Religion, and my Loyalty *and by my Loyalty, I underſtand no other thing then the Words plainly bear, to wit the Duty and Allegiance of all Loyal Subjects* and this *Explanation* I underſtand as a Part *not of the* Teſt, *or Act of Parliament, but as a qualifying Part* of my Oath *that I am to ſwear, and with it I am willing to take the* Teſt, *if Your Royal Highneſs, and Your Lordſhips allow me, or otherwiſe in ſubmiſſion to Your Highneſs, and the Councils Pleaſure, I am content to be held as a Refuſer at preſent.*

The

The Councils Letter to His Majeſty, concerning their having committed the Earl of Argyle.

May it pleaſe your ſacred Majeſty,

THE laſt Parliament having made ſo many and ſo advantagious Acts, for ſecuring the Proteſtant Religion, the Imperial Crown of this Kingdom, and your Majeſty's ſacred Perſon (whom God Almighty long preſerve) and having, for the laſt, and as the beſt Way for ſecuring all theſe, appointed a *Teſt* to be taken by all who ſhould be entruſted with the Government; which bears expreſly, that the ſame ſhould be taken in the plain and genuine ſenſe and meaning of the Words; *We were very careful, not to ſuffer any to take the ſaid Oath or* Teſt, *with their own Gloſſes or Explications:* but the Earl of *Argyle* having after ſome delays, come to Council, to take the ſaid Oath, as a Privy-Councellor, ſpoke ſome things which were not then heard, nor adverted to, and when his Lordſhip at his next offering to take it in Council, as one of the Commiſſioners of your Majeſty's Treaſury, was commanded to take it ſimply, he refuſed to do ſo, but gave in a Paper, ſhewing the only ſenſe in which he would take it, which Paper we all conſidered, *as that which had in it groſs and ſcandalous Reflections upon that excellent Act of Parliament, making it to contain things contradictory and inconſiſtent, and thereby depraving your Majeſty's Laws, miſrepreſenting your Parliament, and teaching your Subjects to evacuate and diſappoint all Laws, and Securities that can be enacted for the preſervation of the Government*; ſuitable to which his Lordſhip declares in that Paper, *That he means not to bind up himſelf from making any alterations he ſhall think fit for the advantage of Church or State*; and which Paper he deſires may be looked upon as a part of his Oath, as if he were the Legiſlator, and able to add a part to the Act of Parliament. Upon ſerious peruſal of which Paper we found our ſelves obliged to ſend the ſaid Earl to the Caſtle of *Edenburgh*, and to tranſmit the Paper to your Majeſty, being expreſly obliged to both theſe by your Majeſties expreſs Laws. And we have commanded your Majeſty's Advocate to raiſe a purſuit againſt the ſaid Earl, for being Author, and having given in the ſaid Paper: And for the further proſecution of all relating to this Affair, we expect your Majeſty's Commands, which ſhall be moſt humbly and faithfully obeyed by

Your Majeſty's

moſt humble,

moſt faithful,

and moſt Obedient

Subjects and Servants

Edenburgh, Nov. 8. 1681.

Sic Subſcribitur,

Glencairne. | *Jo. Edinburgen.*
Winton, | *Roß,*
Linlithgow, | *Geo. Gordoun,*
Perth, | *Ch. Maitland,*
Roxburgh, | *G. Mekenzie,*
Ancram, | *Ja. Foulis,*
Airlie, | *J. Drumond.*
Levingſtoun. |

Nov. 15. 1681.

The King's Anſwer to the Council's Letter.

C. R.

MOſt dear, *&c.* having in one of your Letters directed unto us, of the 8th Inſtant, received a Particular Account of the Earl of *Argyle's* refuſing to take the *Teſt* ſimply, and of your Proceedings againſt him, upon the Occaſion of his giving in a Paper, ſhewing the only ſenſe in which he will take it, which had in it groſs and ſcandalous Reflections upon that excellent late Act of our Parliament there, by which the ſaid *Teſt* was enjoyned to be taken: we have now thought fit to let you know, that as we do hereby approve theſe your Proceedings, particularly your ſending the ſaid Earl to our Caſtle of *Edenburgh*; and your commanding our Advocate to raiſe a Purſuit againſt him, for being Author of, and having given in the ſaid Paper; ſo we do alſo authorize you to do all things that may concern the further Proſecution of all relating to this Affair. Nevertheleſs, it is our expreſs Will and Pleaſure, that before any Sentence ſhall be pronounced againſt him, at the Concluſion of the *Proceſs*, you ſend us a particular Account of what he ſhall be found guilty of, to the end that, after our being fully informed thereof, we may ſignifie our further Pleaſure in this Matter. For doing whereof, *&c.*

But as notwithſtanding the Councils demanding by their Letter His Majeſty's Allowance for proſecuting the Earl, they before any Return cauſed His Majeſty's Advocate exhibit an Indictment againſt him, upon the Points of ſlandering and depraving, as hath been already remarked, ſo after having received his Majeſties Anſwer, the deſign grows, and they thought fit to order a new Indictment containing beſide the former Points, the Crimes of *Treaſon* and *Perjury*, which accordingly was exhibit, and is here ſubjoyned, the difference betwixt the two Indictments being only in the Particulars above-noted.

The Copy of the Indictment againſt the Earl of Argyle.

Archibald Earl of *Argyle,*

YOU are indicted and accuſed, that albeit by the common Law of all well-govern'd Nations, and by the municipal Law and Acts of Parliament of this Kingdom; and particularly, by the 21ſt, and by the 43d Act, Par. 2 *James* 1. and by the 83d Act, Par. 6. *James* 5. and the 134th Act, Par. 8. *James* 6. and the 205th Act, Par. 14. *James* 6. All Leaſing-makers, and tellers of them, are puniſhable with tinſel of Life and Goods; like as by the 107th Act, Par. 7. *James* 1. it is ſtatuted, that no Man interpret the King's Statutes otherwiſe than the Statute bears, and to the Intent and Effect that they were made for, and as the Makers of them underſtood; and whoſo does in the contrary to be puniſhed at the King's Will: And by the 10th Act, Par. 10. *James* 6. it is ſtatuted that None of his Majeſty's Subjects preſume or take upon him publickly to declare, or privately to ſpeak or write any Purpoſe of Reproach or Slander of His Majeſty's Per-

ſon, Eſtate or Government, or to deprave his Laws, or Acts of Parliament, or miſtconſtrue his Proceedings, whereby any miſtaking may be moved betwixt his Highneſs, his Nobility, and loving Subjects, in time coming, under Pain of Death; certifying them that does in the contrary, they ſhall be reputed as ſeditious and wicked Inſtruments, Enemies to his Highneſs, and to the Common-wealth of this Realm, and the ſaid Pain of Death ſhall be executed againſt them with all Rigour, to the Example of others: and by the ſecond Act, Seſ. 2. Par. 1 Char. 2. it is ſtatuted, that whoſoever ſhall by writing, libelling, remonſtrating, expreſs, publiſh, or declare any Words or Sentences, to ſtir up the People to the diſlike of His Majeſty's Prerogative and Supremacy, in Cauſes Eccleſiaſtick, or of the Government of the Church by Archbiſhops and Biſhops, as it is now ſettled by Law, is under the Pain of being declared incapable to exerciſe any Office Civil, Eccleſiaſtick, or Military, within this Kingdom, in any Time coming. Like as by the fundamental Laws of this Nation, by the 130th Act, Par. 8. *James* 6. it is declared, that none of His Majeſty's Subjects preſume, to impugn the the Dignity or Authority of the Three Eſtates, or to procure Innovation or Diminution of their Power and Authority, under the Pain of Treaſon. And that it is much more Treaſon in any of His Majeſty's Subjects, to preſume to alter Laws already made, or to make new Laws, or to add any Part to any Law by their own Authority, that being to aſſume the legiſlative Power to themſelves, with His Majeſty's higheſt, and moſt incommunicable Prerogative. Yet true it is, that albeit His Sacred Majeſty did not only beſtow on you the ſaid *Archibald* Earl of *Argyle* thoſe vaſt Lands, Juriſdictions and Superiorities juſtly forfaulted to His Majeſty by the Crimes of your deceaſed Father; preferring your Family to thoſe who had ſerved His Majeſty againſt it, in the late Rebellion, but alſo pardoned and remitted to you the Crimes of leaſing making and miſconſtruing His Majeſty's and his Parliaments Proceedings againſt the very Laws above-written, whereof you were found guilty, and condemned to die therefore, by the High Court of Parliament, the 25. of *Auguſt*, 1662. And raiſed you to the Title and Dignity of an Earl, and being a Member of all His Majeſty's Judicatures. Notwithſtanding of all theſe, and many other Favours, you the ſaid *Archibald* Earl of *Argyle*, being put by the Lords of His Majeſty's Privy-Council to take the *Teſt*, appointed by the Act of the laſt Parliament to be taken by all Perſons in publick Truſt, you, inſtead of taking the ſaid *Teſt*, and ſwearing the ſame in the plain genuine ſenſe and meaning of the Words, without any Equivocation, mental Reſervation, or Evaſion whatſoever, you did declare againſt, and deſame the ſaid Act; and having, to the end you might corrupt others by your pernicious Senſe, drawn the ſame in a Libel, of which Libel you diſperſed and gave abroad Copies, whereby ill Impreſſions were given of the King and Parliaments Proceedings at a time eſpecially when His Majeſty's Subjects were expecting what Submiſſion ſhould be given to the ſaid *Teſt*; and being deſired the next Day to take the ſame, as one of the Commiſſioners of His Majeſty's Treaſury, you did give in to the Lords of His Majeſty's Privy-Council, and owned twice, in plain Judgment before them, the ſaid defamatory Libel againſt the ſaid *Teſt* and Act of Parliament; declaring, that you *had conſidered the ſaid* Teſt, *and was deſirous to give Obedience as far as you could*: whereby you clearly inſinuated, that you was not able to give full Obedience: in the ſecond Article of which Libel you declare, that you were *confident the Parliament never intended to impoſe contradictory Oaths*; thereby to abuſe the People with a belief, that the Parliament had been ſo impious as really and actually to have impoſed contradictory Oaths; and ſo ridiculous, as to have made an Act of Parliament (which ſhould be moſt deliberate of all humane Actions) quite contrary to their own Intentions: after which you ſubſumed, contrary to the Nature of all Oaths, and to the Acts of Parliament above-cited *that every Man muſt explain it for himſelf, and take it in his own ſenſe*; by which not only that excellent Law, and the Oath therein ſpecified, which is intended to be a Fence to the Government both of Church and State, but all other Oaths and Laws ſhall be rendred altogether uſeleſs to the Government. If every Man take the Oaths impoſed by Law in his own Senſe, then the Oath impoſed is to no Purpoſe: for the Legiſlator cannot be ſure that the Oath impoſed by him will bind the Takers according to the Deſign and Intent for which he appointed it: and the Legiſlative Power is taken from the Impoſers, and ſettled in the Taker of the Oath: and ſo he is allowed to be the Legiſlator, which is not only an open and violent depraving of His Majeſty's Laws and Acts of Parliament, but is likewiſe a ſettling of the Legiſlative Power on private Subjects, who are to take ſuch Oaths. In the third Article of that Paper you declare, that you *take the* Teſt *in ſo far only as it is conſiſtent with it ſelf, and the Proteſtant Religion*; by which you maliciouſly intimate to the People, that the ſaid Oath is inconſiſtent with it ſelf and with the Proteſtant Religion, which is not only a down-right depraving of the ſaid Act of Parliament, but is likewiſe a miſconſtruing of His Majeſty's and the Parliaments Proceedings, and miſrepreſenting them to the People in the higheſt Degree, and in the tendereſt Points they can be concerned; and implying, that the King and the Parliament have done things inconſiſtent with the Proteſtant Religion, for ſecuring of which that *Teſt* was particuiarly intended. In the Fourth Article you do expreſly declare, that you *mean not* by taking the ſaid *Teſt*, *to bind up your ſelf from wiſhing and endeavouring any Alteration in a lawful Way that you ſhall think fit, for advancing of Church and State*; whereby alſo it was deſigned by the ſaid Act of Parliament and Oath, that no Man ſhould make any Alteration in the Government of Church and State, as it is now eſtabliſhed, and that it is the Duty of all good Subjects, in humble and quiet Manner, to obey the preſent Government: yet you not only declare your ſelf, but by your Example you invite others to think themſelves looſed from that Obligation; and that it is free for them to make any Alteration in either, as they ſhall think fit, concluding your whole Paper with theſe Words (*and this I underſtand as a Part of my Oath*); which is a treaſonable Invaſion upon the Royal Legſlative Power as if it were lawful for you to make to your ſelf an Act of Parliament; ſince he who can make any Part of an Act may make the whole, the Power and Authority

rity in both being the ſame. Of the which Crimes above-mentioned you the ſaid *Archibald* Earl of *Argyle* are Actor, Art and Part; which being found by the Aſſize, you ought to be puniſhed with the Pains of Death, Forfaulture and Eſcheat of Lands and Goods, to the Terror of others to commit the like hereafter.

An Abſtract of the ſeveral Acts of Parliament upon which the Indictment againſt the Earl of Argyle *was grounded.*

Concerning Raiſers of Rumors betwixt the King and his People, Chap. 20. 1 *Statutes of K.* Robert I.

IT is defended and forbidden, That no Man be a Conſpirator or Inventer of Narrations or Rumors, by the which occaſion of Diſcord may ariſe betwixt the King and his People. And if any ſuch Man ſhall be found, and attainted thereof, incontinent he ſhall be taken and put in Priſon, and there ſhall be ſurely keeped up, ay, and while the King declare his Will anent him.

Act 43. *of Par.* 2. *King* James I. *March* 11. 1424. *Leaſing-makers forfault Life and Goods.*

Item, It is ordained by the King and whole Parliament, That all Leaſing-makers, and tellers of them, which may engender Diſcord betwixt the King and his People, where-ever they may be gotten, ſhall be challenged by them that Power has, and tyne Life and Goods to the King.

Act 83. *Par.* 6. James V. Dec. 10. 1540. *Of Leaſing-makers.*

Item, Touching the Article of Leaſing-makers to the King's Grace, of his Barons, Great-men and Leidges, and for puniſhment to be put to them therefore, the King's Grace, with advice of his Three Eſtates, ratifies and approves the Acts and Statutes made thereupon before, and ordains the ſame to be put in execution in all Points; and alſo ſtatutes and ordains, That if any manner of Perſon makes any evil Information of His Highneſs to his Barons and Leidges, that they ſhall be puniſhed in ſuch manner, and by the ſame Puniſhment as they that make Leaſings to his Grace of his Lords, Barons, and Leidges.

Act 134. *Par.* 8. James VI. May 22. 1584. *Anent Slanderers of the King, his Progenitors, Eſtate and Realm.*

FOraſmuch as it is underſtood to our Sovereign Lord, and his Three Eſtates aſſembled in this preſent Parliament, what great harm and inconveniency has fallen in this Realm, chiefly ſince the beginning of the Civil Troubles occurred in the time of His Highneſs *minority*, through the wicked and licentious, publick and private Speeches, and untrue Calumnies of divers of his Subjects, to the diſdain, contempt, and reproach of His Majeſty, his Council and Proceedings, and to the diſhonour and prejudice of His Highneſs, his Parents, Progenitors and Eſtate, ſtirring up His Highneſs's Subjects thereby to miſliking, ſedition, unquietneſs, and to caſt off their due Obedience to His Majeſty, to their evident peril, tinſil and deſtruction; His Highneſs continuing always in love and clemency toward all his good Subjects, and moſt willing to ſeek the ſafety and preſervation of them all, which wilfully, needleſly, and upon plain Malice, after His Highneſs's Mercy and Pardon oft-times afore granted, has procured themſelves, by their treaſonable Deeds, to be cut off, as corrupt Members of this Commonwealth. Therefore it is ſtatute and ordained by our Sovereign Lord, and his Three Eſtates in this preſent Parliament, that none of his Subjects, of whatſoever Function, Degree, or Quality, in time coming, ſhall preſume, or take upon hand, privately or publickly, in Sermons, Declamations, and familiar Conferences, to utter any falſe, ſlanderous, or untrue Speeches, to the diſdain, reproach and contempt of His Majeſty, his Council and Proceedings, or to the diſhonour, hurt, or prejudice of His Highneſs, his Parents and Progenitors, or to meddle in the Affairs of His Highneſs, and his Eſtate preſent, by-gone, and in time coming, under the Pains contained in the Acts of Parliament anent makers and tellers of Leaſings, certifying them that ſhall be tryed, contraveners thereof, or that hear ſuch ſlanderous Speeches, and reports not the ſame with diligence, the ſaid Pain ſhall be executed againſt them with all rigour, in example of others.

Act 205. *Par.* 14. *King* James VI. June 8. 1594. *anent Leaſing-makers, and Authors of Slanders.*

OUr Sovereign Lord, with advice of his Eſtates in this preſent Parliament, ratifies, approves, and for His Highneſs and Succeſſors, perpetually confirms the Act made by his Noble Progenitors, King *James* the Firſt, of worthy Memory, againſt Leaſing-makers, the Act made by King *James* the Second, entituled, *Againſt Leaſing-makers, and tellers of them*; the Act made by King *James* the Fifth, entituled, *Of Leaſing-makers*; and the Act made by His Highneſs's ſelf, with advice of his Eſtates in Parliament, upon the 22 Day of *May*, 1584. entituled, *For the puniſhment of the Authors of Slanders and untrue Calumnies againſt the King's Majeſty, his Council and Proceedings, to the diſhonour and prejudice of His Highneſs, his Parents, Progenitors, Crown and Eſtate?* as alſo the Act made in His Highneſs's Parliament holden at *Linlithgow* upon the 10 of *December*, 1585. entituled, *Againſt the Authors of ſlanderous Speeches or Writs*; and ſtatutes and ordains all the ſaid Acts to be publiſhed of new, and to be put in execution in time coming, with this addition, That whoever hears the ſaid Leaſings, Calumnies, or ſlanderous Speeches or Writs to be made, and apprehends not the Authors thereof, if it lies in his Power, and reveals not the ſame to His Highneſs, or one of his Privy-Council, or to the Sheriff, Steward, or Bailiff of the Shire, Stewards in Regality or Royalty, or to the Provoſt, or any of the Bailiffs within Burgh, by whom the ſame may come to the knowledge of His Highneſs, or his ſaid Privy-Council, where through the ſaid Leaſing-makers, and Authors of ſlanderous Speeches may be called, tried, and puniſhed according to the ſaid Acts: The hearer, and not apprehender, [if it lie in his Power] and concealer, and not revealer of the ſaid Leaſing-makers, and Authors of the ſaid ſlanderous Speeches or Writs, ſhall incur the like Pain and Puniſhment as the Principal Offender.

Act 107. *Par.* 7. *King* James I. March 1. 1427.
That none interpret the King's Statutes wrongouſly.

ITem, The King, by deliverance of Council, by manner of Statute, forbids, That no Man interpret his Statutes otherwiſe than the Statutes bear, and to the intent and effect that they were made for, and as the Maker of them underſtood: and whoſo does in the contrary, ſhall be puniſhed at the King's Will.

Act 10. *Par.* 10. *King* James VI. Dec. 10. 1585.
Authors of ſlanderous Speeches or Writs ſhould be puniſhed to the Death.

IT is ſtatuted and ordained by our Sovereign Lord and Three Eſtates, That all His Highneſs's Subjects content themſelves in quietneſs and dutiful obedience to His Highneſs and his Authority; and that none of them preſume, or take upon hand publickly to declaim, or privately to ſpeak or write any purpoſe of Reproach or Slander of His Majeſty's Perſon, Eſtate, or Government; or to deprave his Laws and Acts of Parliament, or miſconſtrue his Proceedings, whereby any miſliking may be moved betwixt His Highneſs and his Nobility, and loving Subjects in time coming, under the pain of Death; certifying them that do in the contrary, they ſhall be reputed as ſeditious and wicked Inſtruments, enemies to His Highneſs and the Commonwealth of this Realm: and the ſaid pain of Death ſhall be executed upon them with all rigour, in example of others.

Act for preſervation of His Majeſty's Perſon, Authority and Government, May 1662.

——— And further it is by His Majeſty and Eſtates of Parliament declared, ſtatuted and enacted, That if any Perſon or Perſons ſhall, by Writing, Printing, Praying, Preaching, Libelling, Remonſtrating, or by any malicious or adviſed Speaking, expreſs, publiſh, or declare any Words or Sentences, to ſtir up the People to the hatred or diſlike of His Majeſty's Royal Prerogative and Supremacy, in Cauſes Eccleſiaſtical, or of the Government of the Church by Archbiſhops and Biſhops, as it is now ſettled by Law ——— That every ſuch Perſon or Perſons ſo offending, and being Legally Convicted thereof, are hereby declared incapable to enjoy or exerciſe any Place or Employment, Civil, Eccleſiaſtick, or Military, within this Church and Kingdom, and ſhall be liable to ſuch further Pains as are due by the Law in ſuch Caſes.

Act 130. *Par.* 8. James VI. May 22. 1584. *Anent the Authority of the Three Eſtates of Parliament.*

THe King's Majeſty conſidering the Honour and the Authority of his Supreme Court of Parliament, continued paſt all Memory of Man, unto their Days, as conſtitute upon the free Votes of the Three Eſtates of this ancient Kingdom, by whom the ſame, under God, has ever been upholden, rebellious and traiterous Subjects puniſhed, the good and faithful preſerved and maintained, and the Laws and Acts of Parliament (by which all Men are governed) made and eſtabliſhed. And finding the Power, Dignity, and Authority of the ſaid Court of Parliament, of late Years, called in ſome doubt, at leaſt, ſome curiouſly travelling to have introduced ſome Innovation thereanent; His Majeſty's firm Will and Mind always being, as it is yet, That the Honour, Authority, and Dignity of his ſaid Three Eſtates ſhall ſtand and continue in their own Integrity, according to the ancient and laudable Cuſtom by-gone, without any alteration or diminution: Therefore it is ſtatuted and ordained by our ſaid Soveraign Lord, and his ſaid Three Eſtates in this preſent Parliament, That none of his Leidges or Subjects preſume, or take upon hand to impugn the Dignity and Authority of the ſaid Three Eſtates, or to ſeek or procure the innovation or diminution of the Power and Authority of the ſame Three Eſtates, or any of them, in time coming, under the pain of Treaſon.

The Earl of Argyle's *firſt Petition for Advocates, or Council to be allowed him.*

To His Royal Highneſs, His Majeſty's High Commiſſioner, and to the Right Honourable the Lord's of His Majeſty's Privy-Council.

The Humble Petition of Archibald *Earl of* Argyle,

Sheweth,

THat your Petitioner being criminally Indicted before the Lord's Commiſſioners of Juſtitiary, at the Inſtance of His Majeſty's Advocate, for Crimes of an high Nature. And whereas in this Caſe no Advocate will readily plead for the Petitioner, unleſs they have your Royal Highneſs, and Lordſhips Special Licenſe and Warrant to that Effect, which is uſual in the like Caſes.

Is is therefore humbly deſired, that Your Royal Highneß and Lordſhips would give ſpecial Order and Warrant to Sir George Lockhart, *his ordinary Advocate, to conſult and plead for him in the foreſaid Criminal Proceß, without incurring any hazard upon that account, and your Petitioner ſhall ever pray.*

Edenburgh, Novemb. 22. 1681.

The Councils Anſwer to the Earl of Argyle's *firſt Petition, and his having Advocates allowed him.*

HIS Royal Highneſs, His Majeſty's High Commiſſioner, and Lords of Privy-Council do refuſe the deſire of the abovewritten Bill, but allows any Lawyers the Petitioner ſhall employ, to conſult and plead for him in the Proceſs of Treaſon, and other Crimes, to be purſued againſt him at the inſtance of His Majeſty's Advocate.

Extr. By me,

Will. Paterſon.

The Earl of Argyle's *ſecond Petition for Council to be allowed him.*

To His Royal Highneſs, His Majeſty's High Commiſſioner, and to the Right Honourable the Lords of His Majeſty's Privy-Council.

The Humble Petition of Archibald *Earl of* Argyle,

Sheweth,

THat your Petitioner having given in a former Petition, humbly repreſenting, that he being criminally indicted before the Lords Commiſſioners of Juſtitiary, at the Inſtance of His Majeſty's Advocate, for Crimes of an high Nature: and therefore deſiring that your Royal Highneſs, and Lordſhips, would give ſpecial Warrant to Sir *George Lockhart*, to conſult and plead for him: Whereupon your Royal Highneſs and Lordſhips, did allow the Petitioner to make uſe of ſuch Advocates as he ſhould think fit to call. Accordingly your Petitioner having deſired Sir *George Lockhart* to conſult and plead for him, he hath as yet refuſed your Petitioner. And by the 11. Parliament of King *James the VI. Cap.* 38. As it is the undeniable Priviledge of all Subjects, accuſed for any Crimes, to have Liberty to provide themſelves of Advocates, to defend their Lives, Honour, and Lands, againſt whatſoever Accuſation; ſo the ſame Priviledge is not only by Parliament 11. King *James the VI. Cap.* 90. farther aſſerted and confirmed, but alſo it is declared, that in caſe the Advocates refuſe, the Judges are to compel them, leſt the Party accuſed ſhould be prejudged: and this being an Affair of great Importance to your Petitioner, and Sir *George Lockhart* having been not only ſtill his ordinary Advocate, but alſo by his conſtant converſe with him is beſt known to your Petitioner's Principles; and of whoſe eminent Abilities and Fidelity your Petitioner (as many others have) hath had ſpecial Proof all along in his Concerns, and hath ſuch ſingular Confidence in him that he is moſt neceſſary to your Petitioner at this Occaſion.

May it therefore pleaſe Your Royal Highneſs and Lordſhips to interpoſe your Authority, by giving a ſpecial Order and Warrant to the ſaid Sir George Lockhart, *to conſult and plead for him in the ſaid criminal Proceſs, conform to the Tenor of the ſaid Acts of Parliament, and conſtant known Practice in the like Caſes, which was never refuſed to any Subject of the meaneſt Quality, even to the greateſt Criminals. And Your Royal Highneſs's, and Lordſhip's Anſwer is humbly craved.*

Edenburgh, Novemb. 24. 1681.

The Council's Anſwer to the Earl of Argyle's *ſecond Petition.*

HIs Royal Highneſs, His Majeſty's High Commiſſioner, and Lords of Privy Council, having conſidered the foreſaid Petition, do adhere to their former Order, allowing Advocates to appear for the Petitioner in the Proceſs aforeſaid. Extr. By me,

Will. Paterſon.

The Earl of Argyle's *Letter of Attorney, conſtituting* Alexander Dunbar *his Procurator, for requiring Sir* George Lockhart *to plead for him.*

WE *Archibald* Earl of *Argyle* do hereby ſubſtitute, conſtitute and ordain *Alexander Dunbar*, our Servitor, to be our Procurator, to paſs and require Sir *George Lockhart* Advocate to conſult, and plead for us in the Criminal Proceſs intended againſt us, at the Inſtance of His Majeſty's Advocate; and to compear with us, before the Lords Commiſſioners of Juſtitiary, upon the 12th of *December* next, conform to an Act of Council, dated the 22d of *November* inſtant, allowing any Lawyers that we ſhould employ, to conſult and plead for us in the ſaid Proceſs, and to another Act of Council of the 24th of *Novemb.* inſtant, relative to the former, and conform to the Acts of Parliament. In Witueſs whereof, we have ſubſcribed theſe Preſents, at *Edenburgh*-Caſtle, *Nov.* 26. 1681. before theſe Witneſſes, *Duncan Campbell* Servitor to *James Glen* Stationer in *Edenburgh*, and *John Thom*, Merchant in the ſaid Burgh.

Argyle.

Duncan Campbell. *John Thom.* } Witneſſes.

An Inſtrument whereby the Earl of *Argyle* required Sir *George Lockhart* to appear and plead for him.

Apud Edenburgum vigeſimo ſexto die Menſis Novembris, *Anno Domini milleſimo ſexcenteſimo octuageſimo primo, & Anno Regni* Car. 2. *Regis trigeſimo tertio.*

THe which Day, in Preſence of me notary Publick, and Witneſſes under-ſubſcribed, compeared perſonally *Alexander Dunbar*, Servitor to a Noble Earl, *Archibald* Earl of *Argyle*, as Procurator, and in Name of the ſaid Earl, conform to a Procuration ſubſcribed by the ſaid Earl at the Caſtle of *Edenburgh*, upon the twenty firſt Day of *November*, 1681. making and conſtituting the ſaid *Alexander Dunbar* his Procurator, to the Effect under-written; and paſt to the perſonal Preſence of Sir *George Lockhart* Advocate, in his own Lodging in *Edenburgh*, having and holding in his Hands an Act of His Majeſty's Privy-Council, of the Date of the 22d of *November*, 1681. inſtant, proceeding upon a Petition given in by the ſaid Earl of *Argyle*, to the ſaid Lords, ſhewing, that he being criminally indicted before the Lords Commiſſioners of Juſtitiary, at the Inſtance of His Majeſty's Advocate, for Crimes of an high Nature, and whereas in that Caſe no Advocates would readily plead for the ſaid Earl, unleſs they had his Royal Highneſs's and their Lordſhips ſpecial Licence and Warrant to that Effect, which is uſual in the like Caſes: and by the ſaid Petition humbly ſupplicated, that His Highneſs, and the Council would give ſpecial Order and Command to the ſaid Sir *George Lockhart*, the ſaid Earl's ordinary Advocate, to conſult and plead for him in the foreſaid Criminal Proceſs, without incurring any Hazard upon that Account. His Royal Highneſs, and Lords of the ſaid Privy-Council, did refuſe the Deſire of the ſaid Petition but allowed any Lawyers the Petitioner ſhould employ, to conſult and plead for him in the Proceſs of Treaſon, and other Crimes

to

to be purſued againſt him, at the Inſtance of His Majeſty's Advocate. And alſo the ſaid *Alexander Dunbar* having and holding in his Hands another Act of the ſaid Lords of Privy-Council, of the 24th of the ſaid Month, relative to, and narrating the foreſaid firſt Act, and proceeding upon another Supplication given in by the ſaid Earl, to the ſaid Lords, craving, that his Royal Highneſs, and the ſaid Lords, would interpoſe their Authority, by giving a poſitive and ſpecial Order and Warrant to the ſaid Sir *George Lockhart*, to conſult and plead with him in the foreſaid criminal Proceſs, conform to the tenor of the Acts of Parliament mentioned and particularized in the ſaid Petition, and frequent and known Practice in the like Caſes, which was never refuſed to any Subjects of the meaneſt Quality. His Royal Highneſs, and Lords of Privy-Council, having conſidered the foreſaid Petition, did by the ſaid Act adhere to their former Order, allowing Advocates to appear for the ſaid Earl in the Proceſs foreſaid, as the ſaid Acts bear; and produced the ſaid Acts Procuratory foreſaid to the ſaid Sir *George Lockhart*, who took the ſame in his Hands, and read them over *ſucceſſive*; and after reading thereof, the ſaid *Alexander Dunbar* Procurator, and in name and behalf foreſaid, ſolemnly required the ſaid Sir *George Lockhart*, as the ſaid Noble Earl's ordinary Advocate, and as a Lawyer and Advocate, upon the ſaid Earl's reaſonable Expence, to conſult and adviſe the ſaid Earl's ſaid Proceſs at any Time and Place the ſaid Sir *George* ſhould appoint to meet thereupon, conform to the foreſaid two Acts of Council, and Acts of Parliament therein mentioned, appointing Advocates to conſult in ſuch Matters: which the ſaid Sir *George Lockhart* altogether refuſed: whereupon the ſaid *Alexander Dunbar*, as Procurator, and in Name foreſaid, asked and took the Inſtruments, one or more, in the Hands of me Notary Publick under-ſubſcribed. And theſe things were done within the ſaid Sir *George Lockhart*'s Lodging, on the *South* ſide of the Street of *Edenburgh*, in the *Lane-Mercat*, within the Dining Room of the ſaid Lodging, betwixt four and five Hours in the Afternoon, Day, Month, Year, Place, and of His Majeſty's Reign, *reſpective* foreſaid, before *Robert Dickſone*, and *John Leſly*, Servitors to *John Campbell*, Writer to His Majeſty's Signet, and *Dowgall Mac. Aleſter*, Meſſenger in *Edenburgh*, with divers others, called and required to the Premiſſes.

Ita eſſe Ego Johannes Broun, *Notarius Publicus, in Præmiſſis requiſitus, Atteſtor Teſtantibus his meis ſigno & ſubſcriptione manualibus ſolitis & conſuetis.*

Broun.

Robert Dickſone,
Dowgall Mac. Aleſter, } Witneſſes.
John Leſly,

Wedneſday the 12. of *December*, the Day of compearance aſſigned to the Earl, being now come, he was brought by a Guard of Soldiers from the Caſtle to the Place appointed for the Trial, and the Juſtice Court being met and fenced, the Earl, now Marquiſs of *Queensbury*, then Juſtice General, the Lords *Nairn*, *Collingtoun*, *Forret*, *Newtoun* and *Hirkhouſe*, the Lords of Juſtitiary ſitting in Judgment, and the other formalities alſo performed, the Indictment above ſet down was read, and the Earl ſpoke as follows.

The Earl of Argyle's *Speech to the Lord Juſtice General, and the Lords of the Juſtitiary, after he had been arraigned, and his Indictment read.*

My Lord Juſtice General, &c.

I Look upon it as the undeniable Priviledge of the meaneſt Subject to explain his own Words in the moſt benigh Senſe: and even when Perſons are under an ill Character, the Miſconſtruction of Words in themſelves not ill, I can only reach a Preſumption or Aggravation but not any more.

But it is ſtrange to alledge, as well as, I hope, impoſſible, to make any that know me believe, that I could intend any thing but what was honeſt and honourable, ſuitable to the Principles of my Religion and Loyalty, tho' I did not explain my ſelf at all.

My Lord, I pray you be not offended that I take up a little of your time, to tell you, I have from my Youth made it my buſineſs to ſerve His Majeſty faithfully, and have conſtantly, to my Power, appeared in his Service; eſpecially in all times of Difficulty, and have never joyned, nor complyed with any Intereſt or Party, contrary to His Majeſty's Authority, and have all along ſerved him in his own way, without a Frown from His Majeſty theſe Thirty Years.

As ſoon as I paſſed the Schools and Colleges, I went to travel to *France* and *Italy*, and was abroad 1647, 1648, and till the end of 1649.

My firſt appearance in the World was to ſerve His Majeſty as Colonel of his Foot-Guards. And tho' at that time all the Commiſſions were given by the then Parliament, yet I would not ſerve without a Commiſſion from His Majeſty, which I have ſtill the Honour to have by me.

After the Misfortune of *Worceſter*, I continued in Arms for His Majeſty's Service, when *Scotland* was over-run with the Uſurpers, and was alone with ſome of my Friends in Arms in the Year 1652. and did then keep up ſome Appearance of Oppoſition to them: and General Major *Dean* coming to *Argyleſhire*, and planting ſeveral Gariſons he no ſooner went away but we fell upon the Gariſons he had left, and in one Day took two of them, and cut off a conſiderable Part of a third, and carried away in all about three hundred Priſoners: and in the end of that Year, I ſent Captain *Shaw* to His Majeſty, with my humble Opinion, how the War might be carried on; who returned to me with Inſtructions and Orders which I have yet lying by me.

After which, I joyned with thoſe His Majeſty did commiſſionate, and ſtood out till the laſt, that the Earl of *Middleton*, His Majeſty's Lieutenant General, gave me Orders to capitulate, which I did without any other Engagements to the Rebels but allowing Perſons to give bale for my living peaceable: and did at my capitulating relieve ſeveral Priſoners by exchange, whereof my Lord *Granard*, out of the Caſtle of *Edenburgh*, was one.

It is notarly known, that I was forefaulted by the Uſurpers, who were ſo jealous of me that, contrary to their Faith, within eight Months after my Capitulation, upon Pretence I keep'd Horſes

Horſes above the value, they ſeized on me, and keeped me in one Priſon after another, till His Majeſty's happy Reſtauration, and this only becauſe I would not engage not to ſerve His Majeſty, tho' there was no Oath required.

I do with all Gratitude acknowledge His Majeſty's Goodneſs, Bounty and Royal Favours to me, when I was purſued before the Parliament in the Year 1662. His Majeſty was graciouſly pleaſed not to ſend me here in any opprobious Way, but upon a bare verbal Paroll. Upon which I came down poſt, and preſented my ſelf a Fortnight before the Day. Notwithſtanding whereof I was immediately clapt up in the Caſtle, but having ſatisfied His Majeſty, at that time, of my entire Loyalty, I did not offer to plead by Advocates. And His Majeſty was not only pleaſed to pardon my Life, and to reſtore me to a Title and Fortune, but to put me in truſt in his Service, in the moſt eminent Judicatories of this Kingdom, and to heap Favours upon me, far beyond what ever I did or can deſerve: tho' I hope His Majeſty hath always found me faithful and thankful, and ready to beſtow all I have, or can have, for his Service. And I hope never hath had nor ever ſhall have Ground to repent any Favour he hath done me. And if I were now really guilty of the Crimes libelled, I ſhould think my ſelf a great Villain.

The next Occaſion I had to ſhew my particular Zeal to His Majeſty's Service was in *Anno* 1666. when the Inſurrection was made that was repreſt at *Pentland-Hills*. At the very firſt, the Intercourſe betwixt this Place and me was ſtopt, ſo that I had neither Intelligence nor Orders from the Council, nor from the General; but upon a Letter from the now Archbiſhop of *St. Andrews*, telling me there was a Rebellion like to be in the three Kingdoms, and bidding me beware of *Ireland* and *Kintyre*, I brought together about two thouſand Men: I ſeized all the Gentlemen in *Kintyre* that had not taken the Declaration, tho' I found them peaceable. And I ſent a Gentleman to General *Dalziel*, to receive his Orders, who came to him juſt as they were going to the Action at *Pentland*, and was with him in it; and I kept my Men together till his Return. And when I met with conſiderable Trouble from my Neighbours, rebelliouſly in Arms, and had Commiſſions both on publick, and private Accounts, have I not carried dutifully to His Majeſty, and done what was commanded with a juſt Moderation, which I can prove under the Hands of my Enemies, and by many infallible Demonſtrations?

Pardon me a few Words: did I not in this preſent Parliament ſhew my readineſs to ſerve His Majeſty and the Royal Family, in aſſerting vigorouſly the lineal legal Succeſſion of the Crown, and had a Care to have it expreſt in the Commiſſions of the Shires and Burghs I had Intereſt in? Was I not for offering proper Supplies to His Majeſty and his Succeſſor? And did I not concur to bind the Landlords for their Tenants, altho' I was mainly concerned? And have I not always kept my Tenants in Obedience to His Majeſty?

I ſay all this, not to arrogate any thing for doing what was my Honour and Duty to his Majeſty; but if after all this, upon no other Ground but Words that were ſpoken in abſolute Innocence, and without the leaſt Deſign, except for clearing my own Conſcience, and that are not capable of the ill Senſe wreſted from them by the Libel, I ſhould be further troubled, what Aſſurance can any of the greateſt Quality, Truſt, or Innocence, have that they are ſecure? eſpecially conſidering, that ſo many Scruples have been ſtarted, as all know, not only by many of the Orthodox Clergy, but by whole Presbyteries, Synods, and ſome Biſhops, which were thought ſo conſiderable, that an eminent Biſhop took the Pains to write a Treatiſe, that was read over in Council, and allowed to be printed, and a Copy given to me, which contains all the Expreſſions I am charged for, and many more that may be ſtretched to a worſe Senſe.

Have I not ſhewed my Zeal to all the ends of the *Teſt*? How then can it be imagined that I have any *ſiniſter* Deſign in any thing that I have ſaid? If I had done any thing contrary to it all the Courſe of my Life, which I hope ſhall not be found, yet one Act might pretend to be excuſed by a Habit. But nothing being queſtioned but the Senſe of Words miſconſtrued to the greateſt Height, and ſtretched to imaginary Inſinuations, quite contrary to my Scope and Deſign, and ſo far contrary, not only to my Senſe, but my Principles, Intereſt, and Duty, that I hope my Lord Advocate will think he hath gone too far on in this Proceſs, and ſay plainly what he knows to be Truth by his Acquaintance with me, both in publick and private; *viz.* That I am neither Papiſt nor Fanatick, but truly loyal in my Principles and Practices.

The hearing of this Libel would trouble me beyond moſt of the Sufferings of my Life if my Innocence did not ſupport me, and the Hopes of being vindicated of this and other Calumnies before this publick and noble Auditory.

I leave my Defences to theſe Gentlemen that plead for me, they know my Innocence, and how groundleſs that Libel is.

I ſhall only ſay, as my Life hath moſt of it been ſpent in ſerving and ſuffering for His Majeſty, ſo whatever be the Event of this Proceſs, I reſolve, while I breathe, to be loyal and faithful to His Majeſty. And whether I live publickly or in Obſcurity, my Head, my Heart nor my Hand, ſhall never be wanting where I can be uſeful to His Majeſty's Service. And while I live, and when I die, I ſhall pray, that God Almighty would bleſs His Majeſty with a long, happy, and proſperous Reign; and that the lineal legal Succeſſors of the Crown may continue Monarchs of all His Majeſty's Dominions, and be Defenders of the true Primitive, Chriſtian, Apoſtolick, Catholick, Proteſtant Religion, while Sun and Moon endure.

God ſave the King.

The King's own Letter to this Nobleman when he was Lord Lorn.

Cologne, Dec. 20. 1654.

My Lord Lorn,

'I Am very glad to hear from *Middleton*, what 'affection and zeal you ſhow to my Service, 'how conſtantly you adhere to him in all his 'Diſtreſſes, and what good Service you have per-'formed upon the Rebels. I aſſure you, you 'ſhall find me very juſt, and kind to you in re-

'warding

'warding what you have done and ſuffered for me; and I hope you will have more Credit and Power with thoſe of your Kindred, and Dependants upon your Family, to engage them with you for me, than any body elſe can have to ſeduce them againſt me; and I ſhall look upon all thoſe who ſhall refuſe to follow you as unworthy of any Protection hereafter from me, which you will let them know. This honeſt Bearer, M—— will inform you of my Condition and Purpoſes, to whom you will give Credit; and he will tell you, that I am very much,

Your very affectionate Friend,

C. R.

General Middleton's *Order to the Earl of* Argyle, *who was then Lord* Lorn, *for capitulating with the* Engliſh, *wherein he largely expreſſeth his Worth and Loyalty.*

John Middleton, *Lieutenant General, next and immediate under His Majeſty, and Commander in chief of all the Forces raiſed, and to be raiſed, within the King of* Scotland.

SEeing the Lord *Lorn* hath given ſo ſingular Proofs of clear and perfect Loyalty to the King's Majeſty, and of pure and conſtant Affection to the good of His Majeſty's Affairs, as never hitherto to have any Ways complyed with the Enemy, and to have been principally Inſtrumental in the enlivening of this late War, and one of the chief and firſt movers in it; and hath readily, chearfully, and gallantly engaged, and reſolutely and conſtantly continued active in it, notwithſtanding the many powerful Diſſwaſions, Diſcouragements, and Oppoſitions he hath met withal from divers Hands, and hath in the carrying on of the Service ſhown ſuch ſignal Fidelity, Integrity, Generoſity, Prudence, Courage, and Conduct, and ſuch high Vertue, Induſtry, and Ability, as are ſuitable to the Dignity of his Noble Family, and the Truſt His Majeſty repoſed in him; and hath not only ſtood out againſt all Temptations and Enticements, but hath moſt nobly croſſed and repreſſed Deſigns and Attempts of deſerting the Service, and perſiſted loyally and firmly in it to the very laſt, thro' exceſſive Toil and many Difficulties, miſregarding all perſonal Inconveniences, and chuſing the Loſs of Friends, Fortune, and all private Concernments, and to endure the utmoſt Extremities rather than to ſwerve in the leaſt from his Duty, or taint his Reputation with the meaneſt Shadow of Diſloyalty and Diſhonour. I do therefore hereby teſtify and declare, that I am perfectly ſatisfied with his whole Deportments, in relation to the Enemy, and this late War; and do highly approve them, as being not only above all I can expreſs of their Worth, but almoſt beyond all Parallel. And I do withal hereby both allow, and moſt earneſtly deſire, and wiſh him, to loſe no Time in taking ſuch Courſe for his Safety and Preſervation by Treaty and Agreement, or Capitulation, as he ſhall judge moſt fit and expedient for the good of his Perſon, Family, and Eſtate, ſince inevitable and invincible Neceſſity hath forced us to lay aſide this War. And I can now no other Way expreſs my Reſpects to him, nor contribute my Endeavour to do him Honour and Service. In Teſtimony whereof I have ſigned and ſealed theſe Preſents at *Dunveagave*, the laſt Day of *March*, 1655.

John Middleton.

Another Letter from the Earl of Middleton, *to the ſame Purpoſe.*

Paris, April 17. 1655.

My Noble Lord,

I Am hopeful, that the Bearer of this Letter will be found one who has been a moſt faithful Servant to your Lordſhip, and my kind Friend, and a Sharer in my Troubles. Indeed I have been ſtrengthned by him to ſupport and overcome many Difficulties. He will acquaint you with what hath paſt, which truly was ſtrange to both of us, but your own Re-encounters will leſſen them. My Lord, I ſhall be faithful in giving you that Character which your Worth and Merit may juſtly challenge. I profeſs it is, next to the Ruine of the Service, one of my chiefeſt Regrets that I could not poſſibly wait upon you before my going from *Scotland*, that I might have ſettled a Way of Correſpondence with you, and that your Lordſhip might have underſtood me better than yet you do; I ſhould have been plain in every thing, and indeed have made your Lordſhip my Confeſſor: and I am hopeful the Bearer will ſay ſomewhat for me, and I doubt not but your Lordſhip will truſt him. If it ſhall pleaſe God to bring me ſafe from beyond Sea, your Lordſhip ſhall hear from me by a ſure Hand. Sir *Ro. M.* will tell you a Way of correſponding. So that I ſhall ſay no more at preſent, but that I am, without Poſſibility of change,

My Noble Lord,
Your Lordſhip's moſt Faithful,
and moſt Humble Servant,

John Middleton.

A Letter from the Earl of Glencairn, *teſtifying his eſteem for this Noble Perſon, and the ſenſe he had of his Loyalty to the King, when few had the Courage to own him.*

My Lord,

LEſt it may be my misfortune, in all theſe great Revolutions, to be miſrepreſented to your Lordſhip, as a Perſon unworthy of your favourable Opinion (an Artifice very frequent in theſe Times) I did take occaſion to call for a Friend and Servant of yours, the Laird of *Spanie*, on whoſe Diſcretion I did adventure to lay forth my Heart's deſire, to obviate in the Bud any of theſe Miſunderſtandings. Your Lordſhip's true Worth and Zeal to your Country's Happineſs being ſo well known to me, and confirmed by our late Suffering-Acquaintance: And now finding how much it may conduce to theſe great Ends, we all wiſh that a perfect Unity may be amongſt all good and honeſt-hearted *Scotchmen*, tho' there be few more inſignificant than my ſelf: yet my Zeal for thoſe Ends obliges me to ſay, that if your Lordſhip's Health and Affairs could have permitted you to have been at *Edinburgh* in theſe late

late Times, you would have ſeen a great Inclination and Deſire, amongſt all here, of a perfect Unity, and of a mutual reſpect to your Perſon, as of chief eminence and worth. And I here ſhall ſet it under my Hand, to witneſs againſt all my Informers, that none did with more Paſſion, nor ſhall with more continued Zeal, witneſs themſelves to be true Honourers of you, than he who deſires infinitely to be eſteemed,

My Lord,
Your moſt humble Servant,

GLENCAIRN.

What I cannot well write, I hope this diſcreet Gentleman will tell you, in my Name: And I ſhall only beg leave to ſay, that I am your moſt Noble Lady's Humble Servant.

After the reading of which Order and Letters, which yet the Court refuſed to record, the Earl's Advocate, or Council, Sir *George Lockhart* ſaid in his Defence as follows.

Sir George Lockhart's *Argument and Plea for the Earl of* Argyle.

SIR *George Lockhart*, for the Earl of *Argyle*, alledgeth, That the Libel is not Relevant, and whereupon he ought to be put to the knowledge of an Inqueſt. For,

It is alledged in the general, That all Criminal Libels, whereupon any Perſons Life, Eſtate and Reputation, can be drawn in queſtion, ſhould be founded upon clear, poſitive and expreſs Acts of Parliament, and the matter of Fact, which is libelled to be the Contravention of thoſe Laws, ſhould be plain, clear, and direct Contraventions of the ſame, and not argued by Way of Implications and Inferences. Whereas in this Caſe, neither the Acts of Parliament, founded upon, and libelled, can be in the leaſt the Foundation of this Libel: nor is the Explication which is pretended to be made by the Pannel, at the time of the taking of his Oath (if conſidered,) any Contravention of thoſe Laws; which being premiſed, and the Pannel denying the Libel, as to the whole Articles and Points therein contained, it is alledged in ſpecial:

That the Libel, in ſo far as it is founded upon the 21*ſt Chap. Stat.* 1. *Robert* 1. and upon 83*d Act, Par.* 6. James 5. the 43*d Act, Par.* 2. James 1. and upon the 83d *Act, Par.* 10. James 5. and upon 84th *Act, Par.* 8. James 6. and upon the 10th *Act, Par* 10. James 6. and upon the 2d *Act, Par.* 1. *Seſ.* 2. of His Sacred Majeſty; and inferring thereupon, that the Pannel, by the pretended Explication given in by him to the Lords of His Majeſty's Privy-Council, as the Senſe of the Oath he had taken, doth commit the Crime of Leaſing-making, and depraving His Majeſty's Laws: the Inference and Subſumption is moſt unwarrantable, and the Pannel, tho' any ſuch thing were acknowledged or proved, can never be found guilty of contravening theſe Acts of Parliament. In reſpect it is evident, upon Peruſal and Conſideration of theſe Acts of Parliament, that they only concern the Caſe of Leaſing-making tending to Sedition, and to beget Diſcord betwixt His Majeſty and His Subjects, and the Diſlike of His Majeſty's Government, and the Reproach of the ſame. And the ſaid Laws and Acts of Parliament were never underſtood or libelled upon, in any other Senſe. And all the former Acts of Parliament, which relate to the Crime of Leaſing-making in general Terms, and under the Qualification foreſaid, as tending to beget Diſcord betwixt His Majeſty and his Subjects, are explained and fully declared, as to what is the true meaning and import thereof, by the 134*th Act, Par.* 8. James 6. which relates to the ſame Crime of Leaſing-making, and which is expreſly deſcribed in theſe Terms, to be wicked and licentious, publick and private Speeches, and untrue Calumnies to the Diſdain and Contempt of His Majeſty's Council and Proceedings, and to the Diſhonour and Prejudice of His Highneſs and his Eſtate, ſtirring up his Highneſs's Subjects to Miſliking, and Sedition, and Unquietneſs which being the true Senſe and Import of the Acts of Parliament made againſt Leaſing-makers, there is nothing can be inferred from the Pannel's alledged Explication, which can be wreſted or conſtrued to be a Contravention of theſe Laws: in reſpect,

Firſt, It is known by the whole tenor of his Life, and graciouſly acknowledged by His Sacred Majeſty, by a Letter under His Royal Hand, that the Pannel did ever moſt zealouſly, vigouroufly, and faithfully promote and carry on His Majeſty's Service and Intereſt, even in the worſt and moſt difficult Times: which is alſo acknowledged by a Paſs under the Earl of *Middleton's* Hand, who had then a ſpecial Commiſſion from His Majeſty, for carrying on His Majeſty's Service in this Kingdom, as Lieutenant General under His Majeſty; and by a Letter under the Earl's Hand, of the date, both which do contain high Expreſſions of the Pannel's Loyalty, and of the great Services he had performed for His Majeſty's Intereſt. And His Majeſty, as being conſcious thereof, and perfectly knowing the Pannel's Loyalty, and his Zeal, and Faithfulneſs for his Service, did think fit to entruſt the Pannel in Offices and Capacities of the greateſt Truſt of the Kingdom. And it is a juſt and rational Preſumption, which all Law Makes and Infers, that the Words and Expreſſions of Perſons, who by the Tenor and Courſe of their Lives have expreſſed their Duty and Loyalty to His Majeſty's Intereſt, are ever to be interpreted, and underſtood *in meliorem partem.* And by Way of Implication and Inference, to conclude and infer Crimes from the ſame, which the Uſer of ſuch Words and Expreſſions never mean'd nor deſigned, is both unreaſonable and unjuſt.

2. As the foreſaid Acts of Parliament made againſt Leaſing-makers, and depravers of His Majeſty's Laws, only proceed in the Terms foreſaid, where the Words and Speeches are plain, tending to beget Diſcord between the King and his Subjects, and to the reproach and diſlike of his Government, and when the ſame are ſpoke and vented in a ſubdolous, pernicious, and frandulent manner: So they never were, nor can be underſtood to proceed in the Caſe of a Perſon offering in the preſence of a publick Judicature (whereof he had the Honour to be a Member) his ſincere and plain meaning and apprehenſion of what he conceived to be the true ſenſe of the Act of Parliament impoſing and enjoining the *Teſt*: There being nothing more oppoſite to the Act of Parliament made againſt Leaſing-making, and venting and ſpreading abroad the ſame upon

Seditious Deſigns, than the foreſaid plain and open declaration of his ſenſe and apprehenſion, what was the meaning of the ſaid Act of Parliament. And it is of no import to infer any Crime, and much leſs of any of the Crimes libelled, albeit the Pannel had erred and miſtaken in his apprehenſion of the Act of Parliament. And it were a ſtrange extention of the Act of Parliament made againſt Leaſing-makers, requiring the Qualifications foreſaid, and the Acts againſt depraving His Majeſty's Laws, to make the Pannel, or any other Perſon guilty upon the Miſtakes and Miſapprehenſions of the Senſe of the Laws, wherein Men may miſtake and differ very much, and even eminent Lawyers and Judges. So that the Acts of Parliament againſt Leaſing-making, and depraving His Majeſty's Laws, can only be underſtood in the expreſs Terms and Qualifications foreſaid. Like as it neither is libelled, nor can be proven, that the Pannel, before he was called and required by the Lords of His Majeſty's Privy-Council to take the Oath, did ever, by Word or Practice, uſe any reproachful Speeches of the ſaid Act of Parliament, or of His Majeſty's Government: but being required to take the Oath, he did humbly, with all Submiſſion, declare what he apprehended to be the Senſe of the Act of Parliament, enjoyning the *Teſt*, and in what Senſe he had Freedom to take the ſame.

3. The Act of Parliament enjoining the *Teſt* does not enjoin the ſame to be taken by all Perſons whatſoever, but only preſcribes it as a Qualification without which Perſons could not aſſume or continue to act in publick Truſt: which being an Oath to be taken by ſo ſolemn an Invocation of the Name of Almighty God, it is not only allowable by the Laws and Cuſtoms of all Nations, and the Opinion of all Divines, and Caſuiſts, Popiſh or Proteſtant, but alſo commended, that where a Party has any Scrupuloſity, or Unclearneſs in his Conſcience, as to the Matter of the Oath, that he ſhould exhibit and declare the ſenſe and meaning in which he is willing and able to take the Oath. And it is not at all material, whether the Scruples of a Man's Conſcience, in the Matter of an Oath, be in themſelves juſt or groundleſs, it being a certain *maxim*, both in Law and Divinity, that *Conſcientia etiam erronea ligat*: and therefore tho' the Pannel had thought fit, for the clearing and exoneration of his own Conſcience, in a Matter of the higheſt Concern as to his Peace and Repoſe, to have expreſt and declared the expreſs ſenſe in which he could take the Oath, whether the ſaid ſenſe was conſiſtent with the Act of Parliament, or not, yet it does not in the leaſt import any Matter of Reproach or Reflection upon the Juſtice or Prudence of the Parliament in impoſing the ſaid Oath: but alenarly does evince the Weakneſs and Scrupuloſity of a Man's Conſcience, who neither did, nor ought to have taken the Oath but with an Explanation that would have ſaved his Conſcience to his Apprehenſion. Otherwiſe he had groſly ſinned before God, even tho' it was *Conſcientia errans*. And this is allowed and preſcribed by all Proteſtant Divines, as indiſpenſibly neceſſary, and was never thought to import any Crime, and is alſo commended even by Popiſh Caſuiſts themſelves, who tho' they allow, in ſome Caſes, of mental Reſervations and Equivocations, yet the expreſs Declaration of the ſenſe of the Party is allowed and commended, as much more ingenuous: and *tutius Remedium Conſcientiæ ne illaqueetur*, as appears by *Bellarmine de Juramento*, and upon the ſame Title *de Interpretatione Juramenti*; and *Leſſius*, that famous Caſuiſt, *de Juſtitia & Jure, Dubitatione* 8, 9. *utrum ſi quis ſalvo animo aliquid Juramento promittat obligetur, & quale peccatum hoc ſit.* And which is the general Opinion of all Caſuiſts, and all Divines, as may appear by *Ameſius*, in his Treatiſe *de Conſcientia*, *Sanderſon de Juramento*, *Prælectione ſecunda*. And ſuch an expreſs Declaration of the ſenſe and meaning of any Party, when required to take an Oath, for no other end but for the clearing and exoneration of his own Conſcience, was never in the Opinion of any Lawyer, or any Divine, conſtrued to be the Crime of Leaſing-making, or of defamatory Libels, or depraving of publick Laws, or reproaching or miſconſtruing of the Government: but on the contrary, by the univerſal Suffrage of all Proteſtant Divines, there is expreſly required, in Caſes of a ſcrupulous Conſcience, an Abhorrence and Deteſtation of all reſerved Senſes, and of all *Amphibologies* and Equivocations, which are in themſelves unlawful and reprobate, upon that unanſwerable Reaſon, that *Juramentum* being the higheſt Act of Devotion and Religion, *in eo requiritur maxima ſimplicitas*; and that a Party is obliged, who has any Scruples of Conſcience, publickly and openly to clear and declare the ſame.

4. Albeit it is not controverted, but that a Legiſlator, impoſing an Oath, or any publick Authority, before whom the Oath is taken, may, after hearing of the Senſe and Explication which a Perſon is willing to put upon it, either reject or accept of the ſame, if it be conceived not to be conſiſtent with the genuine ſenſe of the Oath: yet tho' it were rejected, it was never heard of, or pretended, that the offering of a Senſe does import a Crime, but that notwithſtanding thereof, *Habetur pro Recuſante*, and as if he had not taken the Oath, and to be liable to the certification of Law, as if he had been a Refuſer.

5. The Pannel having publickly and openly declared the ſenſe in which he was free to take the Oath, it is offered to be proved, that he was allowed, and did accordingly proceed to the taking the Oath, and did thereafter take his Place, and Sit and Vote, during that *Sederunt* of Privy-Council. So as the pretended Senſe and Explication, which he did then emit and give, can import no Crime againſt him.

6. It is alſo offered to be proved, That before the Pannel was required to take the Oath, or did appear before his Royal Highneſs, and Lords of Privy-Council, to take the ſame, there were a great many Papers ſpread abroad from Perſons, and Miniſters of the Orthodox Clergy; and as the Pannel is informed, ſome thereof preſented to the Biſhops of the Church, in the Name of Synods and Presbyteries, which did, in downright Terms, charge the *Teſt* and Oath with alledged Contradictions and Inconſiſtencies. And for Satisfaction whereof ſome of the Learned and Reverend Biſhops of the Church did write a learned and ſatisfying Anſwet, called *A Vindication of the* Teſt, *for clearing the Scruples, Difficulties and Miſtakes that were objected againſt it.* And which Vindication and Anſwer was exhibited, and read before the Lords of His Majeſty's Privy-Council, and allowed to be printed: and from which the Pannel argues.

1. That

1. That it neither is, nor can be pretended in this Libel, that the alledged Explication, wherein he did take the Oath, does propoſe the Scruples of his Conſcience in theſe Terms, which were propoſed by the Authors of theſe Objections, which do flatly and poſitively aſſert, that the Oath and *Teſt*, do contain Matters of Inconſiſtency and Contradiction, whereas all that is pretended in this Libel, with the moſt abſolute Violence can be put upon the Words, is arguing Implications and Inferences, which neither the Words are capable to bear; nor the Sincerity of the Earl's Intention and Deſign, nor the Courſe of his by-paſt Life can poſſibly admit of. And yet none of the Perſons who were the Authors of ſuch Papers, were ever judged or reputed Criminal or Guilty, and to be proſecuted for the odious and infamous Crimes libelled, of *Treaſon*, *Leaſing-making*, *Perjury*, and the like.

2. The Pannel does alſo argue from the ſaid matter of Fact, that the alledged Explication libelled can neither in his Intention and Deſign, nor in the Words, infer or import any Crime againſt him, becauſe, before his being required, or appearing to take the Oath, there were ſpread abroad ſuch Scruples and Objections, by ſome of the Orthodox Clergy and others: ſo that the Earl can never in any Senſe be conſtrued in his Explication wherein he took the Oath, to have done it *animo infamandi*, and to declaim againſt the Government: for the Scruples and Objections that were ſpread abroad by others were a fair and rational Occaſion why the Earl in any Senſe or Explication which he offered might have ſaid that he was confident the Parliament never intended to impoſe contradictory Oaths; and this is ſo far from importing the Inſinuation and Inference made by the Libel, that thereby the Parliament were ſo impious as to impoſe contradictory Oaths, as on the contrary, conſidering the Circumſtances forementioned, that there were Papers ſpread abroad, inſinuating; that there were Inconſiſtencies and Contradictions contained therein, the ſaid Expreſſion was an high Vindication of the Honour and Juſtice of the Parliament, againſt the Calumnies and Miſrepreſentations which were caſt upon it, and was alſo a juſt Riſe for the Pannel, for the clearing and exoneration of his own Conſcience, in the various Senſes and Apprehenſions which he found were going abroad as to the ſaid *Teſt*, humbly to offer his Senſe, in which he was clear and ſatisfied to take the Oath.

7. To the Libel, in ſo far as it is founded upon the Act of Parliament, *viz. Act.* 130. *Par.* 8. *James* VI. declaring, That none ſhould preſume to impugn the Dignity or Authority of the Three Eſtates of Parliament, or procure any invaſion or diminution thereof, under the pain of Treaſon; as alſo, in ſo far as it is pretended in the Libel, That the Pannel, by offering the Senſe and Explication libelled, has aſſumed the Legiſlative Power, which is incommunicable, and has made a Law, or a part of a Law.

It is anſwered, The Libel is moſt groundleſs and irrelevant, and againſt which the Act of Parliament is opponed, which is ſo plain and evident upon the reading thereof, that it neither is nor can be ſubject to the leaſt Cavillation: And the plain meaning whereof is nothing elſe but to impugn the Authority of Parliaments, as if the King and Parliament had not a Legiſlative Power, or were not the higheſt Repreſentative of the King-dom; or that any of the Three Eſtates were not eſſentially requiſit to conſtitute the Parliament. And beſides there is nothing more certain, than that the Occaſion of the ſaid Act, its being made was in Relation to the Biſhops and Clergy: and there is nothing in the pretended Explanation that can be wreſted to import the leaſt Contravention of the ſaid Act, or to be an impugning of the Three Eſtates of Parliament, or a ſeeking any Innovation therein. And it is admired, with what Shadow of Reaſon it can be pretended, that the Pannel has aſſumed a Legiſlative Power, or made a Part of a Law, ſeeing all that is contained in the alledged Explication libelled is only a Declaration of the Earl's Senſe in which he was ſatisfyed to take the Oath, and ſo reſpected none but himſelf, and for the clearing of his own Conſcience, which juſtly indeed the Word of God calls a Law to himſelf, without any incroaching upon the Legiſlative Power. And where was it ever debated, but that a Man in the taking of an Oath, if as to his Apprehenſions he thought any thing in it deſerved to be cleared, might declare the ſame, or that his exhibiting, at the time of the taking of the Oath, his Senſe and Explication wherein he did take it, was ever reputed or pretended to be the aſſuming of a Legiſlative Power, it being the Univerſal Practice of all Nations to allow this Liberty; and which Senſe may be either rejected or accepted, as the Legiſlator ſhall think fit, importing no more but a Parties private Senſe, for the exoneration of his own Conſcience? And as to that Member of the Libel founded upon *Act* 19. *Par.* 3. *Queen* Mary, it contains nothing but a Declaration of the Pain of Perjury, and there is nothing in the Explication libelled, which can in the leaſt be inferred as a Contravention of the ſaid Act, in reſpect if it ſhould be proved, that the Pannel, at the time of the taking of the Oath, did take it in the Words of the ſaid Explication, as his Senſe of the Oath, it is clear that the Senſe being declared at the time of taking the Oath, and allowed as the Senſe wherein it was taken, the Pannel can only be underſtood to have taken it in that Senſe. And altho' publick Authority may conſider whether the Senſe given by the Pannel does ſatisfie the Law or not, yet that can import no more, tho' it was found not to ſatisfie, but to hold the Pannel as a Refuſer of the Oath: but it is abſolutely impoſſible to infer the Crimes of Perjury upon it, being as is pretended by the Libel, the Pannel did only take it with the Declaration of the Senſe and Explication libelled.

8. As the Explication libelled does not at all import all, or any of the Crimes contained in the ſaid Libel, ſo by the common Principles of all Law, where a Perſon does emit Words for the clearing and exoneration of his own Conſcience, altho' there were any Ambiguity, or Unclearneſs, or Involvedneſs in the Tenor or Import of the Expreſſions or Words, yet they are ever to be interpreted, *Interpretatione benigna & favorabili, according to the general Principles of Law and Reaſon.* And it never was, nor can be refuſed to any Perſon to interpret and put a congruous ſenſe upon his own Words, eſpecially the Pannel being a Perſon of eminent Quality, and who hath given great Demonſtration, and undeniable Evidences of his fixt and unalterable Loyalty to His Majeſty's Intereſt and Service, and, at the Time of emitting the ſaid Explication, was inveſted

and entruſted in publick Capacities. And it is a juſt and rational Interpretation and Caution which *Sanderſon*, that judicious and eminent Caſuiſt, gives, *Prælect.* 2. That *dicta & facta principum, parentum, rectorum*, are ever to be looked upon as *benignæ Interpretationis*, and that *Dubia ſunt interpretanda in meliorem partem.* And there is nothing in the Explication libelled which, without Detortion and Violence, and in the true Senſe and deſign of the Pannel, is not capable of this benign Interpretation and Conſtruction, eſpecially reſpect being had to the Circumſtances wherein it was emitted and given, after a great many Objections, Scruples, and alledged Inconſiſtencies, were owned, vented and ſpread abroad, which was a riſe to the Earl for uſing the Expreſſions contained in the pretended Declaration libelled.

10. Theſe Words whereby it is pretended the Pannel declares, *he was ready to give Obedience as far as he could*, firſt, do not in the leaſt Import, that the Parliament had impoſed any Oath which was in it ſelf unlawful: but only the Pannel's Scrupuloſity and Unclearneſs in matter of Conſcience. And it is hoped it cannot be a Crime, becauſe all Men cannot go the ſame length. And if any ſuch thing were argued, it might be argued ten Times more ſtrongly from a ſimple refuſing of the Oath, as if any thing were enjoyned which were ſo hard that it is not poſſible to comply with it: and yet ſuch Implications are moſt irrational and inconſequential, and neither in the Caſe of a ſimple and abſolute refuſing of the Oath, nor in the Caſe of an Explication of the Party's Senſe wherein he is willing to take the Oath, is there any Impeachment of the Juſtice and Prudence of the Legiſlator, who impoſeth this Oath, but ſingly a Declaration, of the Scrupuloſity and Weakneſs of the Party, why he cannot take the Oath in other Terms: and ſuch Explications have been allowed by the Laws and Cuſtoms of all Nations, and are adviſed by all Divines, of whatſoever Principles, for the Solace and Security of a Man's Conſcience.

2. As to that Point of the Explication libelled, *That I am confident the Parliament never intended to impoſe contradictory Oaths*; it reſpects the former Anſwer, which, conſidering the plain and downright Objections which were ſpread abroad, and made againſt the Oath, as containing Inconſiſtencies and Contradictions, was an high Vindication of the Juſtice and Prudence of the Parliament.

3. As to theſe Words, *And therefore I think no body can explain it but for himſelf.* The plain and clear meaning is nothing elſe but that the Oath being impoſed by Act of Parliament it was of no private Interpretation; And that therefore every Man who was to take it behooved to take it in that ſenſe which he apprehended to be the genuine Senſe of the Parliament. And it is impoſſible, without impugning common Senſe, that any Man could take it in any other Senſe, it being as impoſſible to ſee with another Man's Eyes as to ſee with his private Reaſon. And a Man's own private Senſe and Apprehenſion of the genuine Senſe was the only proper Way wherein any Man could rationally take the Oath.

And as to theſe Words, *That he takes it as far as it is conſiſtent with it ſelf and the Proteſtant Religion.* The Pannel neither intended nor expreſt more, but that he did take it as a true Proteſtant, and he hopes all Men have taken it as ſuch.

And as to that Clauſe, wherein the Pannel is made to declare, *That he does not bind up himſelf in his Station, in a lawful Way, to wiſh and endeavour any Alteration he thinks to the Advantage of Church or State, not repugnant to the Proteſtant Religion and his Loyalty.*

It is anſwered, there is nothing in this Expreſſion that can import the leaſt Crime, or give the leaſt Umbrage for any Miſtake, For,

1. It is moſt certain, it ir impoſſible to elicite any ſuch thing from the Oath, but that it was the Intention of the Parliament, that Perſons, notwithſtanding of the Oath, might concur in their Stations, and in a lawful Way, in any Law to the Advantage of Church and State. And no rational Man ever did, or can take the Oath in other Terms, that being contrary to his Allegiance and Duty to His Sacred Majeſty and Prince.

2. There is nothing in the ſaid Expreſſion which does in the leaſt point at any alteration in the Fundamentals of Government, either in Church or State; but, on the contrary, by the plain and clear Words and Meaning, rather for its perpetuity, ſtability and ſecurity. The Expreſſion being cautioned to the utmoſt ſcrupuloſity, as that it was to be done in a lawful manner; that it was to be to the advantage of Church or State; that it was to be conſiſtent with the Proteſtant Religion, and with his Loyalty, which was no other but the Duty and Loyalty of all faithful Subjects; and which he has ſignally and eminently expreſſed upon all Occaſions. So that how ſuch an Expreſſion can be drawn to import all or any of the Crimes libelled paſſeth all Natural Underſtanding.

And as to the laſt words, *And this I underſtand as a part of my Oath*, which is libelled to be a treaſonable Invaſion, and aſſuming of the Legiſlative Power. It is anſwered, it is moſt unwarrantable; and a Parties declaring the ſenſe and meaning in which he was free to take an Oath does not at all reſpect or invade the Legiſlative Power, of which the Pannel never entertained a Thought, but has an abſolute Abhorrence and Deteſtation of ſuch Practices. But the plain and clear meaning is, that the Senſe and Explication was a Part of his Oath, and not of the Law impoſing the Oath, theſe being as diſtant as the two Poles: and which Senſe was taken off the Earl's Hands, and he accordingly was allowed to take his Place at the Council-Board, and therefore repeats the former general Defences.

And to convince the Lords of Juſtitiary, that there is nothing in the pretended Explication libelled which can be drawn to import any Crime, even of the loweſt Size and Degree, and that there is no Expreſſion therein contained that can be detorted and wreſted to import the ſame, is evident from that learned Vindication publiſhed and ſpread abroad by an eminent Biſhop, and which was read in the Face of the Privy-Council, and does contain Expreſſions of the ſame Nature, and to the ſame Import contained in the pretended Explication libelled as the ground of this Indictment libelled againſt the Pannel. And it is poſitively offered to be proven, that theſe Terms were given in, and read, and allowed to be printed, and (without taking notice of the whole Tenor of the ſaid Vindication, which the Lords of Juſtitiary are humbly deſired to peruſe, and conſider, and compare the ſame with the Explication libelled) the ſame acknowledgeth, that Scruples

ples had been raiſed and ſpread abroad againſt the Oath; and alſo acknowledgeth, that there were Expreſſions therein that were dark and obſcure; and likewiſe takes notice, that the Confeſſion ratified Par. 1. *James* 6. to which the Oath relates, was haſtily made, and takes notice of that Authority that made it, and acknowledges in plain Terms, that the Oath does not hinder any regular Endeavour to regulate or better the eſtabliſh'd Government; but only prohibits irregular Endeavours and Attempts to invert the ſubſtance or Body of the Government; and does likewiſe explain the Act of Parliament anent His Majeſty's Supremacy, that it does not reach the Alteration of the external Government of the Church. And the Pannel and his Proctors are far from inſinuating in the leaſt, that there is any thing in the ſaid Vindication but what is conſiſtent with the exemplary Loyalty, Piety and Learning of the Writer of the ſame. And tho' others perhaps may differ in their private Opinion, as to this Interpretation of the Act of Parliament anent the King's Supremacy, yet it were moſt abſurd and irrational to pretend that whether the miſtake were upon the Interpretation of the Writer, or the Senſe of others, as to that Point, that ſuch Miſtakes or Miſapprehenſions, upon either Hand, ſhould import or infer againſt them the Crimes of Leaſing-making, or depraving His Majeſty's Laws: for if ſuch Foundations were laid, Judges and Lawyers had a dangerous Employment, there being nothing more ordinary than to fall into Differences and Miſtakes of the ſenſe and meaning of the Laws and Acts of Parliament. But ſuch Crimes cannot be inferred, but with and under the Qualifications above-mentioned, of malicious and perverſe Deſigns, joyned with licentious, wicked and reproachful Speeches ſpread abroad, to move Sedition and Diſlike of the Government. And the ſaid Laws were never otherwiſe interpreted, nor extended in any Caſe. And therefore the Explication libelled, neither as taken complexly, nor in the ſeveral Expreſſions thereof, nor in the Deſign of the ingiver of the ſame, can in Law import againſt him all or any of the Crimes libelled.

In like manner the Pannel conjoins with the grounds above-mentioned the Proclamation iſſued forth by His Majeſty's Privy-Council, which acknowledges and proceeds upon a Narrative, that Scruples and Jealouſies were raiſed and ſpread abroad againſt the Act of Parliament enjoyning the *Teſt*. For clearing and ſatisfaction whereof the ſaid Proclamation was iſſued forth, and is ſince approved by his Sacred Majeſty.

The King's Advocate's Argument and Plea againſt the Earl of Argyle.

HIS Majeſty's Advocate, for the Foundation of his Debate, does repreſent, that His Majeſty, to ſecure the Government from the Rebellious Principles of the laſt Age, and the unjuſt Pretexts made uſe of in this, from Popery, and other Jealouſies; as alſo to ſecure the Proteſtant Religion, and the Crown, called a Parliament; and that the great Security reſolved on by the Parliament was this excellent *Teſt*, in which, that the old jugling Principles of the Covenant might not be renewed, wherein they ſtill ſwore to ſerve the King in their own Way, the Parliament did poſitively ordain, that this Oath ſhould be taken in the plain genuine meaning of the Words, without any Evaſion whatſoever. Notwithſtanding whereof, the Earl of *Argyle*, by this Paper, does invent a new Way, whereby no Man is at all bound to it. For how can any Perſon be bound, if every Man will only obey it as far as he can, and as far as he conceives it conſiſtent with the Proteſtant Religion, and with it ſelf, and reſerve to himſelf, notwithſtanding thereof, to make any Alteration that he thinks conſiſtent with his Loyalty? And therefore His Majeſty's Advocate deſires to know, to what the Earl of *Argyle*, or any Man elſe, can be bound by this *Teſt*? what the Magiſtrate can expect, or what Way he can puniſh his Perjury? For if he be bound no farther than he himſelf can obey, or ſo far as this Oath is conſiſtent with the Proteſtant Religion or it ſelf, *quomodo conſtat*, to whom or what he is bound? And who can determine that? Or againſt what Alteration is the Government ſecured, ſince he is Judge of his own Alteration? So that that Oath, that was to be taken without any Evaſion, is evaded in every ſingle Word or Letter; and the Government as inſecure as before the Act was made, becauſe the Taker is no farther bound than he pleaſes. From which it cannot be denied, but his Interpretation deſtroys not only this Act, but all Government, ſince it takes away the Security of all Government, and makes every Man's Conſcience, under which Name there goes ordinarily in this Age Humour and Intereſt, to be the rule of the Taker's Obedience. Nor can it be conceived to what Purpoſe Laws, but eſpecially Oaths, needed to be made, if this were allowed; or how this cannot fall under the 107*th Act, Par.* 7. James 6. whereby it is ſtatuted, *That no Man interpret the Statutes otherwiſe than the Maker underſtood*. For what can be more contrary to the taking of them in the Maker's Senſe, than that every Man ſhould obey as far as he can, and be allowed to take them in a general Senſe, ſo far as they are conſiſtent with themſelves, and the Proteſtant Religion, without condeſcending wherein they do not agree with the Proteſtant Religion? and that they are not bound not to make any Alteration which they think good for the States? For all theſe make the rule of Obedience in the Taker, whereas the poſitive Law makes it to be in the Maker. Or how could they be puniſhed for Perjury after this Oath? For when he were quarrelled for making Alterations againſt this Oath; and ſo to be perjured, he might eaſily anſwer, that he took this Oath only in ſo far as it was conſiſtent with the Proteſtant Religion, and with a *Salvo*, that he might make any Alteration that he thought conſiſtent with his Loyalty. And as to theſe Points, upon which he were to be quarrelled, he might ſay, he did not think them to be inconſiſtent with his Loyalty, think we what we pleaſed, and ſo needed not be perjured, except he pleaſed to decide againſt himſelf: for in theſe Generals he reſerves to himſelf to be ſtill Judge. And this were indeed a fine Security for any Government. And by the ſame rule that it looſes this Oath, it ſhews a Way of looſing all Oaths and Obedience: and conſequently ſtrikes at the Root of all Laws, as well as this: whereas to ſhun all this, not only this excellent Statute 107. has ſecured all the reſt, but

but this is common Reaſon: and in the Opinion of all Divines, as well as Lawyers in all Nations, *Verba juramenti intelliguntur ſecundum mentem & Intentionem ejus, cui fit juramentum.* Which is ſet down, as the grand Poſition, by *Sanderſon*, (whom they cite) *Pag.* 137. and is founded upon that Mother-Law, *Leg.* 10. *cui interrogatus f. f. de interrogationibus in Jure faciendus*; and without which no Man can have ſenſe of Government in his Head, or practiſe it in any Nation. Whereas on the other Hand there is no Danger to any tender Conſcience, ſince there was no force upon the Earl to take the Oath, but he took it for his own Advantage, and might have abſtained.

2. It is inferred from the above-written matter of Fact, that the Earl is clearly guilty of Contravention of the 10 *Act*, *Par.* 10. *James VI.* Whereby the Leidges are commanded not to write any purpoſe of Reproach of His Majeſty's Government, or miſconſtrue his Proceedings, whereby any miſliking may be raiſed betwixt His Highneſs, his Nobility, or his People. And who can read this Paper, without ſeeing the King and Parliament reproached openly in it? For who can hear, that the Oath is only taken as far as it is conſiſtent with it ſelf and the Proteſtant Religion, but muſt neceſſarily conclude, that in ſeveral things it is inconſiſtent with it ſelf, and the Proteſtant Religion? For if it were not inconſiſtent with it ſelf, and the Proteſtant Religion, why this Clauſe at all but it might have been ſimply taken? For the only Reaſon of hindering it to be taken ſimply, was becauſe of the Inconſiſtency. *Ergo* there behoved neceſſarily to be an Inconſiſtency. And if there be any Inconſiſtency with the Proteſtant Religion, or any Contradiction in the Oath it ſelf, can there be any thing a greater Reproach on the Parliament, or a greater ground of miſlike to the People? And whereas it is pretended, that all Laws and Subſumptions ſhould be clear, and theſe are only Inferences. It is anſwered, that there are ſome things which the Law can only forbid in general: and there are many Inferences which are as ſtrong and natural, and reproach as ſoon, or ſooner, than the plaineſt Defamations in the World do: for what is openly ſaid of Reproach to the King does not wound him ſo much as many ſeditious Inſinuations have done in this Age and the laſt: So that whatever was the Earl's Deſign (albeit it is always conceived to be unkind to the Act, againſt which himſelf debated in Parliament,) yet certainly the Law in ſuch Caſes is only to conſider what effect this may have amongſt the People: And therefore the Acts of Parliament that were to guard againſt the miſconſtruing of His Majeſty's Government, do not only ſpeak of what was deſigned, but where a diſliking may be cauſed; and ſo judgeth *ab effectu*: And, conſequentially to the ſame emergent Reaſon, it makes all things tending to the raiſing of diſlike to be puniſhable by the *Act* 60. *Parl.* 6. Queen *Mary*; and the 9 *Act Parl.* 20. *James* VI. So that the Law deſigned to deter all Men by theſe indefinite and comprehenſive Expreſſions: And both in this and all the Laws of Leaſing-making, the Judges are to conſider what falls under theſe general and comprehenſive Words, nor could the Law be more ſpecial here, ſince the Makers of Reproach and Slander are ſo various that they could not be bound up or expreſt in any Law: but as it evidently appears, that no Man can hear the Words expreſt, if he believe this Paper, but he muſt think the Parliament has made a very ridiculous Oath, inconſiſtent with it ſelf and the Proteſtant Religion, the Words allowing no other Senſe, and having that natural Tendency; even as if a Man would ſay, I love ſuch a Man only in ſo far as he is an honeſt Man, he behoved certainly to conclude, that the Man was not every Way honeſt; ſo if your Lordſhips will take meaſures by other Parliaments, or your Predeceſſors, ye will clearly ſee, that they thought leſs than this a defaming of the Government, and miſconſtruing His Majeſty's Proceedings. For in *Balmerino*'s Caſe the Juſtices find an humble Supplication made to the King himſelf to fall under theſe Acts now cited. Albeit as that was a Supplication, ſo it contained the greateſt Expreſſions of Loyalty, and offers of Life and Fortune that could be expreſt, yet becauſe it inſinuates darkly, that the King in the preceeding Parliament had not favoured the Proteſtant Religion, and they were ſorry he ſhould have taken Notes with his own Hands of what they ſaid, which ſeems to be moſt innocent, yet he was found guilty upon thoſe ſame very Acts. And the Parliament 1661. found his Lordſhip himſelf guilty of Leaſing-making, tho' he had only written a Letter to a private Friend, which requires no great Care nor Obſervation, (but this Paper which was to be a Part of his own Oath does) becauſe after he had ſpoken of the Parliament in the firſt Part of this Letter, he thereafter added, *that the King would know their Tricks:* which Words might be much more applicable to the private Perſons therein deſigned, than that the Words now inſiſted on can be capable of any ſuch Interpretation. And if either Interpretations, upon pretext of exonering of Conſcience, or otherwiſe, be allowed, a Man may eaſily defame as much as he pleaſes: and have we not ſeen the King moſt defamed by Covenants entered into upon Pretence to make him great and glorious, by Remonſtrances made to take away his Brother and beſt Friend, upon Pretence of preſerving the Proteſtant Religion, and His Sacred Perſon? and did not all who rebelled againſt him in the laſt Age declare, that they thought themſelves bound in duty to obey him, but ſtill as far as that could conſiſt with their Reſpect to the Proteſtant Religion, and the Laws and Liberties, which made all the reſt ineffectual? And whereas it is pretended, that by theſe Words, *I take the ſame in as far as it is conſiſtent with it ſelf and the Proteſtant Religion*, nothing more is meant, but that he takes it as a true Proteſtant: His Majeſty's Advocate appeals to your Lordſhips, and all the Hearers, if upon hearing this Expreſſion they ſhould take it in this ſenſe, and not rather think that there is an Inconſiſtency. For if that were poſſible to be the ſenſe, what need he ſay at all, *as far as it is conſiſtent with it ſelf*? Nor had the other Part, *as far as it is conſiſtent with the Proteſtant Religion*, been neceſſary. For it is either conſiſtent with the Proteſtant Religion, or otherwiſe they were Enemies to the Proteſtant Religion, that made it. Nor are any Lawyers or others in danger, by pleading or writing: For theſe are very different from, and may be very eaſily pleaded without defaming a Law, and an Oath, when they go to take it. But if any Lawyer ſhould ſay, in pleading or writing, that the *Teſt* was inconſiſtent, or, which is all one, that it were not to be taken by any

any Man, but ſo far as it was conſiſtent with it ſelf, and the Proteſtant Religion, no doubt this would be a Crime even in pleading, tho' pleading has a greater Allowance than deliberate ſwearing has. And as there is nothing wherein there is not ſome Inconveniency, ſo the Inconveniency of defaming the Government is much greater than that of any private Man's Hazard, who needs not err except he pleaſe.

Whereas it is pretended, that before the Earl gave in this Explication, there were other Explications ſpread abroad, and Anſwers read to them in Council, and that the Council it ſelf gave an Explication. It was anſwered, that if this Paper be Leaſing-making, or miſconſtruing His Majeſty's Proceedings, and treaſonable, as is contended, then a thouſand of the like Offences cannot excuſe it. And when the King accuſed Noblemen, Miniſters, and others, in the Year 1661. for going on in the Rebellions of that Age, firſt with the Covenanters, and then with the Uſurpers, it was found no Defence, that the Nation was over-grown with thoſe Crimes, and that they were thought to be duties in thoſe Days, yea, this were to invite Men to offend in Multitudes. And albeit ſometimes theſe who follow the Examples of Multitudes may thereby pretend this as an Excuſe to many, yet this was never a formal Defence againſt Guilt, nor was ever the chief of the Offenders favourable on that Head. And it is to be preſumed, that the Earl of *Argyle* would rather be followed by others, than that he would follow any Example. But His Majeſty's Advocate does abſolutely decline to debate a Point that may defame a conſtant and ſtanding Act of Parliament, by leaving upon record a Memory of its being oppoſed. Nor were this Relevant, except it could be ſaid, the Council had allowed ſuch Explications which reflected upon the King and the Government: for the writing an Anſwer is no Allowance, but a condemning: nor can the Council allow any more than they can remit: and tho' it may juſtly be denied that the Council heard even the Earl's own Explanation, yet the hearing or allowing him to ſit is no relevant Plea, becauſe they might very juſtly have taken a time to conſider how far it was fit to accuſe upon that Head. And it is both juſt and fit for the Council to take time; and by expreſs Act of Parliament the Negligence of the King's Officers does not bind them. For if this were allowed, leading Men in the Council might commit what Crimes they pleaſed in the Council, which certainly the King may quarrel many Years after. And tho' all the Council had allowed him that Day, any one Officer of State might have quarrelled it the next Day. As to the Opinion of *Bellarmine*, *Sanderſon*, and others, it is ever contended, that the Principles of the Covenant agree very well with thoſe of the Jeſuits, and both do ſtill allow Equivocations and Evaſions: but no ſolid, Orthodox Divine ever allowed, that a Man who was to ſwear without any Evaſion ſhould ſwear ſo as he is bound to nothing, as it is contended the Earl is not, for the Reaſons repreſented. And as they ſtill recommend, that when Men are not clear they might abſtain, as the Earl might have done in this Caſe, ſo they ſtill conclude, that Men ſhould tell in clear Terms, what the Senſe is by which they are bound to the State: whereas the Earl here tells only in the general, and in moſt ambiguous Terms, that he takes it as far as he can obey, and as far it is conſiſtent with the Proteſtant Religion, and that he takes it in his own ſenſe, and that he is not bound by it from making Alterations, but as far as he thinks it for the Advantage of Church or State: which ſenſe is a thouſand times more doubtful than the *Teſt*, and is in effect nothing but what the Taker pleaſes himſelf.

As to the Treaſon founded on, His Majeſty's Advocate founds it firſt upon the fundamental and common Laws of this and all Nations, whereby it is Treaſon for any Man to make any Alteration he ſhall think for the Advantage of Church or State: which he hopes is a Principle cannot be denied in the general. And whereas it is pretended, that this cannot be underſtood of mean Alterations, and of Alterations to be made in a lawful Way: it is anſwered, that as the thing it ſelf is Treaſon; ſo this Treaſon is not taken off by any of theſe Qualifications; becauſe he declares, he will wiſh and endeavonr any Alteration he thinks fit: and any Alteration comprehends all Alterations that he thinks fit: *nam propoſitio indefinita æquipollet univerſali.* And the Word *any* is general in its own Nature, and is in plain Terms a reſerving to himſelf to make Alterations, both great and ſmall. And the Reſtriction is not, all Alterations that the King ſhall think fit, or are conſiſtent with the Laws and Acts of Parliament; but he is ſtill to be Judge of this, and his Loyalty is to be the Standard. Nor did the Covenanters in the laſt Age, nor do theſe who are daily executed, decline that they are bound to obey the King, ſimply, but only that they are bound to obey him no otherwiſe than as far as his Commands are conſiſtent with the Law of God, of Nature, and of this Kingdom, and with the Covenant: and their Treaſon lies in this. And when it is asked them, who ſhall be judge in this, they ſtill make themſelves Judges. And the Reaſon of all Treaſon being, that the Government is not ſecure, it is deſired to be known, what Way the Government can be ſecured after this Paper, ſince the Earl is ſtill Judge how far he is obliged, and what is his Loyalty. And if this had been ſufficient, the Covenant had been a very excellent Paper: for they are there bound to endeavour, in their ſeveral Stations, to defend the King's Perſon: but when the King challenged them, how they came to make War againſt him? their great Refuge was, that they were themſelves ſtill Judges as to that. And for illuſtrating this Power, the Lords of Juſtitiary are deſired to conſider, *quid Juris*, if the Earl, or any Man elſe ſhould have reſerved to himſelf in this Oath a Liberty to riſe in Arms, or to oppoſe the lineal Succeſſion, tho' he had added *in a lawful manner:* for the thing being in it ſelf unlawful, this is but ſhamm, and *Proteſtatio contraria facto.* And if theſe be unlawful, notwithſtanding of ſuch Additions, ſo much more muſt this general Reſervation, *of making any Alterations*, likewiſe be unlawful, notwithſtanding of theſe Additions: for he that reſerves the general Power of making any Alteration, does, *a fortiori*, reſerve Power to make any Alteration, tho' never ſo fundamental. For all Particulars are included in the general; and whatever may be ſaid againſt the Particulars may much more ſtrongly be ſaid againſt the General.

2. The

2. The 130*th Act. Par.* 8. *James VI.* is expreſly founded on, becauſe nothing can be a greater Diminution of the Power of the Parliament, than to introduce a Way or Mean whereby all their Acts and Oaths ſhall be made inſignificant and ineffectual, as this Paper does make them, for the Reaſons repreſented. Nor are any of the Eſtates of Parliament ſecure at this rate, but that they who reſerved a general Power to make all Alterations, may, under that General, come to alter any of them.

3. What can be a greater impugning of the Dignity and Authority of Parliaments, than to ſay, that the Parliament has made Acts for the Security of the Kingdom, which are in themſelves ridiculous, inconſiſtent with themſelves and the Proteſtant Religion?

And as to what is anſwered againſt invading the King's Prerogative, and the Legiſlative Power in Parliaments, in adding a Part to an Oath or Act, is not relevantly inferred, ſince the ſenſe of theſe Words, *and this I underſtand as a Part of my Oath*, is not to be underſtood as if any thing were to be added to the Law, but only to the Oath, and to be an Interpretation of the Oath. It is replied, that after this, no Man needs to add a Caution to the Oath in Parliament. But when he comes to take the Oath, do the Parliament what they pleaſe, he will add his own Part. Nor can this Part be looked upon as a ſenſe: for if this were the ſenſe before this Paper, he needed not underſtand it as a Part of it, for it wanted not that Part. And in general, as every Man may add his own Part, ſo the King can be ſecure of no Part. But your Lordſhips of Juſtitiary are deſired to conſider, how dangerous it would be in this Kingdom, and how ill it would ſound in any other Kingdom, that Men ſhould be allowed to reſerve to themſelves Liberty to make any Alteration they thought fit in Church or State, as to the Legality of which, they were themſelves to be Judges: and how far, from Degree to Degree, this at laſt may come to abſolute Anarchy, and how ſcandalous a thing, as well as unſecure, this new Way may look in an Age wherein we are too much tracing the Steps of our rebellious Progenitors in the laſt, whoſe great Defection and Error was, that they thought themſelves, and not the King the Authors of Reformation in Church and State. And no Man ever was barred by that, that the Way he was upon was not a lawful Way: for if it be allowed to every Man to take his own Way, every Man will think his own Way to be the lawful Way.

As to the Perjury, it is founded on this, firſt, That Perjury may be committed, not only by breaking an Oath, but even in the ſwearing of it, *viz.* to ſwear it with ſuch Evaſions as make the Oath ineffectual: for which *Sanderſon* is cited, *Pag.* 138. *Alterum Perjurii genus eſt novo aliquo excogitato Commento Juramenti vim declinare, aut eludere, & Jurans tenetur ſub pœna* Perjurii *implere Secundum Intentionem deferentis*; both which are here. For rhe Earl being bound by the very Oath, to ſwear in the genuine meaning, without any evaſion, he has ſworn ſo as he has evaded every Word, there being not one Word to which it can be ſaid particularly he is bound, as is ſaid. And it is undeniable, that he has not ſworn in the ſenſe of the Makers of the Law, but in his own ſenſe, which is Perjury, as is ſaid. And conſequentially, whatever ſenſe may be allowed in ambiguous Caſes, yet there can be none where the Paper clearly bears Generals: and where he declares, that he takes it in his own ſenſe, His Majeſty's Advocate declares, he will not burden himſelf, that Copies were diſperſt, tho' it is certain, ſince the very Paper it ſelf by the giving in is chargeable with all that is above charged upon it.

Sir John Dalrymple's *Defence and Plea for the Earl of* Argyle, *by Way of Reply upon the King's Advocate.*

SIr *John Dalrymple* replies for the Pannel, That ſince the ſolid Grounds of Law adduced in the Defences have received no particular Anſwers, in relation to the common conſent of all Caſuiſts, *viz.* That a Party who takes an Oath is bound in Conſcience to clear and propoſe the Terms and Senſe in which he does underſtand the Oath; Nor in relation to the ſeveral Grounds adduced concerning the legal and rational interpretation of dubious Clauſes. And ſince theſe have received no Anſwers, the Grounds are not to be repeated: but the Proctors for the Pannel do farther inſiſt on theſe Defences.

1. Its is not alledged, that any Explanation was given in by the Pannel to any Perſon, or any Copy ſpread, before the Pannel did take the *Teſt* in Council: ſo that it cannot be pretended, that the many Scruples that have been moved concerning the *Teſt*, did ariſe from the Pannel's Explication: but on the contrary, all the Objections that are anſwered, and obviated in the Pannel's Explication, were not only privately muttered, or were the thoughts of ſingle or illiterate Perſons, but they were the difficulties propoſed by Synods and Presbyteries, long before the Pannel came from home, or was required to take the *Teſt*: ſo that the general Terms of the Acts of Parliament founded upon in the Libel are not applicable to this Caſe: for as theſe Laws, in relation to Leaſing-makers, are only relative to atrocious wilful Inſinuations, or Miſconſtructions of His Majeſty's Perſon or Government, or the open depraving of his Laws, ſo the reſtrictive Clauſe, *whereby Sedition or Miſconſtructions may be moved, raiſed, or engendered betwixt His Majeſty and his Leidges*, cannot be applied to this Caſe, where all theſe Apprehenſions and Scruples were on Foot, and agitated long before the Pannel's Explanation.

As it cannot be pretended, that any new Duſt was raiſed by the Pannel's Explanation, ſo it is poſitively offered to be proved, that there is not one Word contained in this Explanation, but that either theſe individual Words, or much worſe, had been publickly propoſed, and *verbatim* read in Council, without the leaſt Diſcouragement, or the leaſt Objection made by any Member of the Council. And where a Writing, *ex propoſito* read in ſo high a Court, was univerſally agreed upon, without the Alteration of a Syllable, how can it be pretended, that any Perſon thereafter uſing the ſaid individual Terms in any Explanation, and far eaſier Terms, that they ſhall incur the high and infamous Crimes libelled? And the Queſtion is not here, whether the Council was a proper Judicature to have propoſed, or impoſed a ſenſe, or allowed any Explanation of the *Teſt* to be

be publiſhed; but that is impoſſible that a Senſe they allowed, or being publickly read before them, and which the King's Advocate did not controll, that this ſhould import Treaſon, or any Crime: and tho' the Pannel's Advocate will not purſue or follow the Reply that has been made to this Point yet certainly no Man of ſober Senſe will think that it is fit to inſinuate that ſo high a Judicature might have authorized or acquieſced in ſuch Explanations as the Leidges thereafter ſhould be entrapped to have uſed.

If the Pannel had officiouſly or ultroneouſly offered a Senſe or Explanation of His Majeſty's Laws, which the Laws themſelves could not have born, it might juſtly have been alledged, that he was *extra ordinem*, and medling in a Matter he was not concerned in but where the Act of Council did enjoyn, and he was required and cited to that effect, it could neither be conſtructed as oſtentation, or to move or encourage Scruples or Reſiſtance, but it was abſolutely neceſſary, either for to have refuſed the *Teſt*, or elſe to have declared what he thought to be the true and genuine meaning of it. And there being ſo many Objections publickly moved and known, his Explanation was nothing elſe but to clear, that he did not look upon theſe Scruples and Objections moved by others as well founded and rational in themſelves; and therefore he was able to take the *Teſt* in that Senſe the Council had heard or allowed. And it is not controverted, that the ſenſe of the Legiſlator is the genuine ſenſe both of Laws and Oaths: and if a Perſon were only interpreting the meaning of either a Law or an Oath impoſed, he ſhould deprave and miſconſtruct the Law and Oath, if he rendered it wittingly and willingly in Terms inconſiſtent with the meaning of the Impoſer: but there is a great Difference betwixt taking of Oaths, and interpreting Oaths; for when a Man comes to take an Oath, except his particular ſenſe did agree with the genuine meaning of the Impoſer, he cannot take that Oath, tho' he may very well interpret and declare what is the ſenſe of the Legiſlator, which he may know, and yet perhaps not be able to take the Oath.

And therefore when there is any doubtfulneſs in an Oath, and a Party is bound to take it, if then he gives in an Explication of the ſenſe which he in his private Judgment doth apprehend to be the genuine meaning, if that private ſenſe be diſconform to the Legiſlator's ſenſe in the Oath, then the Impoſer of the Oath, or he that has Power to offer it to the Party, if he conſider the Party's ſenſe diſconform, he ought to reject the Oath, as not fulfilling the Intent of the Law impoſing it.

But it is impoſſible to ſtate that as a Crime, that a Party ſhould neither believe what is propoſed in the Oath, nor be able to take it; and he can run no farther Hazard, but the Penalty impoſed upon the Refuſer. And therefore in all Oaths there muſt be a concourſe both of the ſenſe impoſed by Authority, and of the private Senſe, Judgment, or Conſcience of the Party. And therefore if a Party ſhould take an Oath in the Senſe propoſed by Authority contrary to his own Senſe, he were perjured: hereby it is evident that the Senſe of Authority is not ſufficient, without the Acquieſcence and Conſent of the private Perſon. And therefore it is very ſtrange, why that Part of the Pannel's Explanation ſhould be challenged, that he takes it in his own Senſe, the *poſterior* Words making it as plain as the Light, that that ſenſe of his own is not what he pleaſes to make of the Oath, for it bears expreſly, that no body can explain it but for himſelf, and reconcile it as it is genuine, and agrees in its own ſenſe: ſo that there muſt be a Reconciliation betwixt his own ſenſe and the genuine ſenſe, which upon all Hands is acknowledged to be the ſenſe of Authority. And if the Pannel had been of theſe lax and debauch'd Principles, that he might have evaded the meaning and energy of the Oath, by impoſing upon it what Senſe he pleaſed, certainly he would have contented himſelf in the general Refuge of Equivocation, or mental Reſervation, and he would never have expoſed his ſenſe to the World, in which he took this Oath, whereby he became abſolutely fixed and determined to the Oath, in that particular ſenſe and ſo had no latitude of ſhuffling off the Energy or Obligation of the Oath. And it is likewiſe acknowledged, that the Caſes alledged in the Reply are true, *viz.* That the Perſon is guilty of Perjury, *ſi aliquo novo Commento* he would elude his Oath, or who doth not fulfil the Oath in the ſenſe of the Impoſer. But that does not concern this Caſe: for in the foreſaid Citation, a Perſon, after he has taken an Oath, finding out ſome new conceit to elude it he is perjured: but in this Caſe the Pannel did at, and before his taking the *Teſt*, declare the Terms in which he underſtood it; ſo that this was not *novo aliquo Commento* to elude it. And the other Caſe, where a Party takes it in the ſenſe of Authority, but has ſome ſubterfuge, or concealed Explanation, it is acknowledged to be Perjury. But in this Caſe there was no concealed Explanation, but it was publickly expreſt, and an Explanation given, which the Pannel deſigned, and underſtood as the meaning of Authority, and had ground to believe he was not miſtaken, ſince upon that Explanation he was received and allowed to ſit and vote in Council.

And as to that Part of the Reply, that explains the Treaſon, there can be no Treaſon in the Pannel's Caſe, becauſe the expreſs Act of Parliament founded upon doth relate only to the Conſtitution of the Parliament: and I am ſure His Majeſty's Advocate cannot ſubſume in theſe terms: and therefore in the Reply he recurs to the general Grounds of the Law, that the uſurping of His Majeſty's Authority, in making a Part of the Law, and to make Alterations in general, and without the King, are high and treaſonable Words or Deſigns, and ſuch as the Party pleaſes, and ſuch Deſigns as have been practiſed in the late Times. And that even the Adjection of fair and ſafe Words, as in the Covenant, does not ſecure from treaſonable Deſigns; and that it was ſo found in *Balmerino*'s Caſe, tho' it bear a fair Narrative of an humble Supplication.

It is replied, that the Uſurpation of making of Laws is undoubtedly treaſonable, but no ſuch thing can be pretended or ſubſumed in this Caſe: for albeit the Pannel declares his Explanation to be a Part of his Oath, yet he never meaned to impoſe it as a Part of the Law, or that this Explanation ſhould be a thing diſtinct, or a ſeparate Part even of his Oath, for his Explanation being *exegetik* of the ſeveral Parts of the Oath, it is no diſtinct thing from the Oath, but declared to be a Part of the Oath *de natura rei*. And it was ne-

ver pretended, that he that alledged any thing to be *de natura rei*, did ſay, that that was diſtinct and ſeparate, which were a Contradiction. And therefore the Argument is retorted, the Pannel having declared, this Explanation was, *de natura rei*, implied in the Oath, he neceſſarily made this Explanation no Addition or Extention of the Oath. So that for all this Explanation, the Oath is neither broader nor longer than it was.

And as to theſe Words, *I do not mean to bind up my ſelf in my Station, and in a lawful Way, to wiſh and endeavour any Alteration I think to the Advantage of Church or State, not repugnant to the Proteſtant Religion, and my Loyalty.* It is a ſtrange thing how this Clauſe can be drawn in queſtion, as treaſonable, when it may with better Reaſon be alledged, that there is no good Subject but is bound to ſay it. And albeit the Words *to endeavour in my Station*, be Words contained in the Covenant, yet that is no Reaſon, why two Words in the Covenant may not be made uſe of in another very good and loyal Senſe. And there is no Man that ſhall have the honour either to be entruſted by His Majeſty in his Council, or any other Judicature, or to be a Member of Parliament, but he is bound by his Loyalty to ſay the ſame thing. And there was never a Clauſe more cautiouſly expreſt, for the Words run, *to endeavour any Alteration I ſhall think to the Advantage of Church and State.* And tho' that was ſufficient, yet the Clauſe is ſo cautiouſly conceived, that it contains another Reſtriction, *not repugnant to Religion and his Loyalty.* So that except it could be alledged, that a Man by lawful means, to the Advantage of Church and State, conſiſtent with his Religion and Loyalty, could make treaſonable Alterations, and Invaſions upon the Government and Monarchy, which are the higheſt Contradictions imaginable, there can be nothing againſt the Pannel. And albeit the Clauſe, *any Alterations*, might, without the Reſtrictions and Qualifications foreſaid, be generally extended, yet the preceeding Words of *lawful Way*, and the rational Interpretation of the Emiſſion of Words, eſpecially before a ſolemn Judicatory, leaves no Place or Shadow to doubt, that theſe Alterations were no fundamental or treaſonable Alterations, but ſuch as the frailty of humane Affairs and Conſtitutions, and Viciſſitude of Things and Circumſtances, do conſtantly require in the moſt exact Conſtitutions under Heaven. And the Clauſe does not ſo much as import, that there is a preſent Neceſſity of Alteration, but it was a neceſſary and rational Proſpect, that albeit at preſent all things under Heaven had been done to ſecure the Religion and Government, yet there might occur Caſes that would require new Helps, Alterations, and Remedies. And it is not pretended in this Caſe for the Pannel, that he deſires to alleviate, or take off Words truly treaſonable, or having an ill Deſign, by the mixing of fair and ſafe, dutiful and ſubmiſſive Expreſſions, which indeed are Proteſtations *contrariæ facto.* For there is nothing in his Explanation, that either in his Deſign, or in the Words themſelves, being rationally and naturally interpreted, can infer the Crimes libelled, or any of them. And the Pannel's known Principles, and known Practices, do not only clear that Loyalty that he has profeſt before the Lords of Juſtitiary, and inſtructed by unqueſtionable Documents, but they put him far from the Suſpicion of theſe damnable Principles related in the Reply, of which the whole tract of his Life hath been an intire Evidence of his *Abhorrency* and *Deteſtation.* And in the laſt Place, it is thought ſtrange, why that ſhould be repreſented as an Affront or Diſgrace to the Government, that the Parliament impoſed a *Teſt* which the Pannel is not able to take ſimply. And it is not pretended, that he hath defamed, written or ſpoken againſt the *Teſt* it ſelf, or for the Inconvenience of it; but only that he hath not been able to ſee the good Ground upon which it may be ſimply taken. And this were to condemn him for Want of Sight or Senſe, when the Law hath puniſhed no Man for not taking the *Teſt*, but only turned him out of the Government. And it is as ſtrange an Inference, that becauſe the Pannel declares, he believes the Parliament meaned no Contradiction and would take the *Teſt*, in as far as it is conſiſtent, that therefore he ſaid, the Parliament impoſed Contradictions: which is ſo far from a rational Induction, that the Contradiction of theſe Subſumptions, in all congruity of Language and Senſe, is neceſſarily true. And therefore the laſt Part of that Clauſe, *in ſo far as it is conſiſtent*, is a Conſequence inferred upon the former: *viz.* I believe the Parliament deſigned to impoſe no Contradictions: *ergo*, I take the *Teſt* as conſiſtent, and in ſo far as it muſt be conſiſtent, if the Parliament did not impoſe Contradictions, as certainly they have not; and to convince the World, that in this Senſe this Explanation is receivable, it was propoſed in Council, and allowed, and therefore without the higheſt Reflection, it cannot now be quarrelled.

Sir George Lockhart's *ſecond Plea for the Earl of* Argyle, *by way of Reply upon the King's Advocate.*

SIr *George Lockhart* duplies, That the Defender repeats and oppones his former Defences, which are no ways elided, nor ſatisfied by the Reply made by His Majeſty's Advocate. And altho' it be eaſy for the King's Advocate, out of his Zeal, to pretend and argue Crimes of the higheſt Nature upon Inferences and Conſequences, neither conſiſtent with the Pannel's Deſign, nor with his Words and Expreſſions; yet there cannot be a more dangerous Foundation laid, for the ſecurity and intereſt of the Government, and the ſecurity and protection of the Subjects, than that Crimes ſhould be inferred but from clear, evident, and expreſs Laws, and plain, palpable Contravention of theſe Laws: It being both againſt the Laws of God and Man, that a Man ſhould be made an Offender for a Word, and eſpecially for Expreſſions which, according to Senſe and Reaſon, and conſidering the Time and Place where they were ſpoken by the Pannel, *viz.* as a Member of His Majeſty's Privy-Council, and in Preſence of His Royal Highneſs, and the Members of Council, and when required to take the *Teſt*, were ſafe and innocent: and it were againſt all Law and Reaſon, to ſuppoſe that the Pannel either did, or deſigned to do any thing which may, or did import the Crimes libelled againſt him. And whereas it is pretended, that the Oath required and impoſed by Act of Parliament was for the Security of the Government; and that the Pannel by his Explication

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does evade the Oath, by taking it only ſo far as it is conſiſtent with the Proteſtant Religion, and his own Loyalty, whereof he was Judge. It is anſwered, that the Pretence is moſt unwarrantable, and the Security of His Majeſty's Government is not at all endangered (as God forbid it ſhould,) tho' the Pannel, and a Thouſand more had ſimply refuſed the *Teſt*, or had taken it in a Senſe which does not ſatisfie the Law; it being competent to publick Authority to conſider, whether the Pannel's Oath, in the Terms of the Explication wherein he did take it, does ſatisfie the Act of Parliament or not; and if not, there can be no rational Conſequence inferred thereupon, but that he is holden as a Refuſer of the Oath, and liable to the Certification of the Act of Parliament, of not aſſuming and continuing in any publick Truſt: and no more was intended or deſigned by the Act of Parliament it ſelf, than ſtrictly to make the Oath in the true and genuine ſenſe and meaning of the Parliament, an indiſpenſible Qualification of Perſons admitted to publick Truſt. So that it is not at all material to diſpute, whether the Pannel's Explication can be looked upon as a full Satisfaction of the Act, which whether it ſhould or not, it can import no Crime againſt him, it not being conſiſtent with Senſe and Reaſon, that a Perſon who abſolutely refuſeth the *Teſt*, upon the Scrupuloſity of his Conſcience, albeit he be not capable of publick Truſt, ſhould be, notwithſtanding, looked upon as guilty of no Crime: and yet another who was willing to go a greater Length, albeit he did demur and ſcruple as to the full Length, that he ſhould be reputed criminal and guilty of a Crime.

2. The Pannel repeats and conjoins with this the Grounds above-mentioned, contained in his Defences, *viz.* That neither the Crimes libelled, nor any other Crime, were ever pretended or made uſe of againſt any others, who did ſpread abroad Objections of an high Nature, which yet were ſo favourably looked upon, as to be conſtrued only to proceed from Scrupuloſity of Conſcience, as alſo the Satisfaction endeavoured is in ſuch Terms, and by ſuch Condeſcenſions, as do take in, and juſtifie the whole Terms of the Explication libelled.

It is of great Moment, and whereof the Lords of Juſtitiary are deſired to take ſpecial Notice, both for clearing the abſolute Innocence of the Pannel's meaning and intention, and to take off all poſſible Miſconſtruction that can be wreſted or detorted from the Tenor and Expreſſions of the libelled Explication, that the Pannel was put to, and required to take the Oath, before the Lords of His Majeſty's Privy-Council did paſs and publiſh their Proclamation explaining the Oath, and declaring the genuine ſenſe and meaning thereof, namely, that it did not tye to the whole Articles of the *Confeſſion of Faith*, ratified by Act of Parliament, *James* 6. and which, as to ſeveral Articles thereof, had occaſioned the Scruples, and Difficulties, and alledged Inconſiſtency and Contradiction betwixt the laſt Part of the Oath and the ſaid *Confeſſion*, and betwixt ſome of theſe Articles, and the Currant of the Proteſtant Doctrine, received and contained in the *Syntagma* of the Proteſtant Confeſſions. And therefore if the Pannel at that Time did think fit, for the clearing and exoneration of his own Conſcience, to uſe the Expreſſions in the Explication libelled, and yet with ſo much Duty and Confidence of the Parliament's Juſtice, as to their meaning and Intention, *that the Parliament never intended to impoſe contradictory Oaths*; and that he *did take it ſo far as it was conſiſtent with it ſelf, and the Proteſtant Religion*, not knowing then, whether the whole *Confeſſion* was to be reputed a Part of the Oath, and doubting there anent; and which the Lords of His Majeſty's Privy-Council and His Sacred Majeſty by His Approbation ſince, have thought a Difficulty of ſo great Moment as it was fit to clear the ſame by a publick Proclamation; how now is it poſſible, that any Judicatory under Heaven, which proceeds upon the ſolid Grounds of Law and Reaſon, and who (it cannot be doubted) will have a juſt Regard to the intrinſick Principles of Juſtice, and to all Mens Security, that they can now believe all, or any of the Crimes libelled, ſhould be in the leaſt inferred from all, or any of the Expreſſions contained in the ſaid Explication? But that on the contrary it was a warrantable Allowance, and Chriſtian Practice, condemned by the Law and Cuſtom of no Nation, that having Scruples in the Matter of an Oath which ſhould be taken in *Truth, Judgment and Righteouſneſs*, and upon full Deliberation, and with a full Aſſurance and Sincerity of Mind, that he did plainly, openly, and clearly declare the Senſe in which he was willing to take it; and if Authority did allow it as the genuine Senſe of the Oath, the Pannel to be holden as a Taker of the Oath: and if upon farther Conſideration, Authority think not, that *habetur pro Recuſante*, and a Refuſer of the Oath, but no ways to be looked upon as a Criminal or guilty Perſon.

And the Pannel repeats and conjoins with this Point of the Reply, that Point in his Defence whereby he poſitively offers to prove, 1. That his Explication, and the ſenſe wherein he took the Oath, was heard, and publickly given and received in Council, and the Pannel thereafter allowed to take his Place, and ſit and vote in that *Sederunt*.

2. The Pannel alſo offers poſitively to prove, That the tenor and terms of his Senſe and Explication wherein he did take the Oath, is contain'd in that ſolid, learned, and pious Vindication, written by the Biſhop of *Edenburgh*, in anſwer to the Objections and alledged Inconſiſtencies and Contradictions in the Oath, and which Vindication was publickly read in Council, and ſo far approved, that it was allowed to be printed and publiſhed, and was accordingly diſperſed and ſpread abroad. And it is not of the leaſt import, that the Proclamation of the Lords of Privy-Council, altho' it does only allow the ſame to be taken by the Clergy, yet at the ſame time they expreſly declare the genuine ſenſe and meaning of the Parliament not to comprehend the whole Articles of the *Confeſſion*, which was not cleared before the Pannel's taking his Oath.

And whereas it is pretended, That the Acts of Parliament libelled upon, againſt Leaſing-makers, depravers of His Majeſty's Laws, do obtain and take place, where-ever there are any Words or Expreſſions that have a tendency in themſelves, or by a natural Conſequence, and rational Inferences, to reflect upon the Government, or miſconſtrue His Majeſty's Proceedings; and that the Explication libelled is ſuch, and that it was found ſo in the Caſe of *Balmerino*, albeit it was drawn up by Way of humble Petition and Addreſs to his Majeſty, and with great Proteſtations and

Expreſſions of Loyalty. It is anſwered, the Acts of Parliament libelled upon are opponed, and the 43d *Act*, *Par.* 8. James 6. and the other Acts, making the depraving of His Majeſty's Laws to be Crimes, do expreſly require, that Speeches ſo judged be perverſe and licentious Speeches, *ex natura ſua probroſa* and reproachful, and ſpoke *animo defamandi*, and which could not receive any other rational Conſtruction, which cannot in the leaſt be applied to, or ſubſumed upon the Words, or Explication given in by the Pannel. And Law and Reaſon never infers or preſumes a Crime, where the thing is capable of a fair and rational Conſtruction, and where it was done *palam* and publickly, and in preſence of His Majeſty's High Commiſſioner, and Lords of His Majeſty's Privy-Council, whereof the Pannel had the Honour to be a Member, Perſons committing and deſigning to commit Crimes making uſe of Times, and Places, and Companies of another Nature, on whom their Suggeſtions and Inſinuations may prevail. But it is a Violence to the common Reaſon of Mankind, to pretend, that a Perſon of the Pannel's Quality, having the Honour to ſerve His Majeſty in moſt eminent Capacities, and devoted to His Majeſty's Intereſt and Service, beyond the ſtricteſt Ties of Duty and Allegiance, by the tranſcendent Favours he had received, that the Pannel in thoſe Circumſtances, and in Preſence of his Royal Highneſs and Lords of Privy-Council, ſhould deſign to declame, and *de facto*, declame againſt, and defame His Majeſty's Government: to ſuppoſe this is abſolutely contradictory to the common Principles and Practices of Law, and common Topiks of Reaſon.

And as to *Balmerino*'s Caſe, it is anſwered, that the Lords of Juſtitiary are humbly deſired to call for, and peruſe the ſaid Petition, and Books of Adjournal, which was certainly a defamatory Libel of His Majeſty's Father, of bleſſed Memory, and of the States of Parliament in the higheſt Degree, bearing expreſly, that there was nothing deſigned but an Innovation of the Proteſtant Religion, and the Subverſion and over-turning the Liberties and Priviledges of the Parliament, and the Conſtituions of the Articles, and other things of that kind, which made certainly of it ſelf a moſt villanous and execrable Libel, containing the higheſt Crimes of *Treaſon* and *Perduellion*, and was not capable of any good Senſe or Interpretation, but was abſolutely pernicious and deſtructive: ſo that it is in vain to pretend, that the ſaid Libel did contain Prefaces and Proteſtations of Loyalty, which no Law regards, even *in ſimplici injuria & maledicto*, tho' committed by a private Perſon, *cum præfatione ſalvo honore*, or the like, and which were certainly ridiculous to ſuſtain in a Libel concerning Crimes of Treaſon.

And whereas it is pretended, That tho' others were guilty of theſe Crimes, it does not excuſe the Earl: and that the Lords of Privy-Council cannot remit Crimes; and the negligence of the King's Officers cannot prejudge his Intereſt. It is anſwered, The Pannel is very confident, that neither the Lords of His Majeſty's Privy-Council, conſiſting of Perſons of eminent Loyalty and Judgment, nor His Majeſty's Officers, were capable of any ſuch Eſcape as is pretended: and if the tenor of the Pannel's Explication did in the leaſt import the high and infamous Crimes libelled, as beyond all peradventure it does not, it were ſtrange, how the ſame being contained in the foreſaid Vindication, and the whole Clauſes thereof juſtified, that this ſhould have been looked on as no Crime, and allowed to be publiſhed. And the Pannel neither does, nor needs to make farther uſe thereof, but to convince all diſ-intereſted Perſons, that his Explication can import no Crime.

And whereas it is pretended, that the Crime of Treaſon is inferred from the fundamental Laws of the Kingdom, and from that Clauſe of the Pannel's Explication, whereby he declares, he is *not bound up by any thing in this Oath not to endeavour any Alteration in a lawful way*: which being an indefinite Propoſition is equipollent to an univerſal, and is upon the matter coincident with a Clauſe which was rebellious in its Conſequences, contained in the ſolemn League and Covenant. It is anſwered, that it is ſtrange, how ſuch a plain and innocent Clauſe, whereby, beyond all queſtion, he does expreſs no more than was naturally imported in the Oath it ſelf, whether expreſt or not, ſhould be made a Foundation to import the Crime of Treaſon, which no Lawyer ever allowed, except where it was founded upon expreſs Law *& Luce Meridiana Clarior*: and indeed if ſuch Stretches and Inferences can make Men guilty of Treaſon no Man can be ſecure. And the Words in the Pannel's Declaration are plain and clear (yet *non ſunt cavillanda*) and import no more, but that, in his Station, and in a lawful Way, and conſiſtent with the Proteſtant Religion, and his Loyalty, he might endeavour any Alteration to the Advantage of Church and State. And was there ever any loyal or rational Subject, that does, or can doubt, that this is the natural Import of the Oath? And indeed it were a ſtrange Oath, if it were capable of another Senſe, and being deſigned for the Security of the Government, ſhould bind up Mens Hands to concur for its Advantage. And how was it poſſible, that the *Pannel*, or any other in the Capacity of a Privy-Councellor, or a Member of the Parliament, would have ſatisfied his Duty and Allegiance in other Terms? And whereas it is pretended that there was the like Caſe in the pretended League and Covenant, it is anſwered, the Aſſertion is evidently a Miſtake; and tho' it were, the Argument is altogether inconſequential: for that League and Covenant was treaſonable in it ſelf, as being a Combination entered into without His Majeſty's Authority, and was treaſonable in the Gloſſes that were put upon it, and was impoſed by abſolute Violence on the Subjects of this Kingdom, and how can the *Pannel* be in the leaſt ſuppoſed to have had any Reſpect to the ſaid League and Covenant, when he had ſo often taken the Declaration, diſowning and renouncing it, as an unlawful and ſinful Oath, and concurred in the many excellent Laws and Acts of Parliament made by His Majeſty, condemning the ſame as ſeditious and treaſonable? And whereas it is pretended, that the *Pannel* is guilty of Perjury, having taken the Oath in another Senſe than was conſiſtent with the genuine Senſe of the Parliament, and that by the Authority cited he doth *commento eludere Juramentum*, which ought always to be taken in the Senſe of him that impoſeth the Oath: it is anſwered, the Pretence is moſt groundleſs, and Perjury never was, nor can be inferred, but by the Commiſſi-

on,

on, or Omiſſion of ſomething directly contrary to the Oath. And altho' it is true, that where an Oath is taken, without any Declaration of the expreſs Senſe of the Perſons who take it, it obliges *ſub pœna Perjurii*, in the Senſe, not of the Taker, but of the Impoſer of the Oath, becauſe expreſſing no Senſe, Law and Reaſon preſumes there is a full Acquieſcence in the ſenſe and meaning of the Impoſer of the Oath: and then if an Oath be not ſo taken, he that takes it is guilty of Perjury. Yet there was never Lawyer nor Divine, Popiſh or Proteſtant, but agree in this, that whatever be the Tenor of the Oath, if before the taking thereof, the Party in expreſs Terms does publickly and openly declare the Senſe in which he takes it, it is impoſſible it can infer the Crime of Perjury againſt him in any other Senſe, this not being *Commentum excogitatum*, after the taking of the Oath. And if this were not ſo, how is it poſſible in Senſe and Reaſon, that ever any Explication or Senſe could ſolve the Scruples of a Man's Conſcience? For it might be always pretended, that notwithſtanding of the expreſs Senſe wherein he took it, he ſhould be guilty of Perjury from another Senſe. And that this is the irrefragable Opinion of all Divines, of whatever Perſwaſion, is not only clear from the Authority above-mentioned, even thoſe who allow of reſerved Senſes, but more eſpecially by the univerſal Suffrage of all Proteſtant Divines, who tho' they do abominate all Thoughts of Subterfuges or Evaſions, after taking of the Oath, yet they do always allow and adviſe for the Safety and Security of a doubting and ſcrupulous Conſcience, that they ſhould expreſs and declare, before the taking of the Oath, the true ſenſe and meaning wherein they have Freedom to take it; and for which *Sanderſon de Juramento* is cited *Prelect.* 6. *Sect.* 10. *pag.* 75. where his Words are, *ſane ut inter Jurandum omnia rectè fiant, expedit ut de verborum ſenſu inter omnes partes quarum intereſt liquido conſtet, quod veteribus dictum, liquido Jurare.* And an Oath being one of the higheſt Acts of Devotion, containing *Cultum Latriæ*, there is nothing more conſonant to the Nature of all Oaths, and to that Candor, Ingenuity, and Chriſtian Simplicity, which all Law and Religion requires in ſuch Caſes.

The King's Advocate's Third Plea againſt the Earl of Argyle.

HIs Majeſty's Advocate conceives he has nothing to anſwer, as to depraving, Leaſing-making, and miſinterpreting, *&c.* ſave that this Oath was only deſigned to exclude Recuſants; and conſequently the *Pannel* may thereby be debarred from his Offices, but not made guilty of a Crime. To which he Triplies, 1. If ever the Earl had ſimply refuſed, that had been true, but that did not at all excuſe from defaming the Law, for a defamer is not puniſhed for refuſing, but for defaming.

2. If he had ſimply refuſed the Government had been in no more hazard, but if Men will both retain their Places, and yet take the ſame in ſuch Words as ſecure not the Government, it were ſtrange to think, that the deſign of the Law being to ſecure againſt Mens poſſeſſing who will not obey, that yet it ſhould allow them poſſeſſion who do not obey. Nor is the Refuſer here in a better Caſe than the Earl, and others, who offered to obey, becauſe it is the defaming the Law, as ridiculous and inconſiſtent with that Proteſtant Religion, and Leaſing-making betwixt the King, the Nobility, and the People, the miſconſtruing, and miſrepreſenting, as hath been formerly urged, that puts the Earl in a worſe condition. And all thoſe Arguments might be as well urged for any who had uncontrovertedly contravened theſe Acts, as for the *Pannel*.

Whereas it is pretended, That the King emitted a Proclamation to ſatisfy Diſſenters, it is anſwered, That the Proclamation was deſigned for none who had been Members of Parliament, and ſo ſhould have known the ſenſe; but it was deſigned for meer Ignorants, not for ſuch as had defamed the Law, which is ſtill here charged upon the *Pannel*.

As to the Article of Treaſon, it is conceived, That it is unanſwerably founded upon the Common-Law, diſcharging all Men to make alteration of the Government. As to which there needs no expreſs Statute, that being the very eſſence of Government, and needing no Laws. Like as it falls poſitively under all the Laws that diſcharge the aſſuming the Royal or Legiſlative Power; for to alter the Government is inſeparably united to the Crown. Like as the Subſumption is as clear, the expreſs Words not bearing, That the Earl reſerves to himſelf a Power to propoſe to His Majeſty any Alterations, or to concur to ſerve His Majeſty in making Alterations; but owning in moſt general and arbitrary Terms, to wiſh and endeavour any Alteration he ſhould think fit for the advantage of Church or State, and not determining any thing that could bind him otherwiſe than according to his own pleaſure: For the word [*lawful*] is ſtill ſubjected to himſelf, and has ſubjoined to it, *as he ſhould think fit*, which governs the whole Propoſition; and in that ſenſe, and as the Words are here ſet down, the greateſt Rebel in *Scotland* will ſubſcribe that Explanation: For there is no Man but will reſtrict himſelf to a lawful Obedience, providing he be judge of the lawfulneſs. And ſeeing all Oaths propoſed for the Security of Government require a certain depending upon the Legiſlator, and not upon the Taker, it is impoſſible that that end could be attained by any qualification, how ſpecial ſoever, which is made to depend abſolutely upon the Taker, and not upon the Legiſlator. And we have often ſeen, how little Security there is in thoſe ſpecious Words, the very Covenant it ſelf having not only the very Words above-repeated, but atteſting all the World to be Witneſſes to their Loyalty and Sincerity. And as to the former Inſtances, *viz.* riſing in Arms, or oppoſing the lawful Succeſſor, there is no Covenanter in *Scotland*, but will ſay, he will do neither, but in a lawful Way, and in his Station, and in a Way conſiſtent with his Loyalty, for a Man were mad to ſay otherwiſe: but yet when they come to explain this, they will only do it as they think fit, and will be Judges themſelves; and then will tell us, that defenſive Arms are lawful, and that no Popiſh Succeſſor ſhould ſucceed, nor no Succeſſor unleſs he ſubſcribe the Covenant. And whereas it is pretended, that no Clauſe in the *Teſt* doesexclude a Man from making Alterations; it is anſwered, that the Alterations which the

Teſt

Teſt allows are none at all but in Subordination to Authority. And as to the two Points above-mentioned, it excludes all Alterations as to theſe Points. And as to the making fundamental Alterations, this Reſervation allows to make any Alteration, and conſequently fundamental Alterations; to preclude which Libertiniſme this excellent Law was invented.

Whereas it is pretended, that the *Pannel* deſigns not to add any thing as a Part of the Law, but as a Part of his Oath, it is duplied, ſince the Oath is a Part of the Law, whoever adds to the Oath, adds to the Law.

Whereas it is pretended, that the Crime of Perjury cannot be inferred here, becauſe all Divines allow, that the Taker of an Oath is ſtill allowed to declare in what ſenſe he takes the Oath; and that this is clear from *Sanderſon*, *Pag.* 175. It is triplied, that where there are two dubious Senſes, Lawyers and Divines allow, that the Taker ſhould clear himſelf, which of the Two he ſhould take; which is very juſt, becauſe to which ſoever of the two he determines himſelf, the Legiſlator in that Caſe is ſure of him. But here it is not pretended, that there are two Senſes; nor does the Pannel declare in which of the two he takes it, or in what clear ſenſe at all he takes it, which is indeed *liquido Jurare*. But here the *Pannel* neither condeſcends, what particular Clauſe of the *Teſt* is unclear; nor after he has condeſcended upon the Articles, does he condeſcend upon the ſenſe, but in general myſterious Words, where he can neither be followed, nor found out, he only takes it in ſo far as it is conſiſtent with it ſelf, and the Proteſtant Religion, reſerving the ſquaring all by his own Loyalty, as he did in the beginning declare, that he took it in his own ſenſe, by which general ſenſe, neither is the Government ſecure of any thing it does enjoin; nor could he be puniſhed if he tranſgreſſed. Nor can it be doubted, but Perjury may be inferred by any equivocal or evading ſenſe, *inter Jurandum*, as well as by breaking an Oath afterwards: Which is very clear from *Sanderſon*, *Pag.* 138. The words whereof are, *alterum Perjurii genus eſt inter Jurandum detorquere verba*; and which is farther clear by the 28th *Page*; but above all, from the Principles of Reaſon, and the neceſſity of Commerce and Government: For if Men may adhibit ſuch Gloſſes, even whilſt they ſwear, as may make the Oath uſeleſs, what way will either Government or Commerce be maintained? And he deceives as much that deceives in ſwearing *ſalvis verbis*, as he who after he has ſworn, does break the Oath, nay and more too, becauſe the breaking may come from Forgetfulneſs, or other Accidents: but the evading by general Clauſes, which bind no Man, does from the firſt Inſtance originally make all Oaths uſeleſs and dangerous, and that this Interpretation eludes the Oath abſolutely is very clear from what hath been formerly debated. For it may be argued, that the Earl broke the Oath in ſo far as the firſt Day he ſwears the Oath, which bears to be without any Evaſion (and muſt be ſo, notwithſtanding of whatever he could ſay;) and the next Day he gives in this Evaſion, which is a down-right Violation of that Oath, and inconſiſtent with it. Nor was this Oath forced, but voluntarily emitted, to keep his own Places. And it was the greater Crime that it was done in the Council, becauſe that was to make it the more publick, and conſequently the more to miſrepreſent the Government.

After this debate, which, according to the Cuſtom of the Court, was *verbatim* dictat by the Advocates of either ſide, and written by the Clerk, and ſo took up much time, and the Court having ſate, at leaſt twelve Hours, without Intermiſſion, it adjourned till the next Day being Tueſday the 13th of December, at two of the Clock in the Afternoon: and then the Earl being again brought to the Bar, the following *Interloquutour* (that is Judgment and Sentence) of the *Lords of Juſtitiary*, on the foregoing Debate, was read, and pronounced in open Court.

Edenburgh, *December* 12. 1681.

The Interloquutour of the Lords of Juſtitiary.

THE Lords, Juſtice General, and Commiſſioners of the Juſtitiary, having conſidered the Libel and Debate, they ſuſtain the Defence proponed for the Earl of *Argyle*, the Pannel, in relation to the Perjury libelled, *viz. That he emitted this Explanation at, or before his taking the* Teſt, *firſt before His Royal Highneſs, His Majeſty's High Commiſſioner, and the Lords of His Majeſty's Privy Council, relevant*, to elude that Article of the Libel.

The Lords ſuſtain the Libel, as being founded upon the common Law, and Explication libelled, and upon *Act* 130. *Parl.* 8. *James VI.* to infer the Pain of *Treaſon*.

They likewiſe ſuſtain the Libel, as founded upon the 10 *Act*, *Parl.* 10. *James VI.* to infer the Pain of Death; and likewiſe ſuſtain that Part of the Libel anent *Leaſing-making*, and *Leaſing-telling*, to infer the particular Pains mentioned in the ſeveral Acts libelled.

And repel the whole other *Defences*, *Duplies*, and *Quadruplies*, and remits the Libel, with the Defences anent the Perjury, to the Knowledge of an Aſſize.

Thereafter the *Aſſize*, that is the *Jury*, being conſtitute and ſworn, *viz.*

Liſt of the Aſſizers.

Marquiſs Montroſs,	*Lord Lindoors*,
E. Middleton,	*Lord Sinclare*,
E. Airlie,	*Lord Bruntiſland*,
E. Perth, *P. C.*	*Laird of Goſfoord*,
E. Dalhouſie,	*Laird of Claverhouſe*,
E. Roxburgh, *P. C.*	*Laird of Balnamoon*,
E. Dumfries,	*Laird of Park Gordon.*
E. Linlithgow, *P. C.*	

HIS Majeſty's Advocate adduced four Witneſſes, to prove the Points of the Indictment, remitted to the Knowledge of the *Aſſize*, *viz. John Drummond of Lundie*, then Governor of the Caſtle of *Edenburgh*, now Treaſurer-depute, *Sir William Paterſon*, and *Mr. Patrick Menzies*, Clerks of the Privy-Council, and *H. Stevenſon*, their under-Clerk: who deponed, *that on the* 4th *of November, the Earl did give in an unſubſcribed Explanation of the* Teſt, *which he refuſed to ſign*; One of the Witneſſes alſo adding, *that he heard him*

him make the ſame Explanation, the Day before, in Council, and that it was there accepted.

Then His Majeſty's Advocate asked, if the Earl would make uſe of his *Exculpation* for eliding the Perjury libelled, *to wit*, that he had emitted the ſame Explanation, before taking the *Teſt*, in Preſence of His Royal Highneſs, and the Council. To which the Earl anſwered, that, ſeeing they had ſuſtain'd the Libel, as to the *alledged Treaſon*, he would not trouble them about the *Perjury*: eſpecially the Matter of Fact, referred by the *Interloquutour* to his Probation, being of it ſelf ſo clear and notour.

Upon this ſilence, the Advocate, taking Inſtruments, Proteſts, for an *Aſſize of Error*, in Caſe the *Aſſizers* ſhould *aſſoil* or acquit. Whereupon the *Aſſize* removing was incloſed: and, after ſometime, returned *their Verdict*, which was read in open Court of this tenour.

The Verdict of the Aſſize.

THE Aſſize *having elected, and choſen* the Marquis of Montroſe, *to be their* Chancellor, *they all in one Voice find the Earl of* Argyle *guilty, and culpable of the Crimes of* Treaſon, Leaſing-making, and Leaſing-telling, *and find, by Plurality of Votes, the ſaid Earl innocent and not guilty of* Perjury.

And then the *Court* again adjourned: and the Privy-Council wrote the following Letter to His Majeſty.

Halyrudhouſe, December 14. 1681.

The Council's Letter to the King, deſiring leave to pronounce Sentence againſt the Earl of Argyle.

May it pleaſe your ſacred Majeſty,

IN *obedience to your Majeſty's Letter, dated the* 15th *of* November *laſt, we ordered your Majeſty's Advocate to inſiſt in that Proceſs, raiſed at* your Inſtance, *againſt the Earl of* Argyle: *and having allowed him a long time for his Appearance, and any* Advocates *he pleaſed to employ, and Letters of Exculpation, for his Defence; He, after* full Debate, *and* clear Probation, *was found guilty of Treaſon, Leaſing-making betwixt your Majeſty, your Parliament, and your People, and the reproaching of your Laws and Acts of Parliament. But becauſe of your Majeſty's Letter, ordaining us to ſend your Majeſty a particular Account of what he ſhould be found guilty of, before the pronouncing of any Sentence againſt him, we thought it our Duty to ſend your Majeſty this Account of our, and your Juſtices Proceedings therein; and to ſignifie to your Majeſty, with all Submiſſion, that it is uſual, and moſt fit for your Majeſty's Service and the Advantage of the Crown, that a Sentence be pronounced, upon the Verdict of the Aſſize, without which the Proceſs will be ſtill imperfect. After which, your Majeſty may, as you in your Royal Prudence, and Clemency ſhall think fit, ordain all farther Execution to be ſiſted, during your Majeſty's Pleaſure: which ſhall be dutifully obeyed by*

Your Majeſty's moſt Humble,
Moſt Faithful,
and moſt Obedient,
Subjects and Servants.

Sic Subſcribitur,

Alex. St. And.	*Roxburgh,*	*Dalziell,*
Athol,	*Dumfries,*	*Geo. Gordon,*
Douglas,	*Strathmore,*	*Ch. Maitland*
Montroſe,	*Airlie,*	*G. Mekenzie,*
Glencairn,	*Ancram,*	*Ge. Mekenzie,*
Wintoun,	*Livingſtoun,*	*Ramſay,*
Linlithgow,	*Jo. Edinburgens,*	*J. Drummond.*
Perth,	*Elphingſtoun,*	

The King's Anſwer to the Council's Letter.

18 Decemb. 1681.

C. R.

MOſt *dearly, &c. having this Day received your Letter, of the* 14. *inſtant, giving an Account that our* Advocate *having been ordered by you to inſiſt in that Proceſs raiſed at our inſtance againſt the* Earl of Argyle, *he was, after full Debate and clear Probation, found guilty of* Treaſon, *and* Leaſing-making, betwixt us, our Parliament, and our People, *and the* reproaching our Laws and Acts of Parliament: *We have now thought fit, notwithſtanding of what was ordered by us in our Letter to you of the* 15. *of* November *laſt, hereby to authorize you to grant a Warrand to our Juſtice General, and the remanent Judges of our Juſtice Court, for proceeding to pronounce a* Sentence, *upon the* Verdict *of the Jury, againſt the ſaid* Earl; *nevertheleſs it is our expreſs Pleaſure, and we do hereby require you, to take care, that all Execution of the Sentence be ſtopped, until we ſhall think fit to declare our further Pleaſure in this Affair: for doing whereof, &c.*

Which Anſwer being read in *Council* on the *Thurſday*, and the *Court of Juſtitiary*, according to its laſt *Adjournment*, being to meet upon the *Fryday*, after a little heſitation *in Council* whether the *Court of Juſtitiary* could proceed to the Sentence of Forfaulture againſt *the Earl* he being abſent, it was reſolved in the *Affirmative*; and what were the Grounds urged, either of *Heſitation* or *Reſolution*, I cannot preciſely ſay, there being nothing on record that I can learn. But that you may have a full and ſatisfying Account, I ſhall briefly tell you what was ordinarly diſcourſed, a Part whereof I alſo find in a Petition given in by the Counteſs of *Argyle* to the Lords of Juſtitiary, before pronouncing Sentence, but without any Anſwer or Effect. It was commonly ſaid, that by the old Law, and Cuſtom, the *Court of Juſtitiary* could no more in the Caſe of *Treaſon* then of any other *Crime* proceed further againſt a Perſon not compearing, and abſent, then to declare him *Out-Law*, and *Fugitive*: and that, albeit it be ſingular, in the Caſe of Treaſon that the Trial may go on, even to a final Sentence, tho' the Party be abſent, yet ſuch Trials were only proper, to and always reſerved for *Parliaments*: and that ſo it had been conſtantly obſerved until after the Rebellion in the Year 1666: but there being ſeveral Perſons *notourly* engaged in that Rebellion, who had eſcaped, and thereby withdrawn themſelves from *Juſtice*, it was thought, that the want of a *Parliament*, for the time, ought not to afford them any Immunity; and therefore it was reſolved by the *Council*, with Advice of the *Lords of Seſſion*, that the *Court of Juſtitiary* ſhould ſummond, and proceed to Trial, and Sentence, againſt theſe Abſents, whether they compeared or not, and ſo it was done: only becauſe the thing was new and indeed an Innovation of the old Cuſtom, to make all ſure, in the *firſt Parliament* held thereafter, in the Year 1669, it was thought fit to confirm theſe Proceedings of the *Juſtitiary*, in that Point, and alſo to make a perpetual Statute, that, in Caſe of *open Rebellion, and riſing in Arms* againſt the King, and Government, the *Treaſon*, in all time coming, might by an Order from his Majeſty's Council be tried, and the Actors proceeded againſt by the Lords of *Juſtitiary*, even to final Sentence, whether the Traitors com-

compeared or not. This being then the preſent Law, and Cuſtom, it is apparent in the *firſt* Place that the *Earl's Caſe*, not being that of an *open Rebellion*, and *riſing in Arms*, is not at all comprehended in the Act of Parliament, ſo that it is without Queſtion that, if in the beginning he had not entered himſelf Priſoner, but abſented himſelf, *the Lords of Juſtitiary* could not have gone further, then, upon a Citation, to have declared him *fugitive*. But *others* ſaid that the *Earl* having both entered himſelf Priſoner, and compeared, and after *Debate* having been *found guilty*, before he made his Eſcape, the Caſe was much altered. And whether the *Court* could, notwithſtanding of the Earl's intervening Eſcape, yet go on to Sentence was ſtill debatable: for it was alledged for the *Affirmative* that ſeeing the *Earl* had twice compeared, and that, after *Debate*, the *Court* had given *Judgment*, and the *Aſſize* returned their *Verdict*, ſo that nothing remained but the pronouncing of *Sentence*, it was abſurd to think that it ſhould be in the Power of the *Party*, thus *accuſed*, and *found guilty*, by his Eſcape to fruſtrate Juſtice, and withdraw himſelf from the Puniſhment he deſerved. But on the other Hand it was pleaded for the Earl; that firſt, it was a fundamental Rule, *that until once the Cauſe were concluded no Sentence could be pronounced*: nixt that it was a ſure *Maxime* in Law, that in *criminal Actions there neither is nor can be any other Concluſion of the Cauſe then the Party's Preſence and Silence*; ſo that, after all that had paſt, the Earl had ſtill Freedom to add what he thought fit, in his own Defence, before pronouncing Sentence, and therefore the *Lords of Juſtitiary* could no more proceed to ſentence againſt him being *eſcaped* then if he had been *abſent* from the beginning, the *Cauſe* being in both Caſes equally *not concluded* and the *Principle* of Law uniformly the ſame, *viz. that in Criminals* (except in Caſes excepted) *no final Sentence can be given in Abſence*: for, as the Law, in Caſe of *Abſence* from the beginning, doth hold that *juſt Temper* as neither to ſuffer the *contumacious* to go altogether unpuniſhed, nor, on the other Hand, finally to condemn a *Party unheard*. And therefore doth only declare him fugitive, and there ſtops: ſo in the Caſe of an *Eſcape*, before Sentence, where it cannot be ſaid the Party was fully heard, and the *Cauſe concluded*, the Law doth not diſtinguiſh, nor can the Parity of Reaſon be refuſed. Admitting then that the *Cauſe* was ſo far advanced, againſt the *Earl*, that he was found *Guilty*; yet, 1. This is but a *declaring* of what the Law doth as plainly preſume againſt the Party abſent from the beginning, and conſequently, of it ſelf can operate no further. 2ly, The finding of a Party *Guilty is no Concluſion* of the Cauſe. And 3ly, As it was never ſeen, nor heard, that a *Party* was condemned *in Abſence*, (except in excepted Caſes) whereof the Earl's is none, ſo he having eſcaped and *the Cauſe* remaining thereby *unconcluded*, the general Rule did ſtill hold, and no Sentence could be given againſt him.

It was alſo remembred that the *Dyets* and *Days* of the *juſtice Court* are *peremptour*; and that in that Caſe, even *in Civil* far more in *Criminal Courts* and *Cauſes*, a *Citation* to hear *Sentence* is conſtantly required: which induced ſome to think, that at leaſt the *Earl* ſhould have been lawfully *cited* to hear *Sentence*, before it could be pronounced. But it is like this Courſe, as confeſſing a Difficulty, and occaſioning too long a Delay, was therefore not made uſe of. However, upon the whole, it was the general Opinion, that ſeeing the denouncing the Earl *Fugitive* would have wrought much more *in Law* then all that was commonly ſaid, at firſt, to be deſigned againſt him: and that *his Caſe* did appear every way ſo favourable, that impartial Men ſtill wondered how it came to be at all queſtioned, it had been better to have ſiſted the Proceſs, with his Eſcape, and taken the ordinary Courſe of Law, without making any more Stretches.

But as I have told you, when the *Fryday* came, the *Lords of Juſtitiary*, without any Reſpect, or Anſwer given to the *Petition* above-mentioned, given in by the *Counteſs of Argyle* to the *Court* for a Stop, pronounced Sentence, firſt in the *Court*, and then cauſed publiſh the ſame, with all *Solemnity, at the Mercat Croſs of Edenburgh.*

FOr *as much as it is found by an Aſſize that* Archibald Earl of Argyle *is guilty and culpable of the Crimes of* Treaſon, Leaſing-making, *and* Leaſing-telling, *for which he was detained within the Caſtle of Edinburgh, out of which he* hes now *ſince the ſaid* Verdict *made his Eſcape: therefore the* Lords Commiſſioners of Juſtitiary *diſcern and adjudge the ſaid* Archibald Earl of Argyle *to be execute to the Death, demained as a Traitor, and to underly the Pains of* Treaſon, *and other Puniſhments appointed by the Laws of this Kingdom, when he ſhall be apprehended, at ſuch a Time, and Place, and in ſuch Manner as his* Majeſty *in his Royal Pleaſure ſhall think fit to declare and appoint: and his* Name, Memory, *and* Honours, *to be extinct: and his* Arms *to be riven forth, and delete out of the* Books of Arms, *ſwa that his Poſterity may never have Place nor be able hereafter to bruick or joyſe any* Honour, Offices, Titles, *or* Dignities, *within this Realm in time coming and to have forfaulted, amitted, and tint, all and ſundry his* Lands, Tenements, Annual-rents, Offices, Titles, Dignities, Tacks, Steedings, Rowmes, Poſſeſſions, Goods, *and* Geere *what ſumever pertaining to him, to our* Sovereign Lord, *to remain perpetually with his* Highneſs in *Property. Which was pronounced for Doom*— 23 December 1681.

After the reading and publiſhing whereof, the *Earl's Coat of Arms*, by Order of the *Court*, was alſo torn, and ranverſed, both in the *Court*, and at the *Mercat Croſs*: albeit ſome thought that this was rather a Part of *the Execution*, which His *Majeſty's Letter* diſcharges, then a neceſſary *Solemnity*, in the *Publication*, and the *Advocate* himſelf ſays, p. 61. of his printed *Criminals*, that it ſhould only be practiſed in the Crime of *Perduellion* but not in other *Treaſons*.

The End of the Second Volume.

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